

<b>TYPE:</b>	Administrative
<b>TITLE:</b>	Sexual Violence
<b>NO.:</b>	ADMIN-244
<b>RESPONSIBILITY:</b>	Chief Administrative Office & Associate Vice-President, Human Resources
<b>APPROVED BY:</b>	Durham College Leadership Team
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## 1. Introduction

This Policy and procedure aligns with the Sexual Assault and Sexual Violence protocol developed by colleges across Ontario and has been adapted to coordinate effectively with Durham College policies and procedures.

College community members alleged to have been responsible for Sexual Violence may have their conduct reviewed under the College's policies and procedures and/or the criminal justice system.

## 2. Purpose

The purpose of the Sexual Violence policy and procedure is to communicate that all members of the Durham College community have a right to work and study in an environment that is free from any form of Sexual Violence. This Policy and procedure also guides the way we address Sexual Violence and rape culture through survivor support, awareness, education, training and prevention programs, the appropriate handling of Complaints and Disclosures of Sexual Violence incidents, and fostering and promoting a culture of consent.

These documents ensure that the College has a process of investigation that:

- Protects the rights of individuals;
- Facilitates an environment in which individuals of all genders who are affected by Sexual Violence are believed and their rights respected; and
- Holds individuals who are found to have committed an act of Sexual Violence accountable through a process that ensures procedural fairness.

## 3. Definitions

Refer to [Durham College's Standard Definitions](#).

#### 4. Policy statements and commitments

Sexual violence is not acceptable and will not be tolerated. To ensure that our campus is a positive space for our community members to learn, work, and express themselves in an environment free from all forms of Sexual Violence we are committed to:

- a) Assisting those who report Sexual Violence by providing detailed information and support, including provision of and/or referral to counselling and medical care, and appropriate academic and other accommodations;
- b) Ensuring that those who disclose that they have been affected by Sexual Violence are believed, and that their safety and their right to dignity and respect is protected throughout the process of disclosure, investigation, and institutional response;
- c) Treating survivors who disclose Sexual Violence with compassion recognizing that they have agency about their own best interests;
- d) Addressing harmful attitudes and behaviours (e.g. adhering to myths of Sexual Violence) which will have the person who has been affected by Sexual Violence feel they are somehow to blame for what happened;
- e) Ensuring that on-campus (internal) investigation procedures are available in the case of Sexual Violence and are conducted respecting the survivor, even when the survivor who may choose not to participate or make a report to the police;
- f) Engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with the College policies and standards, and that ensure fairness and due process;
- g) Ensuring that the coordination and communication among the various departments, which are most likely to be involved in the response to Sexual Violence on campus, are treated confidentially;
- h) Engaging in public education and prevention activities that include campaigns, training sessions, workshops, print and online resources, programs and events on a variety of topics related to Sexual Violence prevention and how-to disclose;
- i) Providing appropriate and culturally responsive information, education, and training to the College community about topics such as rape culture, consent, sexual assault awareness, how to seek support, resources for survivors, and tools for responding to disclosures;
- j) Contributing to the creation of a campus atmosphere in which Sexual Violence is not tolerated; and
- k) Monitoring and updating our policies and procedures to ensure that they remain effective and in line with other existing policies and best practices.

#### 4.1. Application and Scope

- 4.1.1. This Policy and procedure applies to all members of the College community including students, employees, governors, contractors and suppliers of service, individuals who are directly connected to any College initiatives, volunteers, and visitors.
- 4.1.2. The reporting process and procedures outlined in this Policy apply to all incidents in which the Complainant is/was a student at the time of the alleged incident and the Respondent is/was a member of the Durham College community at the time of the alleged incident, irrespective of whether it is alleged to have taken place in person or online.
- 4.1.3. Those affected by Sexual Violence are not required to report an incident of Sexual Violence to receive the supports or accommodations outlined in this Policy. Additionally, those affected by Sexual Violence have the right to pursue legal avenues regardless of whether or not they choose to proceed with a report under this Policy.

