

TYPE:	Administrative
TITLE:	Sexual Violence Prevention & Response
NO.:	ADMIN-244
RESPONSIBILITY:	Associate Vice-President, Human Resources and Equity
APPROVED BY:	Durham College Leadership Team
EFFECTIVE DATE:	February 2026

1. Introduction

- 1.1. This policy and procedure align 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.
- 1.2. 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.
- 1.3. The College also recognizes the need for proactive measures, which include education, training and prevention programs as well as practices that support dialogue, early intervention and de-escalation. As such this policy and procedure outlines focus for capacity building in addition to providing a process to receive, review and address concerns brought forward by members of our community, including an informal resolution process.
- 1.4. This policy and procedure will be reviewed and updated every three (3) years; revisions may occur before the review date to reflect institutional changes or amendments to relevant legislation and or Canadian laws. A review of this policy includes input from students and/or student survivors, Student Governors and both campus and community partners who champion and provide support services to survivors of Sexual Violence.

2. Purpose

The purpose of the Sexual Violence policy and procedure is to communicate that all members of the 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 guide how Sexual Violence and rape culture are addressed through survivor support, awareness, education, training and prevention programs; the appropriate handling and documentation 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:

- a. Protects the rights of individuals;
- b. Facilitates an environment in which individuals of all genders who are affected by Sexual Violence are believed and their rights respected; and
- c. 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 Appendix at the end of this policy.

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 and/or other forms of Gender-based 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 and/or other forms of Gender-based 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 and/or other forms of Gender-based Violence with compassion, recognizing that they have agency over their own best interests;
- d. Recognizing that Sexual Violence disproportionately affects Indigenous persons and equity-deserving groups, and committing to an intersectional approach that considers how overlapping identities may shape individual's experiences and access to support;
- e. Addressing harmful attitudes and behaviors (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;

- f. 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;
- g. 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;
- h. 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;
- i. 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;
- j. Providing appropriate, intersectional, trauma-informed, 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;
- k. Contributing to the creation of a campus atmosphere in which Sexual Violence is not tolerated; and
- l. 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 apply 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 formal complaint reporting process and procedure 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 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 and/or Gender-based 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 [intersectional, culturally responsive and contextually grounded] education and awareness initiatives dedicated to exploring Sexual Violence regardless of where the incident is alleged to have taken place. Topics, offered to both students and employees, could include understanding the parameters of consent, drug and alcohol use, pro-social bystander behaviour, sexual and cyber sexual harassment, rape culture, human trafficking for the purposes of sexual exploitation and sexual violence awareness, how to seek support, resources for survivors, and guidance and resources for first responders receiving disclosures.
- 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. The 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 facilitate Informal Resolution (Disclosures); and
 - c. The College may disclose information with a view to manage risk 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:

- a. The accommodations or supports required may limit the possibility of confidentiality;
- b. An individual is at imminent risk of self-harm;
- c. An individual is at imminent risk of harming another; and/or
- d. There are reasonable grounds to believe that others in the College or wider community may be at risk of harm; and/or
- e. Reporting is required by law (e.g. in the case of a minor, abuse from healthcare practitioner). See “Duty to Report” in section 3 of this policy.

The above list provides examples of exceptions to the foundational rule of confidentiality, which are made as necessary to ensure the College can act in the interests of the safety of the community and meet related legal obligations.

Where information must be shared, it will be limited to what is reasonably necessary in the circumstances and, where possible, the anonymity of those affected will be protected.

Durham College affirms that confidentiality and access to support services are not dependent on immigration or permit status. We recognize that newcomers, immigrants or international students may face unique concerns about stigma or legal consequences, and we are committed to protecting their privacy and ensuring that they can seek help without fear of jeopardizing their status or personal safety within the constraints of applicable laws.

4.4. Procedural Fairness

- 4.4.1. 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.
- 4.4.2. 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 to support their wellbeing and continued participation in the College community, 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 Education and Prevention Coordinator (SVEPC) in the Office of Equity, Diversity and Inclusion. The SVEPC will work collaboratively across relevant departments to provide reasonable accommodations as appropriate for those affected by sexual violence.
- 4.5.3. Interim measures are separate and distinct from academic or other forms of accommodation. Interim measures may be applied when either a disclosure or a complaint is received. Interim measures can be considered by the Office of Campus Safety in collaboration with the Office of Equity, Diversity and Inclusion where indicated.
- 4.5.4. Employees who require accommodation because of Sexual Violence can make an appointment with the Associate Vice-President, Human Resources and Equity (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:
 - a. Having pursued rights under this policy or any other legislative process;
 - b. Having participated or co-operated in an investigation under this policy or any other legislative process; or

c. 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

4.8.1. 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 Conduct Policy and may result in sanctions being pursued through the Student Conduct policy.

