

CANADORE COLLEGE
OPERATIONAL POLICY MANUAL

TITLE: Sexual Assault and Sexual Violence Policy

EFFECTIVE DATE: December 20, 2016

1. SCOPE

1.1 Authority

This policy is issued under the authority of the Board of Governors.

1.2 Application

All members of the College community including: all employees, governors, students, contractors, suppliers of services, individuals who are directly connected to any College initiatives, volunteers, and visitors.

2. PURPOSE AND PRINCIPLES

2.1 All members of the Canadore College community have a right to work and study in an environment that is free from any form of sexual violence. This document sets out our policy and response protocol to sexual violence and ensures that those who experience sexual violence are believed and their rights respected, that the College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual violence accountable.

2.2 Definitions

Sexual assault: A criminal offence under the *Criminal Code* of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.

Sexual violence: A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual abuse and sexual assault.

Consent: The voluntary agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words which indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
- A person is incapable of giving consent if she/he is asleep, unconscious or otherwise unable to communicate.
- A person who has been threatened or coerced (i.e. is not agreeing voluntarily) into engaging in the sexual activity is not consenting to it.
- A person who is drugged is unable to consent.
- A person is usually unable to give consent when she/he is under the influence of alcohol and/or drugs.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.
- The fact that consent was given in the past to a sexual or dating relationship does not mean that consent is deemed to exist for all future sexual activity.
- A person can withdraw consent at any time during the course of a sexual encounter.
- A person is incapable of giving consent to a person in a position of trust, power or authority, such as, a faculty member initiating a relationship with a student who they teach, an administrator in a relationship with anyone who reports to that position.
- Consent cannot be given on behalf of another person.

It is the responsibility of the initiator of sexual activity to obtain clear and affirmative responses at all stages of sexual engagement.

Consent as defined in the *Criminal Code*:

Consent: The voluntary agreement to engage in the sexual activity in question. No consent is obtained, where

- a) the agreement is expressed by the words or conduct of a person other than the complainant;
- b) the complainant is incapable of consenting to the activity;
- c) the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
- d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
- e) the complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

2.3 Other Relevant Terms

Acquaintance sexual assault: Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.

Age of consent for sexual activity: The age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts. Sixteen is the legal age of consent for sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Twelve and 13 year-olds can consent to have

sex with other youth who are less than 2 years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than 5 years older. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.

Coercion: In the context of sexual violence, coercion is unreasonable and persistent pressure for sexual activity. Coercion is the use of emotional manipulation, blackmail, threats to family or friends, or the promise of rewards or special treatment, to persuade someone to do something they do not wish to do, such as being sexual or performing particular sexual acts.

Drug-facilitated sexual assault: The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue a victim for purposes of sexual assault.

Stalking: A form of criminal harassment prohibited by the *Criminal Code* of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear in the victim or threaten the victim/target's safety or mental health. Stalking can also include threats of harm to the target's friends and/or family. These behaviours include, but are not limited to non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; "creeping" via social media/cyber-stalking; and uttering threats.

Survivor: Some who have experienced sexual violence may choose to identify as a survivor. Individuals might be more familiar with the term "victim". We use the term survivor throughout this policy where relevant because some who have experienced sexual assault believe they have overcome the violent experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

3. POLICY

3.1 Sexual assault and sexual violence are unacceptable and will not be tolerated. We are committed to challenging and preventing sexual violence and creating a safe space for anyone in our College community who has experienced sexual violence. The College is expected to be a safe and positive space where members of the College community feel able to work, learn and express themselves in an environment free from sexual violence.

All reported incidents of sexual violence will be investigated to the best of the administration's ability and in a manner that ensures due process. No individual should feel uncomfortable about making a report in good faith about sexual violence that he or she has experienced or witnessed.

We recognize that sexual violence can occur between individuals regardless of sexual orientation, gender, and gender identity or relationship status as articulated in the Ontario *Human Rights Code*. We also recognize that individuals who have experienced sexual violence may experience emotional, academic or other difficulties.

Canadore College is committed to:

- 3.2 assisting those who have experienced sexual violence by providing detailed information and support, including provision of and/or referral to counselling and medical care, and appropriate academic and other accommodation;
- 3.3 ensuring that those who disclose that they have been sexually assaulted are believed, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response;
- 3.4 addressing harmful attitudes and behaviours (e.g. adhering to myths of sexual violence) that reinforce that the person who experienced sexual violence is somehow to blame for what happened;
- 3.5 treating individuals who disclose sexual violence with compassion recognizing that they are the final decision-makers about their own best interests;
- 3.6 ensuring that on-campus (internal) investigation procedures are available in the case of sexual violence, even when the individual chooses not to make a report to the police;
- 3.7 engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with College policies, standards, and applicable collective agreements, and that ensure fairness and due process;
- 3.8 ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
- 3.9 engaging in public education and prevention activities;
- 3.10 providing information to the College community about our sexual violence policies and procedures;
- 3.11 providing appropriate education and training to the College community about responding to the disclosure of sexual violence;
- 3.12 contributing to the creation of a campus atmosphere in which sexual violence is not tolerated; and
- 3.13 monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

4. ROLES AND RESPONSIBILITIES

4.1 Board of Governors

The Board of Governors is responsible for the initial approval of the policy and subsequent amendments.

4.2 President

The President is responsible for the overall management and operation of the College. The President will ensure the policy is implemented and that compliance is monitored.

5. EVALUATION

This policy will be reviewed every 3 years.