#### 4.2. Community Education

- 4.2.1. The College will provide on-going culturally responsive education and awareness initiatives dedicated to exploring Sexual Violence regardless of where the incident is alleged to have taken place. Topics will include understanding the parameters of consent, drug and alcohol use, pro-social bystander behaviour, sexual and cyber sexual harassment, rape culture, sexual assault awareness, how to seek support, resources for survivors, and advice and resources for first responders.
- 4.2.2. The College will maintain a dedicated webpage on Sexual Violence which will set out particulars of initiatives and programs related to Sexual Violence that promote awareness of the support and services available to campus community members.
- 4.2.3. The College will provide training to all community members on this Policy.

#### 4.3. Confidentiality

- 4.3.1. Durham College will make every effort to reasonably protect the confidentiality of those affected by Sexual Violence while balancing legal and risk management responsibilities to provide a campus environment that is safe for the entire campus community. All records are handled in accordance with its policies, the *Freedom of Information and Protection of Privacy Act*, the *Personal Health Information Protection Act, 2004*, and the provisions of applicable employee collective agreements.

4.3.2. Complainants and witnesses should be aware that:

- a) The College will treat the process of responding to incidents of Sexual Violence in a highly confidential manner;
- b) The College will disclose information to Respondents in keeping with procedural fairness, to investigate and resolve Complaints; and
- c) The College may disclose information with a view to manage risk in order to maintain a living, working and learning environment free of Sexual Violence.

4.3.3. Limits of confidentiality

Circumstances in which confidentiality cannot be assured may include:

- The accommodations or supports required may limit the possibility of confidentiality;
- An individual is at imminent risk of self-harm;
- An individual is at imminent risk of harming another; and/or
- There are reasonable grounds to believe that others in the College or wider community may be at risk of harm; and/or
- Reporting is required by law (e.g. in the case of a minor, abuse from healthcare practitioner).

The above list is the exception to the foundational rule of confidentiality and is necessary to ensure the College can act in the interests of the safety of the community and meet related legal obligations.

Where confidentiality is not able to be maintained efforts will be made to limit the amount of information that is shared, the number of individuals with whom it is shared and, where possible, the anonymity of those affected will be protected.

4.3.4. The College encourages students to contact the Sexual Violence Educator and Support Coordinator, counselling, coaching and mental health supports at the Campus Health and Wellness Centre, the Access and Support Centre, or the off-campus resources listed in the Appendix to this Policy to obtain confidential support.

#### 4.4. Procedural Fairness

The College will ordinarily address Disclosures and Complaints through the Procedure set out in this Policy, but may depart from the Procedure where fair, appropriate, or as required by applicable Collective agreements. The College will address all Disclosures and Complaints with a view to providing a fair process, making a sound decision, and preserving the dignity of survivors.

#### 4.5. Academic and Other Accommodations

4.5.1. Students affected by Sexual Violence may seek academic and other accommodations under this Policy with or without making a formal report. Accommodations may include, but are not limited to, extended time on assignments, changing classroom or work proximity of the survivor and alleged offender, Residence space arrangements, or implementing scheduling of service access times for the survivor to ensure the alleged offender is not present.

4.5.2. Students seeking accommodation may contact the Sexual Violence Educator and Support Coordinator in the Office of Equity, Diversity, and Inclusion who will liaise with appropriate campus partners to identify and advocate for the most appropriate accommodations for the survivor.

4.5.3. Interim measures are separate and distinct from academic or other forms of accommodation and will not be imposed in the absence of a Complaint. Interim measures may be applied, when a complaint is received. Interim measures can be considered by the Office of Campus Safety, when a survivor has reported the complaint.

4.5.4. Employees who require accommodation as a result of Sexual Violence can make an appointment with the Associate Vice-President, Human Resources (AVP). The AVP will liaise and coordinate appropriate accommodations.