4.9. Dismissal of Unsupported Disclosures/Complaints

4.9.1. 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, that Complaint will be dismissed and no record will be placed in the Respondent's student record.

4.9.2. Where a Complaint of Sexual Violence is unsubstantiated and or dismissed, the Complainant is encouraged to access available supports and resources, explore accommodations (see section 4.5 of this policy) and engage in safety planning.

5. Procedure

5.1. Incident Response and Disclosures

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

5.1.2. 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.

- 5.1.3. 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, which may include academic and other accommodations, and considerations appropriate to their safety, mental health and socioeconomic circumstances and needs.
- 5.1.4. A Disclosure of Sexual Violence and/or other forms of Gender-based 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.
- 5.1.5. 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 Education and Prevention Coordinator (SVEPC) in the Office of Equity, Diversity and Inclusion as well as notify the SVEPC of the disclosure.
- 5.1.6. 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. See supports and medical resources in section 10 of this policy OR visit <https://durhamcollege.ca/about/equity/sexual-violence-awareness/supports-and-resources>.
 - d. Respecting the individual's right to choose when and which services they feel are most appropriate and to decide whether 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.

5.1.7. Those receiving Disclosures may contact svsupport@durhamcollege.ca to receive further information in order to support the individual who has made the Disclosure.

5.1.8. When the SVEPC receives a Disclosure of an incident of Sexual Violence involving a student, if feasible and with that student's consent, the SVEPC may contact the student to offer support, information, and to provide options tailored to the needs, concerns, and circumstances of the student.

5.1.9. The SVEPC may make referrals to both on- and off-campus resources; discuss and facilitate appropriate academic and housing accommodations and safety planning; and provide information about informal resolution and submitting a Complaint under this Policy.

5.1.10. The SVEPC 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 to those who have disclosed an incident of Sexual Violence

5.1.11. Human Resources assists with any incidents relating to employees.

5.2. **Obligations of College Community Members**

5.2.1. Reporting Disclosures of Sexual Violence made to a College Community Member

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

- a. Notify the SVEPC and shall answer the SVEPC's inquiries about the Disclosure; and
- b. Report the incident using the incident report form located on the Info Centre for Employees (ICE). Completed forms should be submitted to the SVEPC at svsupport@durhamcollege.ca.
- c. The notification of a Disclosure to the SVEPC alone does not initiate a formal process.
- d. Students to whom another student discloses an incident of Sexual Violence are encouraged to listen, inform of this Policy, and consult the SVEPC in the Office of Equity, Diversity and Inclusion.

5.2.2. Reporting as a Witness to Sexual Violence

- a. 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 SVEPC.
- b. Anyone who witnesses Sexual Violence or suspects that Sexual Violence has occurred have a duty to call the Sexual Violence Education and Prevention Coordinator at 905.721.2000 ext. 3917, email svsupport@durhamcollege.ca, or speak with a staff member in person at the Office of Equity, Diversity and Inclusion in C 106. They may also speak with Campus Security at 905-721-3211.

6. Informal Resolution

- 6.1. Durham College recognizes the importance of responding to the needs of survivors, including those who may prefer to not proceed with the formal complaint process outlined in section 7 of this policy but who might wish to explore resolution involving the alleged perpetrator. In these cases, an informal resolution process might be appropriate.
- 6.2. This is a voluntary process that aims to address safety, emotional wellness and, if appropriate, accountability. This process is entered into with mutual consent and is co-created by both the Complainant and Respondent and is designed to be responsive to the emergent needs of those involved. Some options available are:
 - a. No contact agreements.
 - b. Agreements about use of space/activities.
 - c. Timetable changes; either the survivor or respondent may agree to voluntarily request a change to their schedule, the Office of Equity, Diversity and Inclusion can help to explore the feasibility of this with the applicable Faculty.
 - d. Counseling.
 - e. Participation in Sexual Violence Awareness and/or Prevention training, including but not limited to consent awareness, and equity, diversity and inclusion training.
 - f. Submission of an Impact Statement: The Office of Equity, Diversity and Inclusion designate will be provided the impact statement to be read aloud or play the survivor's recording of the impact statement for the Respondent. At no time will a copy of the impact statement be solely in the Respondent's possession. The Respondent will be provided an

opportunity to debrief and an opportunity to reply if they choose to do so. The survivor may or may not choose to receive a response from the Respondent.

