

Sexual Violence & Sexual Harassment Policy

Student's Guide

Policy Sexual Violence & Sexual Harassment Policy	The document is intended to define procedures for Sexual Violence & Sexual Harassment	
Revision	Prepared by Raahem Alvi & Charlotte Ge	
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Purpose

All students in MTM's community have equal rights to work and study in an environment free from any form of sexual harassment, solicitation or violence. This policy sets out the response and protocol regarding sexual violence. Our aim is to prevent sexual harassment, sexual violence and assault and ensure that those affected by sexual violence are supported by the College. We make a commitment to hold people who have committed an act of sexual violence accountable. We will respond to and address incidents of sexual violence under this process, and not under the student complaint procedure. We shall consider student input in the further development of our sexual violence policy, and in accordance with the regulations governing private career colleges in Ontario.

Scope and Application

This Policy solely addresses sexual violence involving students enrolled at the College, but all members of the College community including students, staff, faculty, administrators, contract service providers, contractors, officers, directors and individuals who are directly connected to any of College's initiatives, volunteers and visitors ("College Members") will be bound to it. This policy applies to all activities and interactions on-campus, virtual, and off-campus if the incident affected the safety, integrity or interests of MTM students and the community.

Definitions

Term	Definition
Consent	The voluntary and explicit agreement to engage in the sexual activity in question. It is the act of willingly agreeing to engage in specific sexual behavior, 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.
<i>(To) Report</i>	To share information about an incident of sexual violence with the College for the purpose of receiving support, counselling, or other services or to obtain information about how to make a complaint.
<i>Complaint</i>	Sharing information about an incident of sexual violence with the College to initiate a formal process by which one or more respondents can be held accountable.
<i>Complainant</i>	An individual who files a complaint that applies to this policy.
<i>Incapacity</i>	A person is incapable of consenting if they cannot understand the sexual nature of the activity or cannot understand that they may choose to decline to participate in the activity. Under this policy, a person who is significantly impaired (and not merely disinhibited) by alcohol or drugs is deemed to be incapable of consenting as is a person who is asleep, unconscious or otherwise unable to communicate.
<i>Respondent</i>	An individual against whom allegations have been made which fall under this policy.
<i>Reprisal and Retaliation</i>	Any adverse action taken against an individual who participates in or cooperates with an investigation.
<i>Bad Faith</i>	Any allegation that is made by an individual while it is known to be false, for malicious and/or vindictive purposes.
<i>Sexual Assault</i>	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 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 attempts to control 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.
<i>Sexual Violence</i>	A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. It can be defined as any sexual act against a person without their freely given consent. This violence takes different forms including sexual abuse, sexual assault & sexual harassment.
<i>Sexual Harassment</i>	Unwelcome sexual advances towards a person in a social setting that makes the person feel uncomfortable. A person does not have to let the harasser know that his/her advances are unwelcome if they feel uncomfortable doing so.

General

1. Prohibitions

- Sexual violence in all its forms is unacceptable and will not be tolerated at MTM College.
- Any sexual relationship between an employee and a student, where the employee teaches or has professional contact with the student as part of their employment responsibilities, is prohibited.
- Any sexual relationship between an employee with supervising responsibilities and an employee who reports to them, directly or indirectly, must be reported to their manager and Human Resources who will work with the parties to address any potential conflict of interest.

2. Commitments

MTM College is committed to

- preventing sexual violence and fostering a community which is free of sexual violence by taking all necessary steps to communicate this policy to all members within the scope, e.g. publishing the policy on MTM website and/or posting it conspicuously on campus bulletin boards;
- supporting members of the community who have been affected by sexual violence with acknowledgement that survivors have the final-say within their own best interests;
- accommodating community members affected by sexual violence;
- responding to reports of sexual violence appropriately in accordance with the law;
- addressing complaints immediately and fairly, minimizing re-traumatization of victims of sexual assault;
- collecting any and all necessary data about sexual violence reports and complaints as required by the law.

3. No Reprisal or Retaliation

- No member of the College community shall retaliate or threaten to retaliate against a person for reporting an incident of sexual violence, for filing a complaint under this policy, for cooperating with or participating in a sexual violence investigation or adjudication or for otherwise pursuing their rights under this policy.
- The College will take reasonable steps to protect complainants, witnesses, and others from retaliation, including by directing individuals in writing to refrain from retaliation and threatening retaliation and sanctioning individuals for breach of this duty.