#### 4.6. Right to Withdraw Complaint

4.6.1. Once a report has been filed, a Complainant has the right to withdraw a Complaint at any stage of the process.

4.6.2. However, the College may continue to act on the issue identified in the Complaint in order to comply with its obligation under this Policy and/or its legal obligations.

#### 4.7. Protection from Reprisals, Retaliation or Threats

4.7.1. It is contrary to this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a Complainant or other individual for:

- Having pursued rights under this Policy or any other legislative process;
- Having participated or co-operated in an investigation under this Policy or any other legislative process; or
- Having been associated with someone who has pursued rights under this Policy or any other legislative process.

4.7.2. The College takes reasonable steps to protect persons from reprisals, retaliation and threats. This may entail, for example, advising individuals in writing of their duty to refrain from committing a reprisal and sanctioning individuals for a breach of this duty. The College may also address the potential for reprisals by providing an accommodation appropriate in the circumstances.

4.7.3. Complainants who, in good faith, disclose or report an incident of Sexual Violence will not be subject to actions for violating the College's policies related to drug and alcohol use at the time the Sexual Violence incident took place.

#### 4.8. Accountability to Honesty

It is expected that College community members will treat each other with respect, and transact in a way that does not adversely affect the rights of others. False claims and disclosure or complaints that are intentionally made to annoy, embarrass or harm the respondent are considered violations of the Student Code of Conduct and may result in sanctions being pursued through the Student Code of Conduct policy.

#### 4.9. Dismissal of Unsupported Disclosures/Complaints

If a student, in good faith, discloses or files a Sexual Violence Complaint that is not supported on a balance of probabilities by evidence gathered during an investigation (where "balance of probabilities" means that it is more likely than not to have occurred), that Complaint will be dismissed and no record will be placed in the Complainant's Respondent's student record or HR file.

### 5. Incident response and disclosures

5.1. Any student or College member affected by Sexual Violence may make a Disclosure.

5.2. The College will assess and respond appropriately to every disclosure with a view to maintaining a living, working, and learning environment free of Sexual Violence. Sharing of information with relevant campus departments can occur where appropriate.

- 5.3. A Disclosure alone will invite support and accommodation. If a Student chooses to disclose an incident of Sexual Violence but does not want to initiate a Complaint under this Policy, they remain entitled to access available supports, accommodations, and considerations appropriate to their circumstances.
- 5.4. A Disclosure of Sexual Violence is not a Complaint and does not initiate the Complaint Procedure under this Policy. A Disclosure is the sharing of information by a survivor with a member of the Campus Community concerning an incident of Sexual Violence (e.g. a student may choose to disclose an incident of Sexual Violence by which they have been affected with a fellow student, a faculty member or another member of the campus community). A Disclosure may or may not be for the purpose of accessing supports, services and/or accommodations. A Disclosure may relate to a Respondent who is or is not a fellow community member.
- 5.5. College employees and representatives to whom a student discloses an incident of Sexual Violence shall listen, inform of this Policy and refer the student to the Sexual Violence Educator and Support Coordinator (SVESC) in the Office of Equity, Diversity and Inclusion.
- 5.6. A supportive response to a Disclosure of Sexual Violence may include, but is not limited to:
  - a) Listening without judgment and accepting the Disclosure as true;
  - b) Communicating that Sexual Violence is never the responsibility of the survivor;
  - c) Informing the individual of resources and services available on- or off-campus including emergency medical care and counselling;
  - d) Respecting the individual's right to choose when and which services they feel are most appropriate and to decide whether or not to further report the incident either internally or externally;
  - e) Recognizing that disclosing can be traumatic and an individual's ability to recall the events may be limited and/or lack clarity and consistency;
  - f) Respecting the individual's choices as to what and how much they disclose about their experience; and
  - g) Making every effort to respect confidentiality and anonymity.