- 6.3. A student who has experienced sexual violence may request an informal resolution process through the SVEPC or another designated member of the Office of Equity, Diversity and Inclusion.
- 6.4. Upon the receipt of an informal resolution process request, the Director of the Office of Equity, Diversity and Inclusion or designate, will assess related risks and the applicability of the policy. The Director of Equity, Diversity and Inclusion may require a meeting with the survivor to determine whether an informal resolution process is appropriate.
- 6.5. At no point during the informal resolution process will the Office of Equity, Diversity and Inclusion or any other individual ask survivors irrelevant questions. Examples of such irrelevant questions include those relating to past sexual history or sexual expression.
- 6.6. If an informal resolution process is deemed appropriate, the Director of the Office of Equity, Diversity and Inclusion (or their designate) will initiate communication with the Respondent to discuss voluntary participation in an Informal Resolution Process.
- 6.7. Prior to engaging in an informal resolution process, the Director of Equity, Diversity and Inclusion (or designate), will inform both those involved in the process that participation does not preclude pursuit of other internal and/or external resolution processes, and provide an opportunity for persons to obtain further advice as needed.
- 6.8. At no point in time will the survivor and respondent be required to engage in a discussion together.
- 6.9. The Office of Equity, Diversity and Inclusion 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 Equity, Diversity and Inclusion. The record will identify potential sources of support for the Respondent.
- 6.10. The Office Equity, Diversity and Inclusion will inform the Survivor and any other person who initiated the informal resolution process that it has been resolved, in accordance with applicable law.
- 6.11. At any time, the student, the Director, Office of Equity, Diversity and Inclusion or the SVEPC may refer the Survivor for formal resolution, by a sole adjudicator appointed by the Manager of Student Conduct or Dean, Students.
- 6.12. If an Informal Resolution Process cannot meet the needs of those impacted, the individual(s) alleging the policy violation may choose to file a Complaint.

7. Complaint Procedure

7.1. Intake

- 7.1.1. 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.
- 7.1.2. A Complaint of Sexual Violence may be filed under this Policy by Durham College students.
- 7.1.3. 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.
- 7.1.4. 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.
- 7.1.5. 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:
 - a. if the Respondent is a Student, the Office of Campus Safety will assume carriage of the Complaint;
 - b. if the Respondent is a staff member, Human Resources will take carriage of the complaint;
 - c. if the Respondent is a visitor, the Office of Campus Safety will have carriage of the complaint; and
 - d. 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.

7.2. Interim Measures

- 7.2.1. 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. With input from the OEDI as indicated, the Office of Campus Safety will consider whether to implement and impose interim measures to:

- 7.2.2. ensure that individuals who come forward with either disclosures or formal complaints of sexual violence receive appropriate support and response
- 7.2.3. safeguard the Survivor and others within the Durham College community from potential harm
- 7.2.4. preserve the fairness and credibility of any internal investigation processes
- 7.2.5. prevent acts of retaliation or intimidation against any party involved
- 7.2.6. reduce the impact on academic, professional, or residential life when the presence of involved individuals may hinder someone's ability to participate fully in College activities
- 7.2.7. foster trust and reinforcing the College's commitment to a safe and respectful environment
- 7.2.8. In addition to considering the purposes of Interim Measures set out above, Durham College will consider the following factors when imposing Interim Measures:
 - 7.2.9. the Survivor/Complainant's desired outcomes, preferences and needs
 - 7.2.10. any input provided by the Respondent, including their agreement or concerns regarding proposed interim measures
 - 7.2.11. the severity and nature of reported behavior and actions
 - 7.2.12. the effect of the alleged incident has had on the Survivor/Complainant and/or any other member of the Durham College Community
 - 7.2.13. assess and balance possible consequences of interim measures on Respondent
 - 7.2.14. whether the Respondent is in a position of trust or authority, and
 - 7.2.15. Durham College's responsibilities and commitments as an educational institution.
 - 7.2.16. 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.

- 7.2.17. Interim measures are not punishment and do not represent a finding of misconduct. Any interim measure that is imposed is preventative and protective.
- 7.2.18. 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.
- 7.2.19. The Director shall advise the Dean, Students and the appropriate school senior administrator of the interim measures.
- 7.2.20. 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.

