

**Policy No. & Title: P104: SEXUAL VIOLENCE AND SEXUAL ASSAULT**

**Effective:** 2024-04-01

**Next Review:** 2025-04-01 (*requires annual review by the College and review every 3 years by our Board of Governors*)

**Policy Sponsor:** Vice-President, Student Services and Chief Infrastructure Officer, Finance and Administration

**Approvals:** 2015-03-30/President; 2016-11-17/BOG #548; 2017-03-20; 2018-03-06, 2019-10-03/BOG #571; 2020-03-03; 2021-02-16; 2022-02-23; 2022-09-22/BOG #596; 2023-03-20; 2024-03-20

**Next Board of Governor's Review:** 2025-09-25

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## 1. PURPOSE

All members of the Fanshawe College community have a right to work and study in an environment that is free from any form of sexual violence. The purpose of this document is to set out the sexual violence policy and response protocol. This policy ensures that those who are affected by sexual violence are believed and their rights respected, and that the College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual violence accountable. The College intends to make individuals feel comfortable about making a good faith report about sexual violence that they have experienced or witnessed.

## 2. POLICY

Sexual assault and sexual violence are unacceptable and are not tolerated. We recognize that sexual violence can occur between individuals regardless of sexual orientation, gender and gender identity or relationship status as articulated in the Ontario *Human Rights Code*.

### 2.1. Principles

- 2.1.1. Fanshawe College is committed to challenging and preventing sexual violence and creating a safe place for anyone in our College community who has been affected by sexual violence. The College is committed to investigate and adjudicate all reported incidents of sexual violence in a manner that ensures fairness and due process.
- 2.1.2. The College is further committed to ensuring that those who disclose that they have been sexually assaulted are believed, are treated with compassion and their right to dignity and respect is protected throughout the College process of disclosure, investigation and response.
- 2.1.3. A variety of resources are available for those who have been affected by sexual violence. Through this Policy, the College will provide access to these resources, on-campus and in the community.

### 2.2. Administration

- 2.2.1. The Policy Sponsor develops, maintains and implements procedures as are necessary to achieve the objectives of this policy. Such procedures align closely with the recommendations of Colleges Ontario, and with the College mission, vision and values.
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- 2.2.2. The associated addenda and procedures to this policy may be amended by authority of the Policy Sponsor.

### **3. REFERENCES**

#### College Policies

A128: Student Appeals

A130: Student Code of Conduct

P101: Corporate Health and Safety

P103: Safe College Campus

P208: Respectful College Community and Prevention of Harassment and Discrimination

### **4. ADDENDA**

Standard 1: PRINCIPLES FOR REPORTING AND RESPONDING

Guideline A: REPORTING AND RESPONDING PROTOCOL

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*Policy No. & Title:* P104: SEXUAL VIOLENCE AND SEXUAL ASSAULT

*Addendum:* **Standard 1: PRINCIPLES FOR REPORTING AND RESPONDING**

*Issued by:* Vice-President, Student Services and  
Chief Infrastructure Officer, Finance and Administration

*Effective:* 2024-04-01

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## 1. APPLICATION

This Standard applies to all members of the College community including employees, governors, students, contractors, suppliers of services, individuals who are directly connected to any College initiatives, volunteers, and visitors. Conduct that occurs on College campus or off-campus that affects the rights or health and safety of members of the College community is covered by this policy (reference: A130 Student Code of Conduct).

## 2. SURVIVOR RIGHTS

Anyone who has been affected by sexual violence has the right to:

- Be treated with dignity and respect;
- Be believed;
- Have an on-campus investigation with the full cooperation of the College;
- Choose to not request an investigation by the College and to not participate in any investigation that may occur;
- Be informed about on- and off-campus supports, services and resources;
- Access all available College supports, services and resources regardless whether an incident of sexual violence is disclosed or reported;
- Decide whether or not to access available supports, services and resources and to choose the supports, services and resources they feel will be most beneficial;
- Have a safety plan; and
- Have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s).

## 3. DEFINITIONS

*Assault:* Occurs when a person threatens, attempts or applies force to another person without the consent of the other person.

*Acquaintance sexual assault:* Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.

*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 they are. 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.

*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.