SUPPORTS, SERVICES AND ACCOMMODATION

4. Contact for supports, services and accommodations

Students who are affected by sexual violence may contact the Student Support Supervisor to obtain supports, services and accommodation. The Student Support Supervisor will explain options, and facilitate contact with the police if requested. If there are safety concerns, the Student Support Supervisor will connect the complainant to the Director of Operations and Health & Safety Representative, who will develop a safety plan. **Students affected by sexual violence are not required to disclose/report/complain to receive supports, services and accommodations from the College.**

5. Information about supports and services

Examples of supports and services for students:

- Conducting intake and accepting Disclosure and Reporting of Sexual Violence
- Assistance with referrals to counselling
- Assistance with referrals to medical services
- Coordination of short-term academic accommodations
- Assistance with referrals to community legal assistance
- Changes to housing and assistance in finding emergency housing

Examples of accommodations:

- Rescheduling or deferring exams or assignments
- Class or schedule changes
- Housing changes

Community Emergency Services

In addition to the above supports, here is a list of community emergency services beyond MTM College.

- Toronto Rape Crisis Centre: 416-597-8808, trccmwar.ca
- Assaulted Women's Helpline: 1-800-863-0511, awhl.org
- Women's College Hospital Sexual Assault and Domestic Violence Care Centre: 416-323-6040, www.womenscolleghospital.ca/
- Gerstein Crisis Centre: 416-929-5200, gersteincentre.org
- Good2Talk—Helpline for Post-secondary Students: 1-866-925-5454, good2talk.ca
- First Nations, Inuit, and Metis Hope and Wellness Line 24/7: 1-855-242-3310, hopeforwellness.ca
- Support Service for Male Survivors of Sexual Assault 24/7: 1-888-887-0015, familyserVICEToronto.org/our-services/programs-and-services/male-survivors-of-sexual-abuse
- Trans Lifeline: Canada (877) 330-6366, translifeline.org
- LGBT Youthline: 1-800-268-9688, youthline.ca

INCIDENT RESPONSE AND SEXUAL VIOLENCE REPORTS

6. Intervention by bystanders

All College employees (including part-time employees and contractors) shall take reasonable action to prevent sexual violence from occurring, including by contacting the College General Office and/or the Student Services. Students and others are strongly encouraged to do the same.

7. Witnesses to report incidents

All College employees (including part-time employees and contractors) witness an incident of sexual violence shall report it to the Health & Safety Representative or the Student Support Supervisor or the Director of Operations. Students and others are strongly encouraged to do the same.

8. Reports by affected individuals encouraged

Individuals who have been affected by sexual violence/assault are encouraged to obtain information and support. The best person at the College to speak with is the Health & Safety Representative and/or Student Support Supervisor. **Any report of an incident, or a complaint of sexual violence**

will not be subject to discipline or sanction for violations of the college's policies relating to drug or alcohol use at the time the alleged sexual violence/assault occurred.

9. Listen and refer

College employees to whom an individual reports an incident of sexual violence should listen, show support and should refer the individual to the Health & Safety Representative and/or Student Support Supervisor for support if a student is involved. College employees should refrain from judging the individual and, unless trained in providing support to those who have experienced sexual violence, refrain from providing advice.

10. Employees/Students must report

All employees/students shall immediately convey any report of sexual violence to the Health & Safety Representative and/or Student Support Supervisor if a student is involved, who shall convey the report to the Director of Operations, the Registrar, the police or other persons as they deem necessary for the purpose of eliminating or reducing a significant risk of serious bodily harm. Information about all reports shall be shared with the designated personnel to obtain input/directives on next steps and for record-keeping purposes.

11. College will assess and respond to all reports

Those thinking about making a report should understand that the College has a duty to assess and respond appropriately to every report given its duty to maintain a working and learning environment free of sexual violence. Given this duty, College employees who receive reports cannot keep them completely confidential. Reports are communicated within the College under this policy and may lead to an investigation and other interventions that the College initiates on its own. The College is committed to confidentiality, but in this context, **the College's commitment to confidentiality means disclosing information only to those who need to know and limiting the disclosure of information to what needs to be disclosed. It also means keeping information reasonably secure in light of its sensitivity.**

COMPLAINTS

12. Community members have a right to file a complaint

Any member of the College community may file a sexual violence complaint. Any member of the college who discloses their experiences of sexual violence/assault through reporting and making a complaint about or accessing supports and services for sexual violence, will not be asked irrelevant questions during the process of investigating the complaint. This includes irrelevant questions relating to the individual's sexual expression or past sexual history.

