

# North American College of Information Technology

## Sexual Violence Policy<sup>1</sup>

### 1. Sexual Violence Policy

- (a) North American College of Information Technology (NACIT) is committed to providing its students with an educational environment free from sexual violence and treating its students who report incidents of sexual violence with dignity and respect.
- (b) NACIT has adopted this Sexual Violence Policy, which defines sexual violence and outlines its training, reporting, investigative and disciplinary responses to complaints of sexual violence made by its students that have occurred on its campus, or at one of its events and involve its students.
- (c) The person accused of engaging in sexual violence will be referred to as the “Respondent” and the person making the allegation as the “Complainant”.

#### **We are committed to:**

- Assisting students 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.
- Ensuring that students 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.
- Addressing harmful attitudes and behaviours (e.g., adhering to myths of sexual violence) that reinforce that the person who is affected by sexual violence is somehow to blame for what happened.
- Treating individuals who disclose sexual violence with compassion, recognizing that they are the final decision-makers about their own best interests.
- Ensuring that investigation procedures are available in the case of sexual violence, even when the individual chooses not to make a report to the police.
- Engaging in appropriate procedures for investigation and adjudication of a complaint which ensure fairness and due process.
- Providing appropriate education and training to the College community about responding to the disclosure of sexual violence.
- Contributing to the creation of a campus atmosphere in which sexual violence is not tolerated.
- Monitoring and updating our policies and protocols to ensure that they remain effective and in-line with other existing policies and best practices.

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<sup>1</sup> Acknowledgements: This document was based on the Sexual Violence policy of George Brown College and on the Sexual Violence Policy Template developed by the Career Colleges of Ontario.

## **2. Definition of Sexual Violence**

Sexual violence means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation. (For further definitions, see **Appendix 1.**)

## **3. Training, Reporting and Responding to Sexual Violence**

- (a) NACIT shall include a copy of the Sexual Violence Policy in every contract made between it and its students, and provide a copy of the Sexual Violence Policy to career college management (corporate directors, controlling shareholders, owners, partners, other persons who manage or direct the career college's affairs, and their agents), instructors, staff, other employees and contractors and train them about the policy and its processes of reporting, investigating and responding to complaints of sexual violence involving its students. \*Any company participating in offering student internships on their premises must provide an undertaking in writing that it is in compliance with all applicable legislation, including the Ontario Human Rights Code and the Occupational Health and Safety Act and will provide students access to those policies should they encounter issues relating to sexual violence in the workplace.
- (b) The Sexual Violence Policy shall be published on its website and in a conspicuous location on each of its campuses.
- (c) NACIT management, instructors, staff, other employees and contractors of NACIT will report incidents of or complaints of sexual violence to Mrs. Rashmi Kayastha upon becoming aware of them.
- (d) Students who have been affected by sexual violence or who need information about support services should contact Mrs. Rashmi Kayastha, NACIT's Sexual Violence Response Manager.
- (e) Subject to Section 4 below, to the extent it is possible, NACIT will attempt to keep all personal information of persons involved in the investigation confidential except in those circumstances where it believes an individual is at imminent risk of self-harm, or of harming another, or there are reasonable grounds to believe that others on its campus or the broader community are at risk. This will be done by:
  - (i) ensuring that all complaints/reports and information gathered as a result of the complaint/reports will be only available to those who need to know for purposes of investigation, implementing safety measures and other circumstances that arise from any given case; and
  - (ii) ensuring that the documentation is kept in a separate file from that of the Complainant/student or the Respondent.
- (f) NACIT recognizes the right of the Complainant not to report an incident of or make

a complaint about sexual violence or not request an investigation and not to participate in any investigation that may occur.

- (g) Notwithstanding (f), in certain circumstances, NACIT may be required by law or its internal policies to initiate an internal investigation and/or inform police without the complainant's consent if it believes the safety of members of its campus or the broader community is at risk.
- (h) In all cases, including (f) above, NACIT will appropriately accommodate the needs of its students who are affected by sexual violence. Students seeking accommodation should contact Mrs. Rashmi Kayastha.