Those receiving Disclosures may contact [svsupport@durhamcollege.ca](mailto:svsupport@durhamcollege.ca) or call 905.721.2000 ext. 3100 to receive further information in order to support the individual who has made the Disclosure.

- 5.7. When the SVESC receives a Disclosure of an incident of Sexual Violence involving a student, if feasible and with consent, it may contact the student to offer support, information, and to provide options tailored to the needs, concerns, and circumstances of the Student.
- 5.8. The SVESC may make referrals to both on- and off-campus resources, discuss and facilitate appropriate accommodations and safety planning, and provide information about submitting a Complaint under this Policy.
- 5.9. The SVESC may, on a confidential basis, consult with and seek the assistance of other internal personnel or resources to facilitate the safety, follow-up, and support of those who have disclosed an incident of Sexual Violence.
- 5.10. Obligations of Community Members

5.10.1. Reporting Disclosures of Sexual Violence made to a Community Member

All College employees and contractors who have received a Disclosure shall immediately:

- notify the SVESC and shall answer the SVESC's inquiries about the Disclosure; and
- report the incident using the incident report form located on the Info Centre for Employees (ICE). Completed forms should be submitted to the SVESC at [svsupport@durhamcollege.ca](mailto:svsupport@durhamcollege.ca).

The notification of a Disclosure to the SVESC alone does not initiate a formal process.

Students to whom a student discloses an incident of Sexual Violence are encouraged to listen, inform of this Policy, and consult the SVESC in the Office of Equity, Diversity and Inclusion.

5.10.2. Reporting as a Witness to Sexual Violence

Employees, contractors, students, bystanders who witness Sexual Violence or suspect that Sexual Violence has occurred shall immediately report all incidents and suspected incidents to the SVESC.

Anyone who witnesses Sexual Violence or suspects that Sexual Violence has occurred have a duty to call the Sexual Violence hotline at 905.721.2000 ext. 3100, email [svsupport@durhamcollege.ca](mailto:svsupport@durhamcollege.ca), or speak with a staff member in person at the Office of Equity, Diversity, and Inclusion in CFCE131. They may also speak with Campus Security at ext. 2400.



## 6. Complaint procedure

### 6.1. Intake

- 6.1.1. The College treats the subject matter of Complaints as confidential wherever possible. It shares information about Complaints on a need to know basis and employs reasonable security measures to protect information about Complaints from loss, theft, and unauthorized access.
- 6.1.2. A Complaint of Sexual Violence may be filed under this Policy by any member of the college community.
- 6.1.3. Sexual Violence Complaints must be made to the Office of Campus Safety. Complaints must set out all the facts alleged to constitute Sexual Violence and will be asked to provide supporting evidence by the investigator.
- 6.1.4. The Office of Campus Safety may decline to refer a Complaint for investigation if the College does not have jurisdiction or if the allegations, if proven to be true, would not constitute Sexual Violence.
- 6.1.5. If the Office of Campus Safety refers a Complaint, the referral decision is final and is not subject to review or appeal. Complaints will ordinarily be referred for investigation as follows:
  - (i) if the Respondent is a Student, the Office of Campus Safety will assume carriage of the Complaint;
  - (ii) if the Respondent is a staff member, Human Resources will take carriage of the complaint;
  - (iii) if the Respondent is a visitor, the Office of Campus Safety will have carriage of the complaint; and
  - (iv) if the Respondent is both a Student and an employee, the Office of Campus Safety and Human Resources will jointly assess whether the investigation will be conducted jointly, or by either.

### 6.2. Interim Measures

- 6.2.1. The Office of Campus Safety will consider whether to implement interim measures that may be required to protect individuals, the community as whole, and the investigation process.
- 6.2.2. Interim measures may involve a ban from campus property in full or in part, removal from on-campus activities, removal from on campus residence, a suspension from study or other similar temporary measures.
- 6.2.3. Interim measures are not punishment and do not represent a finding of misconduct.