7.3. Investigation of a Complaint

- 7.3.1. 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.
- 7.3.2. The College will conduct an investigation. Internal and external investigators will ordinarily:
 - a. interview the complaint, respondent and witnesses, separately;
 - b. invite the respondent to respond to the allegations;
 - c. record statements of all interviews, maintain records in writing;
 - d. gather additional relevant evidence or documents; such as video, social media or digital screenshots of relevant communications; and
 - e. produce a written investigation report.

- 7.3.3. 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.
- 7.3.4. Throughout the investigation, Complainants and Respondents may invite a support person or advisor to meetings with the investigator. The investigator is to be provided with advance notice, and support persons and advisors are not to answer questions and are not to otherwise interfere with the conduct of interviews.
- 7.3.5. 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.
- 7.3.6. 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.
- 7.3.7. The College may decide to use an external investigator when appropriate in the circumstances.
- 7.3.8. 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.
- 7.3.9. 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.
- 7.3.10. 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.

7.4. Disposition

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.

7.4.1. Where the Respondent is an Employee

- a. Sexual Violence is a violation of the [EMPL-317-Employee Code of Conduct](#) , [EMPL-313-Workplace Violence Prevention](#) and the [ADMIN-202-Harrasment and Discrimination Prevention and Response](#) policies.
- b. 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.
- c. 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.

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

- a. Contractors, suppliers, volunteers or visitors who attend on campus will be subject to Complaints if they engage in prohibited conduct.
- b. 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.
- c. 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 contractor, supplier, volunteer, or visitor violations.

7.4.3. Where the Respondent is a Student

- a. 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.
- b. Please see the [Student Conduct policy ADMIN-248](#), [Student conduct: Standards for All Learning Environments ACAD-131](#) and where applicable, the Residence Community Standards, the Professional Standards for Placement policy, the [Acceptable Use of Information Technology ADMIN-206](#) policy, the [Employee Code of Conduct](#), and the [Harassment and Discrimination Prevention and Response ADMIN-202](#) policy for more details on the disciplinary process and penalties.

7.5. Disposition for Student Respondents

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 Equity, Diversity and Inclusion; or
- b. A formal resolution by a sole adjudicator appointed by the Dean, Students.

7.5.1. Formal Resolution Process

- a. 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.
- b. At no point during formal resolution process will the Office of Campus Safety, Dean, 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.

- c. The adjudicator appointed by the Dean, Students to hear the Complaint shall declare any conflict of interest prior to participating in a hearing.
- d. The Dean, Students is responsible for advising the adjudicator on matters of procedure. Should the adjudicator declare a conflict of interest, another adjudicator will be appointed.
- e. The Office of Campus Safety will provide a copy of the Investigative Summary and relevant documentation, evidence or materials to the adjudicator appointed to hear the Complaint.
- f. The adjudicator will consider the Investigative Summary and appended evidence prior to the scheduling of a hearing.
- g. 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 documentation provided to the Respondent shall be subject to considerations of proportionality. The notice will:
 - include a summary of all the allegations;
 - describe any interim measures;
 - append relevant documentation;
 - identify potential sources of support; and
 - indicate how to seek reconsideration of the interim measures.
- h. 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.
- i. 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.
- j. The adjudicator will schedule an in-person or virtual hearing within seven (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.

- k. Student-Respondents shall make themselves available to meet with the adjudicator. If a Student-Respondent fails to attend a scheduled conduct adjudication meeting, the adjudicator may make a decision in absentia.
- l. The Respondent is entitled to be accompanied by an advisor at their expense. The adjudicator 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.
- m. The adjudicator will review the investigative report and hear from the Respondent. Where necessary, they may also request to meet with the Complainant and other witnesses.
- n. The sole adjudicator will give each Student-Respondent a fair hearing, following which it will make two decisions:
 - whether the evidence establishes, on a balance of probabilities, one or more misconduct allegations; and
 - if one or more misconduct allegations are substantiated, the appropriate sanction.
- o. Upon completion of the review, the sole adjudicator may impose any of the following sanctions or combinations of sanctions:
 - Loss of privileges;
 - Restitution;
 - Community service;
 - Mandatory Sexual Violence Awareness and Prevention Training; and/or Consent Education, and/or Human Rights Training;
 - Suspension from one or more College facilities/services;
 - Permanent restrictions from one or more College facilities/services;
 - Suspension from class(es);
 - Suspension from the College;
 - Timetable adjustments;
 - Expulsion from the College; and/or

- Other sanctions, which are consistent with College policy.
- p. 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.
 - q. The College will keep a confidential copy of the decision on file in the office of the Dean, 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.