A complainant may withdraw a complaint at any time, though the College may continue to investigate as appropriate in light of its duty to maintain a working and learning environment free of sexual violence.

Complainants may report sexual violence to the police before or after filing a complaint with the College. In some situations, it may be necessary for the College to suspend its complaint process while the police are investigating or after charges are laid.

13. The are limitations to the College's power to deal with a complaint

The complaint resolution protocol in this policy applies to all incidents of sexual violence in which both the complainant and the respondent are members of the College community. It applies to incidents that occur off College premises if the incident has the potential to adversely affect an individual's study or work performance at the College or create a negative study or work environment within the College.

If a respondent's relationship with the College ends and that person is no longer a member of the College community, the College may choose to suspend the processes under this policy. If the respondent becomes a member of the College community again, the College may reinstate the process after notifying the complainant and respondent.

14. College will resolve complaints fairly, though a trauma-informed process

The College will review and resolve all complaints by individuals who identify themselves and allege sexual violence. The College will ordinarily treat anonymous complaints as reports –i.e., it will assess the information provided and take appropriate action in light of its duty to provide a work and learning environment free of sexual violence.

All complaints that allege sexual violence will be received and addressed under this policy and its complaint resolution protocol, which is meant to minimize the re-traumatization of individuals who have experienced sexual violence and to provide fairness to respondents.

The College may depart from its complaint resolution protocol as it deems appropriate, but will not make a misconduct finding without following a fair procedure. Respondents will always receive notice of the allegations and a meaningful opportunity to be heard.

All decision-making responsibilities under this policy may be delegated in a manner that is fair and appropriate.

15. Complainant participation in the investigation is optional

No person affected by sexual violence is required to participate in an investigation or the other aspects of the College's complaint resolution protocol. However, complainants should understand that the College may be unable to reach a misconduct finding without their input.

16. Information is shared to resolve complaints

Although the College treats the subject matter of complaints as confidential, those considering making a complaint should beware that:

- the College will disclose information to the respondent or respondents for the purpose of investigating and resolving a complaint; and
- the College may disclose information to others to meet its duty to provide a work and learning environment free of sexual violence (e.g., to address a safety risk).

In this context, the College's commitment to confidentiality means **disclosing information only to those who need to know and limiting the disclosure of information to what needs to be disclosed. It also means keeping information reasonably secure in light of its sensitivity.**

17. The College may impose protective measures before a finding is made

The rights and privileges of a respondent may be restricted by the College before it makes a finding about whether the alleged misconduct occurred. For example, a respondent may be moved from a

complainant's residence, restricted from entering certain parts of campus and restricted from attending class. Such "interim measures" will be imposed only as necessary to meet the needs of complainants.

The College will also take steps to minimize the impact of interim measures on respondents. Interim measures are not punishment and do not represent a finding of misconduct. The College may impose interim measures immediately, without a hearing. Respondents may ask the College to review a decision to impose interim measures, but only to address the impact of the imposed measure and the preference for other alternatives.

18. The College may punish sexual violence many different ways

A decision to affirm a complaint (in whole or in part) may result in a number of possible sanctions, including the imposition of education and training, corrective action such as relocation or change of duties or supervision, change of class or program, reprimand, suspension, termination or expulsion.

19. Vexatious complaints are prohibited

No complaint shall be filed to purposely annoy, embarrass or harm a respondent. Individuals who file such complaints may be subject to discipline.

COMPLAINT RESOLUTION PROTOCOL

The College's process for resolving complaints involves five steps: (1) intake; (2) investigation; (3) post-investigation decision; (4) disciplinary proceedings (for student respondents only); and (5) appeals (for student respondents only).