- 6.2.4. The Office of Campus Safety will provide written notice of interim measures and, when possible, meet with the Student-Respondent to explain. The notice will include brief reasons, a warning about non-compliance with conditions, and explanation of the review process set out below.
  - 6.2.5. The Director shall advise the Dean of Students and the appropriate school senior administrator of the interim measures.
  - 6.2.6. The Director, Office of Campus Safety will review interim measures every five (5) business days. Student Respondents may write the Director with any input or information they wish to be considered in the review.
- 6.3. Investigation of a Complaint
- 6.3.1. Investigation of a Complaint will occur after a survivor chooses to file a Complaint through the Office of Campus Safety. A person who has experienced Sexual Violence may choose not to request an investigation and has the right not to participate in any investigation that may occur. In certain circumstances, however, the College may be required to initiate an internal investigation and/or inform the police of the need for a criminal investigation, even without the person's consent, if the College believes that the safety of other members of the College community is at risk. This process will be treated in a confidential manner.
  - 6.3.2. The College will conduct an investigation. Internal and external investigators will ordinarily:
    - h) interview the complaint, respondent and witnesses, separately;
    - i) invite the respondent to respond to the allegations;
    - j) record statements of all interviews, maintain records in writing;
    - k) gather additional relevant evidence or documents; such as video, social medial or digital screenshots of relevant communications;
    - l) produce a written investigation report.
  - 6.3.3. During the College's investigative process, Complainants will not be asked irrelevant questions by investigators or staff. Examples of such irrelevant questions include those relating to past sexual history or sexual expression. The investigators will respect the dignity and privacy of the survivor, and document the details of the complaint which are pertinent and contribute to the fact-finding.
  - 6.3.4. Throughout the investigation, Complainants and Respondents may invite a support person or advisor (including a union representative or legal counsel) to meetings with the investigator, though support persons and advisors are not to answer questions and are not to otherwise interfere with the conduct of interviews.

- 6.3.5. The College is committed to the thorough and timely investigation of Complaints and to keeping Complainants and Respondents apprised of the status of its investigations.
- 6.3.6. The College will inform the Complainant and Respondent of the results of its investigation in writing. The written decision summary will include a brief description of any corrective action that the College has taken or will take as a result of its investigation.
- 6.3.7. The College may decide to use an external investigator when appropriate in the circumstances.
- 6.3.8. At the Complainant's request, a report of Sexual Violence shall be referred to the police, or to other community resources, where the persons involved are not members of the College community or otherwise where appropriate.
- 6.3.9. Where criminal and/or civil proceedings are commenced in respect of the allegations of Sexual Violence, the College may conduct its own independent investigation into such allegations, and will make its own determination in accordance with its policies and procedures. Where there is an ongoing criminal investigation, the College will cooperate with the law enforcement partners and may, as appropriate, adjourn the internal investigation with no specific date of resumption, pending the outcome of the criminal proceedings.
- 6.3.10. The College adheres to the following in investigating and making decisions about Complaints. If an entitlement set out below conflicts with something set out in another College policy, the entitlement set out below shall prevail.

#### 6.4. Disposition

- 6.4.1. The process that follows the completion of an investigation depends on whether the Respondent is an Employee, neither an Employee nor a Student, or a Student.
- 6.4.2. Where the Respondent is an Employee

Sexual violence is a violation of Employee Code of Conduct policy, EMPL-317, Workplace Violence Prevention policy, EMPL-313.

Allegations against employees will be addressed in accordance with the procedures set out in EMPL-317, and in any applicable collective agreement, and/or other College policies. If the Complaint is substantiated following an investigation, the College will decide on the appropriate disciplinary actions consistent with any applicable collective agreement and/or

policies regarding discipline.

There is no formal appeal process for employee violations, though College employees who are members of a union may file a grievance as permitted by the applicable collective agreement.