8. Appeals Process

- 8.1. An appeal is not a reconsideration of an adjudicator's decision. An appeal will only be granted if the Student-Respondent establishes at least one of the three following grounds:
 - 8.1.1. New evidence has become available, but through no fault of the respondent student, was not presented at the time the adjudicator made their decision therefore rendering the adjudicator decision questionable.
 - 8.1.2. A substantial procedural error has been committed by the adjudicator which has denied the respondent student a fair outcome.
 - 8.1.3. The sanctions imposed by the adjudicator are patently unreasonable or substantially disproportionate to the circumstances of the offence in light of the evidence put before the adjudicator.
- 8.2. 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 (including a description of the ground(s) for the appeal as set out under 8.1) and include all submissions in support of the appeal.
- 8.3. Typically, students receive a reply within five business days of receiving a complete application package. The reply shall provide the Student-Respondent with one of the following outcomes:
 - 8.3.1. the application has met the grounds for an appeal and will be forwarded to the Dean, Students for consideration; or

8.3.2. the application has not met the grounds for an appeal.

The Office of Risk Management is not required to discuss the appeal application with the respondent student before deciding whether the appeal will proceed.

8.4. If an appeal is allowed to proceed, the Dean (Students) may:

- a. return the matter to the same Adjudicator with or without giving direction; or
- b. return the matter for a re-hearing before a newly constituted Student Conduct Committee, a new Adjudicator or substitute a modified sanction. In cases where a sanction is altered, the Dean (Students) will notify other College administrators if they have a need to know.

8.5. The Adjudicator who hears the appeal will have no prior involvement in the matter under appeal and will not be in an apparent or real conflict of interest.

8.6. The Adjudicator who hears an appeal will have appropriate training for this role and may also seek confidential legal advice.

8.7. An appeal decision is final and will be communicated to the respondent student by the Committee Chair/Adjudicator hearing the appeal.

9. Documentation and Reporting

As per the Ministry of Training, Colleges and Universities Act, post-secondary institutions are required to provide an annual sexual violence report that is publicly available and should include at a minimum:

- 9.1. The number of times supports, services and accommodations relating to sexual violence are requested and obtained by students enrolled at the college, and information about supports, services and accommodation.
- 9.2. Any initiatives and programs established by the college or university to promote awareness of the supports and services available to students.
- 9.3. The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.
- 9.4. The implementation and effectiveness of the policy.

As such, the annual sexual violence report is required to be shared with the College's Board of Governors and the report must be posted on their website for public access by November 1.

The Office of Equity, Diversity and Inclusion (OEDI) is responsible for preparing the College's annual Sexual Violence and Harassment Action Plan report in accordance

with the requirements set by Ministry of Colleges, Universities, Research Excellence and Security. To fulfil this mandate, the OEDI will coordinate the collection and compilation of reportable data by engaging relevant campus and/or community partners, ensuring compliance with all Ministry reporting obligations.

10. 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 Multi-Year Accessibility Plan.

11. Support

Safety:

If you are in danger or need of immediate help, please call 911 for emergency services OR Campus Security at:

- a. Oshawa Campus: 905.721.2000 ext. 2400 or 905.721.3211
- b. Whitby Campus: 905.721.2000 ext. 4098 or 905.721.3211

Medical:

If you require medical services due to Sexual Violence, please go to your nearest emergency hospital immediately. Medical care may involve, with your consent, a thorough evaluation, including evidence collection, physical examination, and treatment. You have the right to decide whether to proceed or stop the medical examination at any point. Where there are no legal obligations* of a health care provider, an examination of this nature does not initiate a formal process involving the police services unless you request this.

Services are available at the Oshawa Hospital's Domestic Violence and Sexual Assault Care Centre - Lakeridge Health. To access DVSACC, enter through the Oshawa Hospital's Emergency Department. 1 Hospital Ct, Oshawa, ON L1G 2B9.

To access care 12 days or more after the incident, please call DVSACC.

T: 905-576-8711, extension 33286

On-Campus and Off Campus Resources:

Please visit <https://durhamcollege.ca/about/equity/sexual-violence-awareness/supports-and-resources> for a comprehensive list of sexual-violence related on and off-campus resources.