In this regard, NACIT will assist students who have experienced sexual violence in obtaining counselling and medical care, and provide them with information about sexual violence supports and services available in the community as set out in **Appendix 2** attached hereto. Students are not required to file a formal complaint in order to access supports and services.

#### **4. Investigating Reports of Sexual Violence**

- (a) Under this Sexual Violence Policy, any student of NACIT may file a report of an incident or a complaint to Mrs. Rashmi Kayastha in writing.
- (b) Upon receipt of a report of an incident or a complaint of alleged sexual violence being made, Mrs. Rashmi Kayastha will respond promptly and:
  - (i) determine whether an investigation should proceed and if the Complainant wishes to participate in an investigation;
  - (ii) determine who should conduct the investigation having regard to the seriousness of the allegation and the parties involved; the investigation team is to consist of no fewer than two individuals who have no direct connection to the particulars of the complaint, with one of the members Being from from the academic staff of NACIT, while another will be from the administrative staff or an external investigator. Timeline for investigation is 30 working days.
  - (iii) determine whether the incident should be referred immediately to the police;  
  
In such cases or where civil proceedings are commenced in respect of allegations of sexual violence, NACIT may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures; and
  - (iv) determine what interim measures ought to be put in place pending the investigation process such as removal of the Respondent or seeking alternate methods of providing necessary course studies.
- (c) Once an investigation is initiated, the following will occur:

- (i) the Complainant and the Respondent will be advised that they may ask another person to be present throughout the investigation;
- (ii) interviewing the Complainant to ensure a complete understanding of the allegation and gathering additional information that may not have been included in the written complaint such as the date and time of the incident, the persons involved, the names of any person who witnessed the incident and a complete description of what occurred;
- (iii) informing and interviewing the Respondent of the complaint, providing details of the allegations and giving the Respondent an opportunity to respond to those allegations and to provide any witnesses the Respondent feels are essential to the investigation;
- (iv) interviewing any person involved or who has, or may have, knowledge of the incident and any identified witnesses;
- (v) providing reasonable updates to the Complainant and the Respondent about the status of the investigation; and
- (vi) following the investigation, the Mrs. Rashmi Kayastha will:
  - review all of the evidence collected during the investigation;
  - determine whether sexual violence occurred; and if so
  - determine what disciplinary action, if any, should be taken as set out in Section 5 below.

## **5. Disciplinary Measures**

- (a) If it is determined by NACIT that the Respondent did engage in sexual violence, immediate disciplinary or corrective action will be taken. This may include:
  - (i) disciplinary action up to and including termination of employment of instructors or staff; or
  - (ii) expulsion of a student; and /or
  - (iii) the placement of certain restrictions on the Respondent's ability to access certain premises or facilities; and/or
  - (iv) any other actions that may be appropriate in the circumstances.

## **6. Appeal**

- (a) Should the Complainant or the Respondent not agree with the decision resulting from the investigation, he or she may appeal the decision to Mr. Arif Toor within 2 weeks (14 days) days by submitting a letter addressed to Mr. Toor advising of the person's intent to appeal the decision.

**7. Unsubstantiated or Vexatious Complaints**

- (a) It is a violation of this Sexual Violence Policy for anyone to knowingly make a false complaint of sexual violence or to provide false information about a complaint.
- (b) Individuals who violate this Sexual Violence Policy are subject to disciplinary and / or corrective action up to and including termination of employment of instructors or staff or expulsion of a student.
- (c) 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.
- (d) Disclosures or complaints that are found following an investigation to be frivolous, vexatious or bad faith complaints, that is, are made to purposely annoy, embarrass or harm the respondent, are considered frivolous, vexatious, or bad faith complaints and may result in sanctions and/or discipline against the complainant.

**8. Reprisal**

- (a) It is a violation of this Sexual Violence Policy to retaliate or threaten to retaliate against a complainant who has brought forward a complaint of sexual violence, provided information related to a complaint, or otherwise been involved in the complaint investigation process.
- (b) Individuals who violate the Sexual Violence Policy are subject to disciplinary and or corrective action, up to and including termination of employment of instructors or staff or expulsion of a student.