6.4.3. Where the Respondent is Neither a Student nor Employee (member of the public)

Contractors, suppliers, volunteers or visitors who attend on campus will be subject to Complaints if they engage in prohibited conduct.

Where a Complaint against the Respondent is substantiated, the College will take action as appropriate to the nature of the relationship that the individual has with the College.

All contractual relationships entered into by the College will be governed by a standard contract compliance clause that states:

*Suppliers and suppliers' subcontractors must comply with the College's Discrimination & Harassment policy, the Sexual Violence policy, and the Ontario Human Rights Code. If a Supplier or Supplier's subcontractors are found in violation of these Policies or the Ontario Human Rights Code it will result in cancellation of the purchase order or debarment of the contract.*

There is no formal appeal process for supplier, volunteer, or visitor violations.

6.4.4. Where the Respondent is a Student

Sexual violence is a violation of this Policy and, where the incident occurred in residence, is also a violation of the Residence Community Standards. It is considered a serious offence and will be addressed in a manner that is consistent with other serious offences. Please see the Student Conduct policy ADMIN-248 and where applicable, the Residence Community Standards, the Professional Standards for Placement policy, the Acceptable Use of Information Technology policy, the Employee Code of Conduct, and the Harassment, Workplace Sexual Harassment and Discrimination policy for more details on the disciplinary process and penalties.

## 6.5. Disposition for Student-Respondents

6.5.1. When a Complaint is filed, the Office of Campus Safety will assess the Complaint to determine if the Complaint meets the criteria for:

- a) An informal resolution through the Office of Campus Safety; or
- b) A formal resolution by a sole adjudicator appointed by the Dean of Students.

### **Informal Resolution Process**

- 6.5.2. When a Complaint is received by the Office of Campus Safety, the Complaint will be assessed to determine if it has merit and/or if the Complaint is of a nature that can be disposed of informally by mutual consent of the parties involved and on a basis acceptable to the Director, Office of Campus Safety.
- 6.5.3. A Complaint may be disposed of informally where the offence does not jeopardize the health, safety, or security of members of the College community. Such Complaints may be dealt with through resolution by the Office of Campus Safety.
- 6.5.4. At no point during the informal resolution process will the Office of Campus Safety or any other individual ask Complainants irrelevant questions. Examples of such irrelevant questions include those relating to past sexual history or sexual expression.
- 6.5.5. The Director, Office of Campus Safety will meet with the Manager, Student Conduct and Campus Investigations Office to review the investigative findings and to determine the resolution proposal to the Complaint.
- 6.5.6. The Office of Campus Safety will prepare a written record of the resolution to be proposed to the Respondent. A copy of the resolution will be kept on file in the Office of Campus Safety. The record will identify potential sources of support for the Respondent.
- 6.5.7. The Office of Campus Safety will inform the Complainant and any other person who initiated the Complaint that it has been resolved, in accordance with applicable law.
- 6.5.8. At any time, the student, the Director, Office of Campus Safety or the Manager, Student Conduct and Campus Investigations may refer the Complaint for formal resolution, by a sole adjudicator appointed by the Dean of Students.
- 6.5.9. Informal resolution proposed by the Office of Campus Safety and entered into freely by the Student Respondent, shall be final with no option to

appeal.

