

**POLICY GROUP:** NCT400 – Health, Safety & Security**POLICY TITLE:** Sexual & Gender-Based Violence

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**A. Background and Definitions**

Sexual and gender-based violence are unacceptable and will not be tolerated. Niagara College-Toronto (NCT) is committed to challenging and preventing sexual and gender-based violence and creating a safe place for anyone in our college community who has been impacted by these types of violence. The College is expected to be a safe and positive space where members of the college community feel able to work, learn, and express themselves in an environment free from sexual and gender-based violence.

**Accommodations:** Under this policy, accommodations are adjustments to an individuals' academic or workplace made to support them and/or enhance their safety (e.g. a change in assignment deadlines or group project; a change in supervisory arrangements).

**College Community:** Includes all students, employees, contractors, clients, suppliers, volunteers, and visitors to NCT.

**Complainant:** An individual who has filed a report or complaint under this policy for the purpose of investigation.

**Consent:** The active, ongoing, voluntary, and informed agreement to engage in sexual activity. Consent cannot occur when a person is incapacitated (such as by drugs or alcohol), unconscious, or otherwise unable to understand and voluntarily give consent.

- Consent to one sexual act does not imply consent for others, and consent can also be withdrawn at any time during the sexual activity.
- A person who is coerced or threatened into sexual activity is not providing consent.
- Silence or non-communication cannot be interpreted as consent. Consent is active, affirmative, and ongoing.
- Consent cannot be given if there is an abuse of power or authority.
- Consent cannot be given on behalf of another person.
- The fact that consent was given in the past to a sexual, dating, or intimate partner does not mean that consent is assumed to exist for future sexual activity.

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- A person is incapable of providing consent if they are incapacitated by drugs or alcohol, or if they are unconscious, asleep, or otherwise lack the capacity to consent.
- It is the responsibility of the initiator of the sexual activity to ensure they have consent from the other person.

**Disclosure:** When someone chooses to inform a college community member about an incident of sexual or gender-based violence.

**Gender-Based Violence:** Any form of abuse, assault, or harassment that is inflicted upon a person or persons due to their gender identity, gender expression, or perceived gender. Gender-Based violence includes domestic violence, physical abuse, financial abuse, emotional and psychological abuse.

**Interim Measure:** A course of action imposed on a student before the college makes a final determination about the alleged misconduct. An interim measure is not considered to be a finding of misconduct.

**Intersecting Identities/Intersectionality:** Terms used to describe ways of thinking about the complexities of and relationships between the many aspects of people's identities (e.g. gender, race, ethnicity, class, sexual identity, disability/ability, age); these identities do not exist in isolation. The concept of intersectionality recognizes that each aspect of identity is related to a person's social power and affects their vulnerability to oppression and experience of sexualized violence.

**Report/Complaint:** A report or complaint of an incident of sexual or gender-based violence under this policy for the purpose of investigation.

**Respondent:** A person against whom a complaint has been made alleging an act(s) of sexual or gender-based violence.

**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 but is not limited to sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation, as defined below:

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**Sexual Assault:** A criminal offense 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 survivor 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 or consented to, or to which the person is incapable of consenting.

**Sexual Harassment:** Engaging in a course of conduct of a gender-related or sexual nature that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile, or inappropriate. Depending on its severity, one action may constitute sexual harassment. This may include, but is not limited to: demeaning gestures, remarks and jokes; slurs, taunting, innuendo based on gender or sexual orientation; unwanted physical contact; leering; inappropriate comments about clothing, physical characteristics or activities; unwanted questions or comments about one's private life, sexual orientation, marital or family status; the display of sexually offensive material; solicitation; unwanted attention; implied or expressed promise of reward or benefit in return for sexual favours; implied or expressed threat or act of reprisal if sexual favours are not given; or sexual assault. Sexual harassment is prohibited by the Ontario Human Rights Code.

**Stalking:** Behaviours that occur on more than one occasion and which collectively instill fear in the person or threaten the person's safety or mental health, or that of their family or friends. Stalking includes non-consensual communications (e.g., face-to-face, phone, electronic); threatening or obscene conduct or gestures; surveillance and pursuit; and sending unsolicited gifts.

**Indecent Exposure:** The exposure of the private or intimate parts of the body in a lewd or sexual manner, in a public place where the perpetrator may be readily observed. Indecent exposure includes exhibitionism.