**9. Review**

- (a) NACIT shall ensure that student input is considered in the development of its Sexual Violence Policy and every time it is reviewed or amended.
- (b) NACIT shall review its Sexual Violence Policy 3 years after it is first implemented and amend it where appropriate.

**10. Collection of Student Data**

- (a) NACIT shall collect and be prepared to provide upon request by the Superintendent of Private Career Colleges such data and information as required according to Subsections 32.1 (8), (9), (10) and (11) of Schedule 5 of the Private Career Colleges Act, 2005 as amended.

**APPENDIX 1 – DEFINITIONS AND MYTHS**

Definition	Description
<p><b>Sexual Assault and Sexual Violence</b></p>	<p><b>Sexual assault:</b> A criminal offence under the <i>Criminal Code</i> of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or control towards a person, which makes that person feel uncomfortable, distressed, frightened, threatened, or that is carried out in circumstances in which the person has not freely agreed, consented to, or is incapable of consenting to.</p> <p><b>Sexual violence:</b> means any sexual act or act targeting a person's sexuality, gender identify or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.</p>
<p><b>Consent</b></p>	<p>The voluntary and explicit agreement to engage in the sexual conduct in question. It is the act of willingly agreeing to engage in specific sexual behaviour, and requires that a person is able to freely choose between two options: yes and no. This means that there must be an understandable exchange of affirmative words, which indicates a willingness to participate in mutually agreed upon sexual activity.</p> <p>It is also imperative that everyone understands the following:</p> <ul style="list-style-type: none"> <li>• Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgement cannot consent.</li> <li>• A person is incapable of giving consent if they are asleep, unconscious or otherwise unable to communicate.</li> <li>• 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.</li> <li>• A person who is drugged is unable to consent.</li> <li>• A person is usually unable to give consent when under the influence of alcohol and /or drugs.</li> <li>• A person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts.</li> <li>• 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.</li> <li>• A person can withdraw consent at any time during the course of a sexual encounter.</li> <li>• A person is incapable to giving consent to a person in a position of trust, power or authority, such as a faculty member initiating a relationship with a student who they teach, an administrator in a relationship with anyone who reports to that position.</li> </ul>

<p>For information purposes only, the <i>Criminal Code</i> defines “consent” as follows</p>	<ul style="list-style-type: none"> <li>• Consent cannot be given on behalf of another person.</li> </ul> <p><b>Note:</b> 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.</p> <p>The voluntary agreement to engage in the sexual activity in question. No consent is obtained, where:</p> <ol style="list-style-type: none"> <li>a) The agreement is expressed by the words or conduct of a person other than the complainant.</li> <li>b) The complainant is incapable of consenting to the activity.</li> <li>c) The accused induces the complainant to engage in the activity by abusing a position of trust, power or authority.</li> <li>d) The complainant expresses, by words or conduct, a lack of agreement to engage in the activity, or</li> <li>e) The complainant, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.</li> </ol>
<p><b>Acquaintance sexual assault</b></p>	<p>Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.</p>
<p><b>Age of consent for sexual activity</b></p>	<p>The age at which a person can legally consent to sexual activity. In Canada, children under 12 can never legally consent to sexual acts.</p> <p>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 two years older than themselves. Youth who are 14 and 15 years old may consent to sexual involvement that is mutual with a person who is less than five 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.</p>
<p><b>Coercion</b></p>	<p>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.</p>
<p><b>Drug-facilitated sexual assault</b></p>	<p>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.</p>
<p><b>Stalking</b></p>	<p>A form of criminal harassment prohibited by the <i>Criminal Code</i> 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);</p>