Step 1—Intake

- a) Sexual violence complaints shall be made by submitting written documents either electronically or in person that set out all allegations (with detailed facts) and by providing key documentation that supports the allegations. The complaints shall be submitted to **the Registrar** for the students and to the **Director of Operations/Human Resources** for the employees. They may include the following information:
 - Complainant Name
 - Complainant Status (Student/Employee)
 - Date of Complaint
 - Name of Respondent
 - Department & Position of Respondent
 - Description of incident(s)
 - Documentation supporting the allegation(s)
 - Witness(es) (if applicable)
- b) The Director of Operations/ the Registrar will decide whether a complaint will be investigated, ordinarily within three (3) days of receiving a complaint.
- c) Subject to applicable law, the Director of Operations/the Registrar may decide not to initiate an investigation (a) if the complaint does not name a respondent who is a current member of the College community or (b) the allegations, if proven to be true, would not constitute sexual

violence.

Step 2—Investigation

- a) After deciding to initiate an investigation, the Director of Operations/the Registrar will consult with the program coordinators on the need for interim measures and decide what interim measures will be implemented.
- b) The Director of Operations will then notify the complainant(s) and respondent(s) in writing of the investigation and any interim measures. The notice will include a summary of all the allegations made and will describe the interim measures to be implemented. All relevant documents provided to the College by the complainant will be attached. The notice will also advise complainants and respondents of
 - potential sources of support
 - that any concerns about the appropriateness of the interim measures may be raised and
 - opportunity of non-adjudicative resolution.
- c) Non-adjudicative resolution is a non-punitive accountability approach—such as “alternative resolution”, “informal resolution”, or “mediation”—which can address a Complainant’s concerns with the assistance of a facilitator provided that both parties agree. A key principle of this process is that the terms need to be agreed to by both the Complainant and the Respondent, as they are the decision-makers in this process. As such, the terms need to be within the ability of the Complainant and Respondent to agree to and generally relate to matters addressing personal safety, accountability, and educational and/or reflective components.

Non-adjudicative Resolutions may include agreement on terms such as:

- addressing potential overlap in courses or extra-curricular activities;
- education for the Respondent;
- an apology from the Respondent; and/or
- Mandate no contact between the Complainant and Respondent

A Complainant or Respondent can request a Non-adjudicative Resolution at any stage of the process, even if an investigation is already underway. For this process to move forward, both the Complainant and Respondent must agree to participate in this process. This process does not require any face-to-face contact between the Complainant and the Respondent.

- d) The Director of Operations/the Registrar will then conduct an investigation by directing an internal or external investigator to conduct an investigation. An investigation will be conducted by an individual capable of conducting an unbiased investigation who was not involved in the events in issue. Internal and external investigators will ordinarily be directed to:
 - start the investigation by obtaining a written response and all documents upon which the respondent relies
 - interview the complainant, respondent and witnesses
 - record all interviews in writing (i.e., produce witness statements)
 - gather additional relevant documents and physical evidence
 - produce a confidential written investigation report

The investigator will conduct the investigation fairly, and will give the complainant and respondent an opportunity to comment on all disputed facts before producing a report. Throughout the

investigation, complainants and respondents may invite a support person to meetings with the investigator, though the investigator may exclude a support person from all or part of an interview if the investigator believes the presence of the support person will affect the quality of the interview. For example, an investigator may believe that a student is unlikely to be forthright about sexual matters in the presence of a parent. The time required to commence and complete an investigation may vary, but investigations should ordinarily start and finish within 30 days.

- e) When the respondent is an employee, the investigator's confidential written investigation report will summarize the evidence, draw conclusions about credibility, and make findings of fact. When the respondent is a student, the investigator's confidential written investigation report will only summarize the evidence and draw conclusions about credibility.

Step 3—Post-investigation decision

The decision-making process that follows an investigation depends on whether the respondent is an employee or a student.

- a) When the respondent is an employee, the Director of Operations or designated decides how the complaint should be resolved with support from human resources.
 - Shortly after the investigation is complete, the Director of Operations will decide whether to affirm or deny the complaint (in whole or in part) and, if the complaint is affirmed, decide upon the appropriate sanction.
 - Before affirming a complaint, the Director of Operations or designated will have a discussion with the respondent. The discussion will address the results of the investigation and the possible outcome of the investigation (and not new allegations and evidence).
 - The Director of Operations or designated shall consult with human resources with a view to reaching a consensus and may also consult with other administrators with responsibility for the respondent and legal counsel.
 - The decision will be conveyed in writing to the respondent.
 - Complainants will be advised of the results of the investigation and of any corrective action that has been taken or will be taken as a result of the investigation.
 - The respondent will have access to the grievance process under the relevant human resources policy in order to appeal. If a respondent employee grieves the decision, the complainant may be asked to be a witness in the grievance process.
- b) When the respondent is a student, the Registrar will consider the results of the investigation and decide whether the complaint will be dismissed or initiate a hearing.
 - The Registrar may consult with program coordinators for the respondent and other administrators with relevant responsibility or expertise.
 - The decision whether or not to initiate a hearing is made at the sole discretion of the Registrar after consideration of all the circumstances, including the strength of the available evidence and whether the matter can be appropriately resolved without pursuing a penalty. A decision to initiate or not initiate a hearing will be conveyed in writing to the complainant and respondent and is final.
 - The Registrar may seek confidential legal advice in making this decision.