**Voyeurism:** The surreptitious observing of a person without their consent and in circumstances where they could reasonably expect privacy. Voyeurism may include direct observation, observation by mechanical or electronic means, or visual recordings.

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**Sexual Exploitation:** Taking advantage of another person through non-consensual or abusive sexual control. This may include the digital or electronic broadcasting, distributing, recording and/or photographing of people involved in sexual acts without their consent.

**Student Rights and Responsibilities Office (SRRO):** College administrators appointed to oversee and implement the Student Code of Conduct, as well as complaints under other policies that govern Student behaviour, including this policy, where the respondent is a student.

**Survivor/Victim:** Any individual who has experienced sexual or gender-based violence. For the purpose of this policy, the term “survivor” is used, as well as the term “complainant” when a report is filed under this policy. It is the prerogative of the person who has experienced sexual or gender-based violence to determine how they wish to be referred to.

**Other Related Terms:**

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

**Drug-Facilitated Sexual Activity:** The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue a Survivor for the purpose of Sexual Assault.

**B. Purpose**

All members of the college community have a right to work and study in an environment that is free from any form of sexual or gender-based violence. The College will investigate all formal complaints of sexual and gender-based violence when the conduct has a substantial link to the college community, direct implications for students or staff, and is within the College’s scope of responsibility. This includes incidents that occur on or off campus, and behaviour observed through electronic or online platforms.

The College will provide supports, services, and accommodations to individuals who disclose sexual or gender-based violence, even if they do not wish to file a formal complaint.

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### **C. Scope**

This policy applies to all members of the NCT college community.

### **D. Policy Statements**

1. NCT is committed to addressing sexual and gender-based violence through education, awareness, training, and by providing support for those who have been impacted by sexual or gender-based violence. The College strives to maintain a safe and respectful learning, working, and living environment where sexual and gender-based violence are not tolerated.
2. All survivors who disclose sexual or gender-based violence to the College will be treated with dignity and respect, provided with support, accommodations, information about on and off campus resources, and choices about reporting options.
3. The intention of this policy is to make individuals feel informed and comfortable about making a report/complaint of sexual or gender-based violence that they have experienced or witnessed.
4. The College recognizes that sexual and gender-based violence impacts people of all genders and may disproportionately affect individuals with intersecting identities including but not limited to persons with disabilities, Indigenous people, racialized people, and people whose gender identity and gender expression does not conform to historic gender norms. The College also recognizes that individuals from diverse communities who face systemic barriers and discrimination may be reluctant to make a report/complaint. Niagara College-Toronto is committed to ensuring that an anti-oppressive and trauma-informed approach is embedded within our support services, educational initiatives, and prevention efforts.
5. Students who disclose their experience of sexual violence through reporting an incident of, making a complaint about, or accessing supports and services for sexual violence, will not be asked irrelevant questions during the investigation process by college employees or investigators. This includes irrelevant questions relating to the student's sexual expression or past history.

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6. Students who, in good faith, report an incident of, or make a complaint about, sexual violence, will not be subject to discipline or sanctions for violations of the College's policies related to drug or alcohol use at the time the alleged sexual violence occurred.
7. Members of the college community should immediately report incidents of sexual or gender-based violence they witness or have knowledge of, or where they have reason to believe that sexual or gender-based violence occurred or may occur. Guidance and support are available through the Student Rights and Responsibilities Office for student disclosures, and Human Resources for employee disclosures.
8. All students and employees can expect to receive support through the appropriate office if they are impacted by sexual or gender-based violence. Information will be provided regarding on and off campus resources, accessing counselling and medical care, reporting options and processes, safety planning, and accessing appropriate academic, residential, or workplace accommodations.

#### **Education and Awareness**

9. Niagara College-Toronto's Manager, Student Rights & Responsibilities (SRRO) acts as the first point of contact for students impacted by sexual or gender-based violence. The Manager, SRRO collaborates with on-campus and off-campus partners to develop and implement robust educational programming on sexual and gender-based violence that includes social media campaigns, workshops, and training sessions on a variety of topics. These topics include, but are not limited to, consent, challenging misconceptions surrounding sexual and gender-based violence, and how to respond to disclosures of sexual and gender-based violence.
10. Through Niagara College-Toronto's ongoing Consent is Key campaign, the College has a dedicated, easy to navigate Consent is Key website that acts as the main online resource for information on sexual and gender-based violence. Specifically, the website includes information about on-campus and off-campus resources, how to make a disclosure and/or report/complaint of sexual or gender-based violence.
11. All Niagara College-Toronto employees, as part of their onboarding process, are required to complete a mandatory online training module on sexual violence prevention and response.