	threatening or obscene gestures; surveillance; sending unsolicited gifts; “creeping” via social media/cyber-stalking; and uttering threats.
<b>Survivor</b>	Some who have 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 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 affected by these circumstances to determine how they wish to identify.
<b>Sexual Harassment</b>	<p>A broad range of actions not including assault as it is described in the Criminal Code, but it can include sexual assault (unwanted physical acts). Sexual harassment refers to one or a series of comments or behaviours related to gender, or of a sexual nature that is known or ought to reasonably be known to be unwelcome, unwanted, offensive, intimidating, hostile, or inappropriate.</p> <p>Harassment and Bullying are both covered under Ontario’s Health and Safety Act. The definition of workplace harassment in the Ontario Health and Safety Act includes harassment which is prohibited under the Ontario Human Rights Code as well as what is often called psychological harassment or personal harassment. Specifically, the Ontario Health and Safety Act have workplace violence and workplace harassment policies.</p>
<b>Gender-based harassment</b>	Gender-based harassment is one type of sexual harassment. Gender-based harassment is “any behaviour that polices and reinforces traditional heterosexual gender norms. In some cases, gender-based harassment may look the same as harassment based on sexual orientation, or homophobic bullying, and trans homophobia.
<b>Gender-based violence</b>	Any form of behaviour, including psychological, physical, and sexual behaviour that is based on an individual’s gender and is intended to control, humiliate, or harm the individual. The form of violence is generally directed at women and girls. It reflects an attitude or prejudice at the individual or institutional level that aims to subordinate an individual or group on the basis of sex and/or gender identity, gender queer/gender variant and transgender queer.
<b>Acquaintance sexual assault</b>	Includes partner, friend, date, peer, colleague or anyone already known to the person. Sexual gender-based violence is most often perpetrated by an acquaintance. The term “date rape” is interchangeable with “acquaintance sexual assault.”
<b>Bystander</b>	For the purposes of sexual violence prevention, a bystander is anyone who is neither a victim nor an offender, but who could potentially get involved to make a difference. It refers to anyone who is in a position to intervene before, during or after the sexual act.



<b>Cyber bullying and harassment</b>	Often used interchangeably, cyber harassment and cyber bullying are defined as repeated, unsolicited, reasonably known to be unwelcome, by a person or group using cell phone or Internet technology with the intent to bully, harass, and intimidate a victim. The harassment can take place in any electronic environment where communication with others is possible, as on social networking sites, on message boards, in chat rooms, through text messages or through email.
<b>Upstander</b>	For the purposes of sexual violence prevention, an Upstander is anyone who is neither a victim nor an offender, but who gets involved to make a difference. It refers to anyone who intervenes before, during or after the sexual act.

**Use of the term “Rape” in the context of Sexual Violence**

This policy refers to the offence of sexual assault to align with the current offence contained in the *Criminal Code*. The word “rape” is no longer used in criminal statutes in Canada. The term was replaced many years ago to acknowledge that sexual violence is not about sex but is about acts of psychological and physical violence. The term “sexual assault” provides a much broader definition and criminalizes unwanted behaviour such as touching and kissing as well as unwanted oral sex and vaginal and anal intercourse. Although the term no longer has a legal meaning in Canada, the term rape is still commonly used.

**DISPELLING THE MYTHS AND MISCONCEPTIONS ABOUT SEXUAL ASSAULT**

<b>Myth</b>	<b>Fact</b>
It wasn't rape, so it wasn't sexual violence.	Sexual assault and sexual violence encompasses a broad range of unwanted sexual activity. Any unwanted sexual contact is considered to be sexual violence. A survivor can be severely affected by all forms of sexual violence, including unwanted fondling, rubbing, kissing, or other sexual acts. Many forms of sexual violence involve no physical contact, such as stalking or distributing intimate visual recordings. All of these acts are serious and can be damaging.
Sexual assault can't happen to me or anyone I know.	Sexual assault can and does happen to anyone. People of all socioeconomic and ethnic backgrounds are victims of sexual assault, but the vast majority of sexual assaults happen to women and girls. Young women, Aboriginal women and women with disabilities are at greater risk of experiencing sexual assault.
Sexual assault is most often committed by strangers.	Someone known to the victim, including acquaintances, dating partners, and common-law or married partners, commit approximately 75 per cent of sexual assaults.
Sexual assault is most likely to happen outside in dark, dangerous places.	The majority of sexual assaults happen in private spaces like a residence or private home.
If an individual doesn't report to the police, it wasn't sexual assault.	Just because a victim doesn't report the assault doesn't mean it didn't happen. Fewer than one in ten victims report the crime to the police.