Appendix

Definitions

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.

Balance of Probabilities:

Proving something on a balance of probabilities means that it is more likely than not to have occurred. Within the realm of Sexual Violence, the standard of a Balance of Probabilities is a civil standard and should not be confused with the standard of "Beyond a Reasonable Doubt," which is the higher standard used in criminal cases because of the risk of imprisonment faced by the accused.

Complaint:

An individual alleging a potential breach of policy or research misconduct by a DC community member. If the breach occurred elsewhere, the complainant should also report their information to the institution at which the breach occurred.

Consent:

The voluntary, continuous and contemporaneous 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:

- a. Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
- b. A person is incapable of giving consent if asleep, unconscious or otherwise unable to communicate.
- c. 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.
- d. A person who is drugged is unable to consent.
- e. A person is usually unable to give consent when under the influence of alcohol and/or drugs.

- f. A person may be unable to give consent if they have a mental/cognitive disability that prevents them from fully understanding the sexual acts.
- g. 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.
- h. A person can withdraw consent at any time during the course of a sexual encounter.
- i. 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 whom they teach, or an administrator in a relationship with anyone who reports to that position.
- j. Consent cannot be given on behalf of another person. It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated at all stages of sexual engagement. It is also the initiator's responsibility to know if the person they are engaging with sexually is of the age of consent as defined in the Criminal Code.

Contractor:

A business entity or unincorporated business providing products or services under a contract for services. The Independent Contractor (ICON) form is used to verify independent contractor status for unincorporated businesses.

Duty to Accommodate:

Under the Ontario Human Rights *Code*, employers and service providers have a legal duty to take reasonable steps to adjust policies, practices or physical spaces so that individuals are not unfairly excluded from accessing employment or services. Accommodation is necessary to ensure that people with protected identities under the *Code*, such as creed, disabilities, family status, gender identity/expression, sex (and other protected grounds) have equal opportunities, access and benefit.

Accommodation-Sexual Violence. In the case of Sexual violence, an accommodation further reflects the recognition that individuals may require some adjustments to support their performance in the classroom or workplace due the impact of the violence on their safety, mental or physical health.

Where a duty to accommodate exists, employers and service providers are legally required to make those adjustments which can be reasonably made without causing them undue hardship—which is assessed based on cost, health, and safety considerations.

Accommodation is a shared responsibility, requiring cooperation between the organization and the individual seeking accommodation to find reasonable, appropriate solutions that meet their needs while balancing operational requirements. Accommodation should be 1) provided in a way that respects the

individual's dignity; tailored to the specific needs of the individual; and aim to facilitate full integration and participation of the individual in the relevant activity or environment.

Duty to Report:

In Ontario, the "duty to report" requires individuals to report suspected child abuse or neglect to a Children's Aid Society when they have reasonable grounds to believe a child under 16 is in need of protection. This duty applies to everyone, including those who work directly with children, such as teachers, social workers, and healthcare professionals. Youth who are 16 and 17 years old are now eligible to receive protection services from Children's Aid Societies. While reporting for 16 and 17-year-old youth is not mandatory, please contact your local Children's Aid Society if you have concerns about a youth. Please also see section 4.3.3. of this policy to learn of additional limitations of confidentiality.

Drug-facilitated Sexual Violence:

The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue an individual for purposes of sexual violence.

Employee:

Any individual employed by the College, regardless of their position, role, or employment status.

Gender-based Violence:

Violence based on gender norms and unequal power dynamics, perpetrated against someone based on their gender, gender expression, gender identity, or perceived gender. It takes many forms, including physical, economic, sexual, spiritual as well as emotional (psychological) abuse. It can happen between people in romantic relationships. It can happen in families, at work, and between friends and acquaintances and strangers. It often occurs in private places between people who know each other (IE. Intimate partner violence and or Sexual Violence is a form of Gender-based violence).

Indecent Exposure:

Indecent Exposure of private or intimate part(s) of the body in a lewd or sexual manner, in a public place where the perpetrator may be readily observed.

Intersectionality:

The concept that individuals experience overlapping systems of oppression based on social categories like race, gender, and class. These intersections shape unique experiences of disadvantage or privilege.

Impact Statement:

The survivor may choose to make a statement describing their experience and the consequential impact of the alleged harm. The survivor may decide to complete their statement in writing or via a recording.