*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 behaviour, and requires that a person is able to choose freely between two options: yes and no. This means that there must be an understandable exchange of affirmative words that indicates a willingness to participate in mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

- Silence or non-communication cannot be interpreted as consent and a person in a state of diminished judgment cannot consent.
- A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate.
- 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.
- A person who is drugged is unable to consent.
- A person is usually unable to give consent when under the influence of alcohol and/or drugs.
- A person may be unable to give consent if they have a mental disability that prevents them from fully understanding the sexual act.
- 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.
- A person can withdraw consent at any time during the course of a sexual encounter.
- 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, coaching and training staff working with student athletes, or an administrator in a relationship with anyone who reports to that position.
- 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 a minor.

*Drug-facilitated sexual assault:* The use of alcohol and/or drugs (prescription or non-prescription) by a perpetrator to control, overpower or subdue a victim for purposes of sexual assault.

*Sexual Harassment:* A course of comments or conduct of a sexual nature or that is related to sex, sexual orientation, gender identity or gender expression that is known or ought reasonably to be known to be unwelcome or unwanted, offensive, intimidating, hostile or inappropriate. Single acts of sufficient severity may constitute sexual harassment. Community members have the right to be free from:

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- Sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement; or
- Reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal is made by a person in a position to grant, confer, or deny a benefit or advancement.

Examples of Sexual Harassment:

- Unwelcome remarks, jokes, slurs, innuendos or taunting about a person's body, gender or gender expression.
- Unwelcome sexual advances (verbal, written, physical).
- Practical jokes of a sexual nature which cause awkwardness or embarrassment.
- Leering, whistling, or other suggestive or insulting sounds.
- Attainment or distribution of improper information of a sexual nature including, but not limited to, electronic material.
- Unwanted or inappropriate physical contact such as touching, kissing, patting, hugging or pinching.
- Inappropriate and unwanted comments about a person's body, dress or appearance.
- Unwelcome enquiries or comments about a person's sex life or sexual orientation.
- Written or verbal abuse or threats of a gendered or sexual nature.
- Derogatory remarks or conduct directed toward members of one gender.
- Requests or demands for sexual favours which include, or strongly imply, promises of rewards for complying (e.g., job advancement opportunities, improved academic grades) or threats of punishment for refusal (e.g., denial of job advancement or opportunities, diminished academic grades).

**Sexual Assault:** Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim. 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 giving consent.

**Stalking:** A form of criminal harassment prohibited by the *Criminal Code* of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear in the victim or threaten the victim/target's safety or mental health. Stalking can also include threats of harm to the target's friends and/or family. These behaviours 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; cyber-stalking; and uttering threats.

**Survivor:** Some who have been affected by sexual violence may choose to identify as a survivor. Individuals might be more familiar with the term "victim." We use the term "survivor" throughout this policy where relevant because some who have been affected by sexual assault believe they have overcome the violent experience and do not wish to identify with the victimization. It is the prerogative of the person who has experienced these circumstances to determine how they wish to identify.

**Respondent:** A person against whom an accusation of sexual violence is made, whether or not a formal proceeding has been commenced.

**4. PRINCIPLES**

Fanshawe College is committed to:

- 4.1. Assisting those who have been affected by sexual violence by providing choices, including detailed information and support, such as provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic and other accommodation;
- 4.2. Ensuring that those who disclose that they have been sexually assaulted are believed, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response;
- 4.3. Addressing harmful attitudes and behaviours (e.g., adhering to myths of sexual violence) that reinforce that the person who has been affected by sexual violence is somehow to blame for what happened;
- 4.4. Treating individuals who disclose sexual violence with compassion and recognizing that they are the final decision-makers about their own best interests;
- 4.5. Ensuring that on-campus (internal) investigation procedures are available in the case of sexual violence, even when the individual chooses not to make a report to the police;
- 4.6. Engaging in appropriate procedures for complaint investigation and adjudication that are in accordance with College policies and standards, applicable collective agreements, and that ensure fairness and due process;
- 4.7. Ensuring coordination and communication among the various departments that are most likely to be involved in the response to sexual violence on campus;
- 4.8. Engaging in public education and prevention activities;
- 4.9. Providing information to the College community about our sexual violence policies and protocol;
- 4.10. Providing appropriate education and training to the College community about responding to the disclosure of sexual violence;
- 4.11. Contributing to the creation of a campus atmosphere in which sexual violence is not tolerated; and,
- 4.12. Monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

**5. REPORTING AND RESPONDING TO SEXUAL VIOLENCE**

- 5.1. Any member of the College community who has been subject to sexual violence is encouraged to immediately disclose such an incident, as set out in Fanshawe's Sexual Violence and Sexual Assault Protocol. Students and employees can seek resources to assist with disclosure and reporting options. A formal complaint is not required to obtain supports, services, or appropriate accommodation from Fanshawe. If students, in good faith, report an incident of, or make a complaint about, sexual violence, they will not be subject to discipline or sanctions for violations of the college's policies relating to drug or alcohol use at the time the alleged sexual violence occurred.