### **Formal Resolution Process**

- 6.5.10. Where the Complaint is determined to have merit and cannot be resolved under the criteria of the Informal Resolution Process, the Director, Office of Campus Safety or the Manager, Student Conduct and Campus Investigations shall refer the Complaint to the Dean of Students, who will appoint a sole adjudicator to hear the Complaint. The appointed adjudicator will have appropriate training and experience in trauma-informed approaches to investigations and decision-making involving Sexual Violence, and must not have any known or perceived conflict of interest.
- 6.5.11. At no point during formal resolution process will the Office of Campus Safety, Dean of Students, adjudicator, or any other individual ask Complainants irrelevant questions. Examples of such irrelevant questions include those relating to past sexual history or sexual expression.
- 6.5.12. The adjudicator appointed by the Dean of Students to hear the Complaint shall declare any conflict of interest prior to participating in a hearing.
- 6.5.13. The Dean of Students is responsible for advising the adjudicator on matters of procedure. Should the adjudicator declare a conflict of interest, the Dean of Students will appoint another adjudicator to hear the Complaint.
- 6.5.14. The Office of Campus Safety will provide a copy of the Investigative Summary and relevant documentation, evidence or materials to the adjudicator appointed by the Dean of Students to hear the Complaint.
- 6.5.15. The adjudicator will consider the Investigative Summary and appended evidence prior to the scheduling of a hearing.
- 6.5.16. The Respondent shall ordinarily be provided with an Investigative Summary by the Office of Campus Safety within fifteen (15) business days of the Complaint being made. The notice will:
- (i) include a summary of all the allegations;
  - (ii) describe any interim measures;
  - (iii) append relevant documentation;
  - (iv) identify potential sources of support; and
  - (v) indicate how to seek reconsideration of the interim measures.
- 6.5.17. Where there are extenuating circumstances, as determined by the Office

of Campus Safety, an investigation may require additional time. The Respondent will be notified in writing of any delay.

- 6.5.18. When a Complaint involves more than one Student-Respondent, the adjudicator will determine whether the Student-Respondents will receive separate hearings or will have a hearing together.
- 6.5.19. The adjudicator will schedule an in-person or virtual hearing within (7) business days of the Respondent receiving the Investigative Summary to address the Complaint. Once scheduled, the adjudicator will send the Respondent a notice of the hearing that sets out the Complaint allegations along with the Investigative Summary and relevant documentation.
- 6.5.20. Student-Respondents shall make themselves available to meet with the sole adjudicator appointed by the Dean of Students. If a Student-Respondent fails to attend a scheduled conduct adjudication meeting, the adjudicator may make a decision in absentia.
- 6.5.21. The Respondent is entitled to be accompanied by an advisor at their expense. The sole adjudicator appointed by the Dean of Students must be notified a minimum of one (1) business day in advance of the hearing if the Respondent intends to bring an advisor and must provide the name of the advisor.
- 6.5.22. The sole adjudicator appointed by the Dean of Students will review the investigative report and hear from the Respondent. Where necessary, they may also request to meet with the Complainant and other witnesses.
- 6.5.23. The sole adjudicator will give each Student-Respondent a fair hearing, following which it will make two decisions:
  - a) whether the evidence establishes, on a balance of probabilities<sup>1</sup>, one or more misconduct allegations; and
  - b) if one or more misconduct allegations are substantiated, the appropriate sanction.

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<sup>1</sup> Saying something is proven on a balance of probabilities means that it is more likely than not to have occurred.

6.5.24. Upon completion of the review, the sole adjudicator appointed by the Dean of Students may impose any of the following sanctions or combinations of sanctions:

- a) Loss of privileges;
- b) Restitution;
- c) Community service;
- d) Suspension from one or more College facilities/services;
- e) Permanent restrictions from one or more College facilities/services;
- f) Suspension from class(es);
- g) Suspension from the College;
- h) Timetable adjustments;
- i) Expulsion from the College; and/or
- j) Other sanctions, which are consistent with College policy.

6.5.25. The adjudicator will provide each Student-Respondent with a letter that sets out the adjudicator's decision and reasons. The adjudicator will provide the OCS with the letter, the OCS will provide the Complainant with a summary of the decision in a manner that complies with applicable law. The adjudicator may also advise College administrators and staff about the imposed sanctions if they have a need to know.

6.5.26. The College will keep a confidential copy of the decision on file in the office of the Dean of Students. The Office of Campus Safety will retain a record of all sanctions imposed in accordance with the College's records information management protocols. The College does not record sanctions other than expulsions in the permanent academic record or transcript of Student-Respondents.