Respondent:

An individual against whom an allegation of engaging in behavior which violates a Durham College policy is made.

Human Trafficking for the Purpose of Sexual Exploitation:

The recruitment, transportation, transfer, harbouring, sale or receipt of people by improper means (such as force, abduction, fraud, coercion, deception, manipulation, threats, repeated provision of a controlled substance) for purposes of **sexual exploitation**. This is not to be confused with sex work where the person willingly takes part in the sale of sex.

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 Assault, Acquaintance:

Sexual contact that is forced, manipulated, or coerced by a partner, friend, or acquaintance.

Sexual Exploitation:

Seeking benefit through the non-consensual or abusive sexual control over another; sex trafficking is a form of sexual exploitation. This is not to be confused with sex work where the person willingly takes part in the sale of sex.

Sexual Harassment, workplace:

Sexual harassment is one, or a series of, comment(s) or conduct that is gender related or of a sexual nature that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile or inappropriate. In order to constitute sexual harassment, the conduct complained of must detrimentally affect the complainant's work/study environment by creating a hostile atmosphere in which the victim is made to feel inferior, inadequate, or offended. Examples include gestures; remarks; jokes; slurs; taunting; innuendo; threats; physical; verbal or sexual assault; unwanted physical contact; invitations; leering; the display of sexually offensive material; solicitation; demands; penalties related to sexual orientation, marital, or family status; unwanted attention; implied or express promise of reward or benefit in return for sexual favours; implied or express threat or act of reprisal if sexual favours are not given; and sexual assault; making a sexual solicitation or advance where the person making the advance is in a position to confer, grant, or deny a benefit or advancement to a worker or student and the person knows or ought reasonably to know that the solicitation or advance is

unwelcome.

Sexual Misconduct:

Sexual Misconduct means, in relation to the behavior of a Durham College employee towards a Durham College student, physical sexual relations with the student, touching of a sexual nature of the student, or behavior or remarks of a sexual nature toward the student, where i) the act constitutes an offense under the Criminal Code; ii) the act infringes the rights of a student under the Human Rights Code to be free from a sexual solicitation or advance, and to be free from reprisal or threat of reprisal for the rejection of a sexual solicitation or advance; or iii) the act is contrary to Durham College's Employee Code of Conduct or its [Harassment and Discrimination Prevention and Response](#) policy.

Sexual Violence:

Any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Sexual Violence – Complaint:

A written allegation of sexual violence made for the purpose of invoking the processes set out in Section 7 of the Sexual Violence policy.

Sexual Violence – Complainant:

An individual who has filed a complaint under the Sexual Violence policy.

Sexual Violence Disclosure:

The act of sharing information about an incident of sexual violence with the College for the purpose of receiving support, counselling or accommodation or to obtain information about reporting options, including but not limited to making a formal complaint under the Sexual Violence Policy. A Disclosure of Sexual violence is different from a Complaint. Making a Disclosure and does **not** initiate a Complaint Investigation by Durham College.

Sexual Violence – Student:

Any person who is registered, full-time or part-time, in a course or program of study, including a non-degree diploma or certificate (whether for credit or not), offered through the College, or anyone who was so registered when an incident of Sexual Violence is alleged to have occurred. "Student" also means persons registered with the College on a letter of permission and persons on exchange at the College.

Stalking:

A form of criminal harassment prohibited by the Criminal Code of Canada. It involves behaviors that occur on more than one occasion, and which collectively instill fear in the individual or threaten the individual's/target's safety or mental

health. Stalking can also include threats of harm to the target's friends and/or family. These behaviors 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/cyberstalking; and uttering threats.

Student:

Any person who is registered, full-time or part-time, in a course or program of study, including a non-degree diploma or certificate (whether for credit or not), offered through the College, or anyone who was so registered when an incident of Sexual Violence is alleged to have occurred. "Student" also means persons registered with the College on a letter of permission and persons on exchange at the College.

Survivor:

A survivor includes an individual who discloses an experience of gender-based violence inclusive of sexual violence and intimate partner violence. A survivor is referred to as the "complainant" when they file a formal complaint under the Sexual Violence Policy.

Voyeurism:

Secretly observing a person without their Consent and knowledge and in circumstances where they could reasonably expect privacy. May include direct observation, observation by electronic means, and visual recording of an individual(s) who is naked or engaging in sexual activity.

Refer to [Durham College's Standard Definitions](#) for additional key terms.