- 5.2. Any member of the College community who has witnessed, or who has knowledge of, an incident of sexual violence perpetrated against another member of the Fanshawe community is encouraged to immediately report such an incident, as set out in Fanshawe's Sexual Violence and Sexual Assault Protocol.
- 5.3. Persons in a position of authority at Fanshawe, including but not limited to, all those who supervise others, shall take immediate action to respond to or to prevent sexual violence from occurring.
- 5.4. Where the College has become aware of an incident of sexual violence, or a threat of sexual violence, the College will take all reasonable steps to ensure the safety of the Fanshawe community. Where an incident of sexual violence or a threat of sexual violence poses a risk to the safety of a member or members of the Fanshawe community, precautions may include the provision or disclosure of relevant information to an employee or employees, and/or to others at risk.

## 6. COMPLAINT PROCESS AND INVESTIGATION

A complaint of sexual assault or any other kind of sexual violence can be filed under this Policy by any member of the Fanshawe community. Fanshawe will seek to achieve procedural fairness in dealing with all complaints. As such, no sanction and/or disciplinary action will be taken against a person or group without their knowledge where there is an alleged breach of this Policy. Respondents will be given reasonable notice, with full detail of the allegations, and provided with an opportunity to answer to the allegations made against them. Complainants 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 the college's staff or investigators, including irrelevant questions relating to sexual expression or past sexual history.

### 6.1. Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. However, the College may continue to investigate and act on the complaint in order to comply with its obligation under this Policy and/or its legal obligations. The College may also continue to act when there is a threat to the safety of the Fanshawe community.

### 6.2. Protection from Reprisal, Retaliation or Threat

It is contrary to this policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for:

- Having made a complaint under this policy or the Ontario *Human Rights Code*;
- Having participated or co-operated in an investigation under this policy or the Ontario *Human Rights Code*; or
- Having been associated with someone who has pursued rights under this policy or the Ontario *Human Rights Code*.

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.

### 6.3. Unsubstantiated or Vexatious Reports

If a person, in good faith, discloses or files a sexual violence complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed and no record of it will be placed in the complainant's or respondent's file. Disclosures or complaints that are found, following investigation, to be frivolous, vexatious or bad faith complaints, that is, made to purposely annoy, embarrass or harm the respondent, may result in sanctions and/or discipline against the complainant.

## 7. SUPPORT PERSON

A person who reports sexual violence or is a witness to sexual violence or participates in an investigation of sexual violence under this policy, while not required to do so, may seek assistance or support from, or be accompanied by, another person of their choice through the process. The College may still directly question and expect answers from an individual who is represented.

Some support person examples include: a trusted friend, a union representative, the Sexual Violence Prevention Advisor or a member of the executive of the Student Administrative Council.

## 8. CONFIDENTIALITY

Fanshawe College respects the confidentiality of information relating to all persons (including the complainant, respondent, and witnesses) involved in a reported incident of sexual violence. Such confidentiality is maintained to the extent possible and as required by law.

Confidentiality cannot be assured where:

- An individual is at imminent risk of self-harm;
- An individual is at imminent risk of harming another; or
- There are reasonable grounds to believe that others in the College or wider community may be at risk of harm.

In such circumstances, information is shared only with College services as necessary to prevent harm, and the name of the survivor would not be released to the public. Where the College becomes aware of an allegation of sexual violence by a member of the College community against another member of the College community, certain College administrators are informed of the reported incident on a confidential need-to-know basis, but not necessarily of the identities of the persons involved.

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*Policy No. & Title:* P104: SEXUAL VIOLENCE AND SEXUAL ASSAULT

*Addendum:* **Procedure A: REPORTING AND RESPONDING PROTOCOL**

*Issued by:* Vice-President, Student Services and  
Chief Infrastructure Officer, Finance and Administration

*Effective:* 2024-04-01

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Please note, this procedure provides distinct reporting and responding protocols for student and employee respondents.