## **7. Appeal process**

7.1. An appeal is not a reconsideration of an adjudicator's decision. The administrator who hears an appeal will only allow an appeal if the appellant establishes one of the three following grounds:

- i. New evidence has become available, but through no fault of the sanctioned student, was not presented at the time the adjudicator made its decision therefore rendering the adjudicator decision questionable;
- ii. The procedure employed by the adjudicator was unfair and reconsideration is warranted; or
- iii. The adjudicator's decision is unreasonable in light of the evidence put before the adjudicator.

7.2. Respondent students may file a written appeal to the Risk Management Office within five business days of receiving a decision. The appeal shall be made on a Student Conduct Non-Academic Appeal Form, identify the basis for the appeal, and include all submissions in support of the appeal. Typically, students receive



a reply within five business days of receiving a complete application package.

- 7.3. The appeal will be heard by a trained and suitable adjudicator selected by the Dean of Students or independent/external adjudicator appointed by the Dean of Students who has had no prior involvement in the matter under appeal and who is not in an apparent or real conflict of interest.
- 7.4. The administrator is not required to discuss the appeal with the Respondent(s) before deciding the appeal. The sole adjudicator who hears an appeal shall receive appropriate training for this role and may seek confidential legal advice.
- 7.5. If the adjudicator allows an appeal, they may return the matter for a re-hearing before a new adjudicator, or substitute a modified sanction.
- 7.6. An appeal decision is final.

## **8. Roles and responsibilities**

- 8.1. The Office of Human Resources and Equity is responsible for ensuring that this Policy and procedure is kept up-to-date with legislation, provincial standards and law related to Sexual Violence.
- 8.2. It is the responsibility of the Vice-president Human Resources and Equity and the Chief Administrative Officer to ensure this Policy and procedure is fully implemented.
- 8.3. Specific Responsibilities of Campus Employees

While everyone on campus has a role to play in responding to incidents of Sexual Violence, some campus members will have specific responsibilities that may include:

- a) The Campus Health and Wellness Centre provides psychological and emotional support, assists with safety planning, and makes referrals for medical services and mental health supports;
- b) The Access and Support Centre (ASC) provides psychological and emotional support to students registered with ASC.
- c) Faculty, staff, and administrators facilitate academic accommodations and other needs of those who have been affected by, or who have experienced, Sexual Violence (e.g. extensions on assignments, continuing studies from home, and dropping courses);
- d) Residence staff to facilitate safe living arrangements to the best of their abilities where applicable;
- e) Human Resources to assist with any incidents relating to employees;
- f) Office of Campus Safety to assist with safety planning,

investigations and gathering evidence, notifying students of any interim measures, implementing measures to reduce Sexual Violence on campus, and collaborating with law enforcement partners where appropriate;

- g) The Sexual Violence Education and Support Coordinator will receive Complaints and Disclosures of Sexual Violence and will provide advocacy and information, coordinate academic and other accommodations, and provide referral services to survivors, witnesses and campus members;
- h) The Director, Equity, Diversity, and Inclusion will serve as a Human Rights Advisor for all students on campus; and
- i) A sole adjudicator appointed by the Dean of Students will serve as the single trauma informed adjudicator in all formal cases of Sexual Violence.

## **9. Accessibility for Ontarians with Disabilities Act considerations**

Accessibility for Ontarians with Disabilities Act (AODA) standards have been considered in the development of this policy and procedure and it adheres to the principles outlined in the College's commitment to accessibility as demonstrated by the Accessibility Plan (ADMIN-203).

## **10. Support**

Please visit [www.durhamcollege.ca/sexualviolence](http://www.durhamcollege.ca/sexualviolence) for an updated list of on and off-campus resources available to those who have been affected by or experiences Sexual Violence.