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### **Annual Ministry Reporting**

12. In accordance with the Ministry of Colleges and Universities Act, NCT reports annually to its Board of Governors on a number of measures related to the experiences of and support for student who have experienced sexual violence, including:
- a) 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 the supports, services and accommodations.
  - b) Any initiatives and programs established by the College to promote awareness of the supports and services available to students.
  - c) The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.
  - d) The implementation and effectiveness of the policy.
13. We take the utmost care in ensuring individual's identities remain confidential. In the efforts to encourage education and transparency on this very important topic, our annual reports can be accessed by members via the College's website.

### **Filing a Report/Reporting Options**

14. Individuals impacted by sexual or gender-based violence can choose to file a report with the Toronto Police Service.
15. Individuals can also choose to file a report/complaint with the College to initiate a formal investigation process. Reports can be made to Campus Safety and Security at any time by calling 647-331-7338.
16. Reports can also be sent directly to the appropriate office as outlined below. The College recognizes it is often difficult to disclose and report incidents of sexual or gender-based violence and it is the choice of the individual to file a report/complaint to the Police or the College.

### **Roles and Responsibilities**

17. Reports of sexual or gender-based violence can be filed with the Student Services Department (SSD) when the respondent is a student. See Sexual and Gender-Based Violence Procedure – Students.

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18. When the complainant and respondent are both college employees, and when a student is also a staff member, reports of sexual or gender-based violence can be filed with the Manager, People & Culture.
19. If an NCT employee becomes aware of an allegation of sexual or gender-based violence against another member of the college community, the employee is required to immediately report the alleged incident to Campus Safety and Security.
20. For matters where criminal or civil proceedings are commenced with respect to complaints of sexual or gender-based violence, the College may conduct its own independent investigation into the complaint and make a determination subject to considerations about fairness that arise as a result of parallel investigation processes. This policy and its implementation is not intended to interfere with, or supersede the criminal justice system and the College will cooperate with law enforcement where required.
21. The College does not have jurisdiction to investigate a complaint of sexual or gender-based violence made against someone who is not a member of the college community. However, an individual can file a report/complaint with Campus Safety and Security as the College can still assist with providing support, safety planning, resources, and accommodations.
22. The College strictly prohibits anyone to retaliate, engage in reprisals, or threaten to retaliate against anyone involved in a process under this policy for:
  - a) Having pursued rights under this policy or the Ontario Human Rights Code.
  - b) Having participated or cooperated in an investigation under this policy or the Ontario Human Rights Code.
  - c) Having been associated with someone who has pursued rights under this policy of the Ontario Human Rights Code.
23. The College will take reasonable steps to protect individuals from reprisals, retaliation, or threats. This may entail, for example, advising individuals of their duty to refrain from engaging in retaliation or implementing interim measures regarding contact. Any claims of reprisal will also be investigated and responded to.



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24. Confidentiality is particularly important to those who have disclosed or reported sexual or gender-based violence, and the College will protect this information by restricting routine access to individuals with a need for such access and by providing education and training to those regularly involved in the administration of reports and complaints. The privacy and confidentiality of all members of the college community involved in a disclosure or report will be protected to the greatest extent possible, with the exception where disclosure is required to satisfy any legal reporting requirements; to ensure the health and safety of members of the college community; or where it is necessary in order to administer this policy.

25. Confidentiality cannot be maintained where there is reason to believe that:

- a) An individual is at imminent risk of self harm;
- b) An individual is at risk of harming another;
- c) There are reasonable grounds to be concerned that there may be risk of future violence or the safety of the college community and/or the broader public;
- d) Where disclosure is required by law (e.g., suspected abuse of a minor);
- e) The College has an obligation to investigate an incident of sexual or gender-based violence to comply with its legal obligation. In such circumstances, certain college administrators will be provided information about the disclosure or report on a “need to know” basis and only to the extent to fulfill responsibilities set out in this policy.

26. All information collected from a disclosure or report made under this policy will be managed in accordance with the *Freedom of Information and Protection of Privacy Act* and the *Personal Health Information Protection Act* as applicable.

### **E. Related Documents**

Procedure: NCT400 Sexual & Gender-Based Violence – Students

Resources: Sexual Violence Myths & Misconceptions

### **F. Document History**

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Date	Approval/Review/Key Change(s)
June 14, 2024	New