## 1. IF YOU HAVE EXPERIENCED OR BEEN AFFECTED BY SEXUAL VIOLENCE

### ✓ **GO TO A SAFE PLACE AND SEEK HELP**

If you need assistance getting to a safe place, call **Campus Security Services at 519 452-4242**.

If you are a student living in Residence, you can choose to contact your **Resident Assistant**, or call your front desk or ext. 5000 and ask for the **on-call Residence Manager**. Residence Staff are there to make referrals to appropriate campus services. If you don't live in Residence or you are not a student, call or go to a trusted friend's house or shelter if you feel physically and/or emotionally unsafe.

### ✓ **GET MEDICAL ASSISTANCE AS SOON AS POSSIBLE**

Contact Campus Security Services at 519-452-4242 for immediate assistance; or  
Go to the Regional Sexual Assault and Domestic Violence Treatment Centre at St. Joseph's Hospital:

- Room B0-644  
268 Grosvenor Street  
London, Ontario N6A 4V2
- Phone: Program administration (Monday to Friday: 8 a.m. to 4 p.m.) 519-646-6100 x64224.  
After hours: 519-646-6100, press "0" and ask switchboard to page the nurse-on-call for sexual assault and domestic violence.

### ✓ **SEEK OUT AVAILABLE RESOURCES**

It is often difficult to disclose and report incidents of sexual violence. It is entirely up to you if you choose to report the incident; however, we strongly encourage you to do so. To understand your options and receive supports, a number of confidential resources are available to you. Students are encouraged to contact [Fanshawe College Counselling & Accessibility Services](#) at 519-452-4282 for all questions concerning available resources. Employees should contact the Employee Relations Consultant at 519.452.4430 ext. 4246.

Additional resources available, both on campus and in the community, include:

- Fanshawe College Sexual Violence and Prevention Advisor
    - 519-452-4465 or 1-844-666-SVPA
  - ANOVA for sexual assault crisis or ongoing support
    - 24 hour crisis and support line 519-642-3000 or 1-800-265-1576
  - [Regional Sexual Assault and Domestic Violence Treatment Program \(St. Joseph's Hospital\)](#)
    - 519-646-6100; after hours press 0, ask switchboard to page the nurse-on-call for sexual assault and domestic violence
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- [Fowler Kennedy Student Health Services](#)
  - 519-452-4230
- Good2Talk – postsecondary student help line
  - 1-866-925-5454
- Staff or faculty can access free and confidential face-to-face or phone counselling through Homewood Health at 1-800-663-1142

A full listing of resources and supports is available at <https://www.fanshawec.ca/student-life/student-services/sexual-violence-support-and-education>

## 2. IF YOU WOULD LIKE TO FILE A FORMAL COMPLAINT

Please note that you are not required to file a formal complaint to obtain supports, services, or appropriate accommodation from Fanshawe.

To file a complaint, students and employees may contact [Campus Security Services](#) at 519 452-4242.

Campus Security Services can assist you with filing a complaint. If the alleged perpetrator is a member of the College community, you may file a complaint under this policy.

Individuals who have been affected by sexual violence may also wish to press charges under the *Criminal Code*. Campus Security Services can assist you with contacting your local police service.

## 3. WHAT TO DO IF YOU WITNESS SEXUAL VIOLENCE

If you witness sexual violence, contact Campus Security Services at 519-452-4242 immediately for assistance. The resources listed above are also available to support those who have witnessed sexual violence.

Faculty, staff, other employees, and contractors have a duty to report all incidents and suspected incidents of sexual violence to Campus Security Services. Employees can access supports and services through Human Resources.

Students are strongly encouraged to report incidents of sexual violence, but do not need to report incidents of sexual violence to obtain supports, services, or accommodation from Fanshawe.

All members of the College community who have witnessed sexual violence have a duty to cooperate with a College investigation.

Other resources available to you include:

- Counseling and Accessibility Services (for students)
- Human Resources/Employee Assistance program (for employees)
- Good2Talk 1-866-925-5454
- Police or emergency services in your local community

## 4. WHAT TO DO IF SOMEONE DISCLOSES ALLEGATIONS OF SEXUAL VIOLENCE

A person may choose to confide in someone (such as a student, instructor, teaching assistant, coach, or staff from housing, health, counselling or security) about an act of sexual violence. An individual who has been affected by sexual violence may also talk to staff or faculty members when seeking support and/or academic accommodation. A supportive response involves:

- *Listening without judgement and accepting the disclosure as true;*

- *Communicating that sexual violence is never the responsibility of the survivor;*
- *Helping the individual identify and/or access available on- or off-campus services, including emergency medical care and counselling;*
- *Respecting the individual's right to choose the services they feel are most appropriate and to decide whether to report to the police or campus security services at 519-452-4242;*
- *Recognizing that disclosing can be traumatic and an individual's ability to recall the events may be limited;*
- *Respecting the individual's choices as to what and how much they disclose about their experience; and*
- *Making every effort to respect confidentiality and anonymity.*

If disclosure is made to faculty or staff by a student seeking support or academic accommodation, the faculty or staff should refer the student to the Sexual Violence Prevention Advisor (519-452-4465) or Counselling & Accessibility Services (519-452-4282) who will work with the Associate Dean, Program Coordinator or faculty member, as needed, to ensure that the student receives all necessary academic and other accommodations.

If a disclosure is made by an employee seeking support and workplace accommodation as a result of sexual violence, refer the employee to Human Resources for assistance. An appropriate accommodation plan will be developed and support provided

## **5. COMMUNICATING WITH INDIVIDUALS WHO HAVE BEEN AFFECTED BY SEXUAL VIOLENCE**

Sensitive and timely communication with individuals who have been affected by sexual violence (and their family members when an individual consents to this communication) is a central part of the College's first response to sexual violence. To facilitate communication the College ensures that:

- Incidents are communicated to designated employees in Counselling and Accessibility Services, Human Resources and Campus Security Services, who are knowledgeable about sexual violence, are responsible for advocacy on campus on behalf of employees, students or any other member of the College community who has been affected by sexual violence;
- Designated employees respond in a prompt, compassionate, and personalized fashion; and
- The person who has been affected by sexual violence, and the respondent, are provided with reasonable updates about the status of the College's investigation of the incident when such investigations are undertaken.

## **6. IF YOU HAVE BEEN NAMED AS A RESPONDENT**

Do not contact the complainant or survivor, as the case may be. You can speak with someone in the campus community who can help support you.

- If you are a student, Campus Security Services can advise on resources available to you, and can help you to understand the Student Code of Conduct. You may also seek confidential counselling and information on academic accommodations through Counselling Services:  
<https://www.fanshawec.ca/student-life/student-services/counselling-services>
- If you are an employee, Human Resources or Campus Safety and Security can advise on resources available to you. You may also wish to contact your local union or staff association representative for assistance.

**What about community resources?**

Respondents can request information on community resources and services including mental health counselling, medical, legal, and support services.

**What, if anything, will my parents or family members be told?**

All matters remain confidential, subject to Section 7 (Confidentiality) in the Sexual Violence and Sexual Assault Policy.

**7. ROLES AND RESPONSIBILITIES OF THE COLLEGE COMMUNITY**

While all members of the College community have a role to play in responding to incidents of sexual violence, some members have specific responsibilities:

**The Sexual Violence Prevention Advisor:** Provides information on reporting options and referrals to community and campus services including medical, security, crisis support, and counselling as well as provide ongoing support and liaison for information during any campus investigation;

**Support Person:** The role of the support person is to act as a resource and provide support and advice to the party. The support person is not an advocate on behalf of the party;

**Fowler-Kennedy Student Health Services:** Provide medical services, psychological and emotional support, assist with safety planning and make referrals to other services, including medical services;

**Counselling and Accessibility Services:** Provide students with psychological and emotional support, assist with safety planning and make referrals to other services including medical services;

**Associate Deans, Program Coordinators, Faculty and Counselling and Accessibility Services:** Facilitate academic accommodations and other academic needs of students who have been affected by sexual violence;

**Residence Managers:** Facilitate safe living arrangements for current student residents to the best of our abilities;

**Employee Relations Consultant:** Assist with any incidents relating to employees;

**Campus Security Services:** Investigate internally reported incidents of sexual violence and gather evidence, establish safety plans, make referrals to the Sexual Violence Prevention Advisor for support services, implement measures to reduce sexual violence on campus, and collaborate with local police where appropriate;

**Code of Conduct Coordinator:** Chairs a tribunal composed of three staff members who will review the investigative report, the complainant's response and the respondent's response. The tribunal will use the test of the balance of probabilities (meaning the evidence shows it is more likely than not the alleged violation occurred) with a simple majority to determine responsibility. The Chair does not vote;

**Tribunal:** reviews the investigative report from Campus Security Services as well as written submissions from the complainant and respondent. The tribunal is comprised of one representative from Counselling & Accessibility Services, one representative from Academic Services and one representative from Student Services.

