

SUBJECT	SEXUAL MISCONDUCT POLICY (Bill 26 – Strengthening Post-Secondary Institutions and Students Act)
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BACKGROUND

The Ministry of Training, Colleges and Universities Act is amended with Bill 26, Strengthening Post-Secondary Institutions and Students Act, 2022 that adds a new section setting out rules respecting sexual misconduct toward students by employees of publicly-assisted colleges of applied arts and technology.

All students of Northern College have a right to work and study in an environment that is free from any form of sexual misconduct. This policy and its related procedures set out the way in which the College addresses sexual misconduct. It ensures that policies, procedures and processes are in place to address individuals affected by sexual misconduct, the rules or standards of sexual behaviour involving employees and students, that students have a means of reporting sexual misconduct, there is an investigation process, there are disciplinary measures for acts of sexual misconduct and there are clear guidelines regarding no re-employment.

Northern College shall have an employee sexual misconduct policy that outlines the requirements of the Act and a Sexual Misconduct Procedure that includes, at a minimum, the College’s rules with respect to sexual behaviour that involves employees and students of the institution; and examples of disciplinary measures that may be imposed on employees who contravene the policy.

POLICY

Northern College strictly prohibits acts of sexual misconduct as defined by this policy and is committed to maintaining a respectful academic and working environment for students.

SCOPE

This policy applies to all employees and students of the College.

DEFINITIONS

Institution: Is defined as a publicly-assisted college of applied arts and technology;

Sexual Misconduct: is defined as, in relation to a student of the College

a) physical sexual relations with the student, touching of a sexual nature of the student or behaviour or remarks of a sexual nature toward the student by an employee of the College where:

- the act constitutes an offence under the *Criminal Code of Canada*

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- the act infringes the right of the student under clause 7 (3) (a) of the *Human Rights Code to be free from a sexual solicitation or advance, or*
 - the act constitutes sexual misconduct as defined in this Policy or contravenes the policy or any other policy, rule or other requirement of the College respecting sexual relations between employees and students.
- b) any conduct by an employee of the college that infringes the right of the student under clause 7 (3) (b) of the Human Rights Code to be free from reprisal or threat of reprisal for the rejection of sexual solicitation or advance.

POLICY REQUIREMENTS

Reporting Process: The College will provide a reporting method, process or procedure for students to report incidents and complaints of sexual misconduct and the College will provide a process to address reported incidents in a respectful and timely manner.

Investigation Process: This is a required element as determined by the College and included in the Sexual Misconduct Procedure.

Discharge or Discipline: If an employee commits an act of sexual misconduct toward a student, the institution may discharge or discipline the employee for that act, and, the discharge or disciplinary measure is deemed to be for just cause for all purposes, then the employee is not entitled to notice of termination or termination pay or any other compensation or restitution as a result of the discharge or disciplinary measure. In addition, despite subsection 48 (17) of the Labour Relations Act, 1995 and subsection 14 (17) of the Colleges Collective Bargaining Act, 2008, and despite any provision of a collective agreement or employment contract specifying a penalty for the infraction, no arbitrator, arbitration board or other adjudicator shall substitute any other penalty for the discharge or disciplinary measure imposed by Northern College.

No Re-employment: If an employee of an institution commits an act of sexual misconduct toward a student and are discharged with just cause for that act or the employee resigns from their employment, the College shall not subsequently re-employ the employee.

In addition, if the College determines that it has re-employed an individual contrary to the No Re-employment section of the act, the College shall discharge the employee in accordance with the Act.

Agreement: Any agreement between the College and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day the Strengthening Post-secondary Institutions and Students Act, 2022 comes into

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force, shall not contain any term that, directly or indirectly, prohibits the institution or any person related to the institution from disclosing that an allegation or complaint has been made that an employee of the institution committed an act of sexual misconduct toward a student of the institution, and any such term that is included in an agreement is void.

Exception to the Agreement: The College may enter into an agreement that contains a term described in the Agreement Section if the student requests that the institution do so, provided that the student has had a reasonable opportunity to receive independent legal advice; there have been no undue attempts to influence the student with respect to the request; the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so; and the agreement is of a set and limited duration.

RESPONSIBILITY

While everyone has a role to play in responding to incidents of sexual misconduct, the following groups have specific responsibilities:

- Advising Services will provide support to students through the procedure process, assist with safety planning, make referrals to other services and other supports as needed;
- Faculty, staff and administrators who are not directly involved to facilitate academic accommodations and other needs of those who have been affected by or experienced sexual misconduct, e.g., extensions on assignments, continuing studies from home, and dropping courses;
- Employees have a duty to participate in investigations;
- Student Services and Residence staff to facilitate safe living arrangements; and
- Human Resource Services to facilitate the investigation process and ensure that the policy is being administered in accordance with the Act.

COMMUNICATION:

This policy and corresponding procedures will be communicated to all new employees at least at the time of hire and may be required to be refreshed from time to time. This policy will be posted on the Northern College website and intranet.

REFERENCE:

Ontario Human Rights Code

Criminal Code of Canada

[Respectful Organization Policies](#)

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Employee Code of Conduct

Student Code of Conduct

[Progressive Discipline and Corrective Action Policy](#) & [Procedure](#)

APPROVAL BY PRESIDENT



Dr. Audrey J. Penner

6/22/2023

Date

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