Step 4—Hearing (for student respondent only)

a) Appointment of Adjudicator

The Registrar in consultation with program coordinators and other administrators with relevant responsibilities and expertise will appoint an Adjudicator who will conduct the hearing. The Adjudicator is normally legally trained, neutral and has had no prior involvement in the investigation or matters that are the subject of the Hearing. The Adjudicator is responsible to ensure that the Hearing process provides adequate notice, is fair, and is neutral.

b) Scheduling and notice of meeting

The Adjudicator will schedule a meeting at which the respondent will be heard. The Adjudicator will give at least 14 days written notice of the meeting to the respondent. The notice will explain the purpose of the meeting, explain that the respondent may be accompanied by a support person or legal counsel and describe the potential consequences of a failure to attend.

The Respondent will receive disclosure of all documents in possession of the College that are potentially relevant to the allegations, including the investigator's file and report.

c) Parties to the hearing, and the role of complainants and witnesses

The respondent is a party to the hearing as is the Registrar or designated. The Registrar's role is to present the case in favour of discipline.

The complainant is not a party to the hearing, but will attend the meeting to answer questions about the allegations and prior collected evidence unless excused by the Adjudicator. The Adjudicator will invite the complainant to attend the meeting, explain that the complainant has the option of participating via video link or similar technology, explain that the complainant may be accompanied by a support person or legal counsel and describe the potential consequences of a failure to attend.

Witnesses other than the complainant and respondent will only attend the meeting if invited by the Adjudicator. If either the Registrar or the respondent believes that one or more other witnesses should attend they will ask the Adjudicator to invite the witness to attend in writing (explaining why the witness's attendance is necessary) at least seven (7) days before the meeting.

d) Purpose and conduct of the meeting

The purpose of the meeting is to allow the Adjudicator to understand the witness statements, other evidence gathered by the investigator and any investigation report and to decide whether to affirm or deny the complaint (in whole or in part) and, if the complaint is affirmed, decide upon the appropriate sanction.

In deciding whether to affirm or deny the complaint the Adjudicator will apply the "balance of probabilities" standard of proof – i.e., the Adjudicator will affirm allegations if they are more likely than not to be true.

The Adjudicator controls how the meeting will be conducted, but ordinarily follows the following procedure.

- The Registrar or the designated and the respondent will give short (10 minute) statements to set out their positions.
- The Registrar or the designated and the respondent will provide any questions to the Adjudicator that they would like the Adjudicator to ask the complainant, respondent and any other witnesses who have been invited to attend.
- The Adjudicator will question the complainant, respondent and any other witnesses who have been invited to attend. The Adjudicator will ask all submitted questions that are proper and that elicit relevant evidence that is not already recorded in a witness statement or attempt to elicit such evidence.

- The Registrar or the designated and the respondent will give short (20 minute) statements to comment on what was said in the meeting and set out their positions.

e) Written decision

The Adjudicator will issue a written decision to the respondent and the Registrar within seven (7) days of the meeting and will provide a summary of the decision to the complainant at the complainant's request.

Step 5—Appeal (for student respondents only)

A respondent may file a written appeal to the President of the College within ten (10) days of receiving an Adjudicator's decision. The President is not required to discuss the written appeal with the respondent before making a decision.

An appeal is not a re-hearing. The President will affirm the Adjudicator's decision unless (a) the procedure employed by the Adjudicator was unfair and a re-hearing by a new Adjudicator is warranted or (b) the Adjudicator's decision is unreasonable in light of the evidence put before the Adjudicator.

The President's decision is final.

REVIEW

This policy will be reviewed and amended once every three years after due consideration of student input.