**8. COLLEGE RESPONSE AND INVESTIGATION**

Where a complaint of sexual violence has been reported to the College, the College exercises care to protect and respect the rights of both the complainant and the respondent. The College understands

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that individuals who have been affected by sexual violence may wish to control whether and how the police or the College will deal with their experience. In most circumstances, the person will retain this control.

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 survivor's consent, if the College believes that the safety of other members of the Fanshawe community is at risk. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

Where the persons involved are not members of the College community, or in circumstances where the College is unable to initiate an internal investigation under this policy, a report of sexual violence may, at the complainant's request, be referred to the police or other community resources.

Where a police service either does not respond or terminates its response to a report or complaint regarding sexual violence, the College reserves the right to initiate or continue its investigation and respond to such report or complaint.

#### 8.1. Where the Respondent is a Student

Sexual violence is a violation of this policy. It is considered a serious offence and is addressed in a manner that is consistent with other serious offences. See policy A130: Student Code of Conduct for disciplinary process details.

#### 8.2. Where the Respondent is an Employee

Sexual violence is a violation this policy. Allegations against faculty and other employees will be addressed in accordance with the procedures set out in this policy, and in any applicable collective agreement, and/or other College policies.

#### 8.3. Where the Respondent is not a Student or Employee

Contractors, suppliers, volunteers and visitors who attend on campus are subject to the complaint and investigation procedures of the policy if they engage in prohibited conduct. Where a complaint against such a respondent is substantiated, the College will take appropriate action.

Contractual relationships entered into by the College are governed by a standard contract compliance clause requiring compliance with this policy and the Ontario *Human Rights Code*, including co-operating in investigations. Breach of the clause may result in sanctions.

#### 8.4. Multiple Proceedings

Where criminal and/or civil proceedings are commenced in respect of the allegations of sexual violence, the College shall 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 local police.

#### 8.5. Adjudication Process for Student Respondents

Once a report is made to Campus Security Services of a suspected act of Sexual Violence:

##### 1. Campus Security Services investigate the report:

- Special Constables will take a statement from the survivor who can be accompanied by a support person.
- Special Constables will take a statement from the respondent who can be accompanied by a support person.

- Special Constables will review related evidence not limited to witness statements, video footage etc.
  - Campus Security Services will submit an investigative report to the Code of Conduct Coordinator
2. The Code of Conduct Coordinator sends both the survivor and the respondent a copy of the investigative report and allows them 5 days to respond in writing to the report.
  3. A tribunal composed of three staff members chaired by the Code of Conduct Coordinator will review the investigative report, the survivor's response and the respondent's response.
  4. The tribunal will use the test of the balance of probabilities (meaning the evidence shows it is more likely than not the alleged violation occurred) with a simple majority to determine responsibility.
- 8.6. Adjudication Process for Employees
- If the complaint is sustained following an investigation, the College decides on the appropriate disciplinary actions consistent with any applicable collective agreement and/or policies regarding discipline.
- 8.7. Written Decision
- 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 the outcome or any corrective action that the College has taken or will take as a result of its investigation.

## 9. INTERIM MEASURES

The rights and privileges of a respondent may be restricted by the College before it makes a final determination about the alleged misconduct. For example, a respondent may be moved from a complainant's residence, restricted from entering certain parts of campus and restricted from attending class. An employee respondent may be temporarily removed from the workplace.

Such "interim measures" will be imposed only as necessary to meet the needs of complainants and persons who report incidents of sexual violence or otherwise under the College's threat assessment policy. 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. 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.

**10. OUTCOMES**

The College will determine, based on its investigation, what happened and whether it constitutes sexual violence or another form of misconduct. If the College finds there has been misconduct it will determine the appropriate sanctions. Students may face discipline, up to and including expulsion. Employees may face discipline, up to and including dismissal. Contractors, suppliers, volunteers, and visitors may face penalties, cancellation of contracts, and other sanctions. The College may also impose non-punitive measures such as:

- Participation in Man Made Workshops, educational workshops or activities
- No contact orders
- Alternative academic arrangements
- Offers of internal/external services such as counseling, advising, legal aid

**11. APPEAL**

A student may appeal a decision under this policy by following the appeal procedures in policy A130: Student Code of Conduct.

There is no formal appeal process for employee violations. However, College employees can contact Human Resources for further options, if any.

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

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