<p>It's not a big deal to have sex with someone while they are drunk, stoned or passed out.</p>	<p>If a person is unconscious or incapable of consenting due to the use of alcohol or drugs, they cannot legally give consent. Without consent, it is sexual assault.</p>
<p>If the person chose to drink or use drugs, then it isn't considered sexual assault.</p>	<p>This is a prominent misconception about sexual assault. No one can consent while drunk or incapacitated.</p>
<p>If the victim didn't scream or fight back, it probably wasn't sexual assault.</p> <p>If the victim does not fight back, the sexual assault is their fault.</p>	<p>When an individual is sexually assaulted they may become paralysed with fear and be unable to fight back. The person may be fearful that if they struggle, the perpetrator will become more violent.</p>
<p>If you didn't say no, it must be your fault.</p>	<p>People who commit sexual assault/abuse are trying to gain power and control over their victim. They want to make it extremely difficult, if not impossible, for their victim to say no. A person does not need to actually say the word "no" to make it clear that they did not want to participate. The focus in consent is on hearing a "yes".</p>
<p>If a woman isn't crying or visibly upset, it probably wasn't a serious sexual assault.</p>	<p>Every woman responds to the trauma of sexual assault differently. She may cry or she may be calm. She may be silent or very angry. Her behaviour is not an indicator of her experience. It is important not to judge a woman by how she responds to the assault.</p>
<p>If someone does not have obvious physical injuries, like cuts or bruises, they probably were not sexually assaulted.</p>	<p>Lack of physical injury does not mean that a person wasn't sexually assaulted. An offender may use threats, weapons, or other coercive actions that do not leave physical marks. The person may have been unconscious or been otherwise incapacitated.</p>
<p>If it really happened, the victim would be able to easily recount all the facts in the proper order.</p>	<p>Shock, fear, embarrassment and distress can all impair memory. Many survivors attempt to minimize or forget the details of the assault as a way of coping with trauma. Memory loss is common when alcohol and/or drugs are involved.</p>
<p>Individuals lie and make up stories about being sexually assaulted; and most reports of sexual assault turn out to be false.</p>	<p>According to Statistics Canada, fewer than one in 10 sexual assault victims report the crime to the police. Approximately 2% of sexual assault reports are false.</p> <p>The number of false reports for sexual assault is very low. Sexual assault carries such a stigma that many people prefer not to report.</p>
<p>Persons with disabilities don't get sexually assaulted.</p>	<p>Individuals with disabilities are at a high risk of experiencing sexual violence or assault. Those who live with activity limitations are over two times more likely to be victims of sexual assault than those who are able-bodied.</p>
<p>A spouse or significant other cannot sexually assault their partner.</p>	<p>Sexual assault can occur in a married or other intimate partner relationship. The truth is, sexual assault occurs ANY TIME there is not consent for sexual activity of any kind. Being in a relationship does not exclude the possibility of, or justify, sexual assault. A person has the right to say "no" at ANY point.</p>

<p>People who are sexually assaulted “ask for it” by their provocative behaviour or dress.</p>	<p>This statement couldn't be more hurtful or wrong. Nobody deserves to be sexually assaulted. Someone has deliberately chosen to be violent toward someone else; to not get consent. Nobody asks to be assaulted. Ever. No mode of dress, no amount of alcohol or drugs ingested, no matter what the relationship is between the survivor and the perpetrator or what the survivor's occupation is, sexual assault is always wrong.</p>
<p>Sexual assault only happens to women</p>	<p>Not true. The majority of sexual assaults are committed against women by men, but people of all genders, from all backgrounds have been/can be assaulted.</p>
<p>Sexual abuse of males is rare.</p>	<p>According to Statistics Canada, six per cent of males 15 or over reported that they had experienced sexual victimization. Sexual assault/abuse occurs in every economic, ethnic, age and social group.</p>
<p>If you got aroused or got an erection or ejaculated you must have enjoyed it.</p>	<p>It is normal for your body to react to physical stimulation. Just because you became physically aroused does not mean that you liked it, or wanted it or consented in any way. If you experienced some physical pleasure, this does not take away the fact that sexual abuse happened or the effects or feelings of abuse.</p>

## APPENDIX 2 –OTHER RESOURCES

To locate the Sexual Assault/Domestic Violence Treatment Centre nearest you, please refer to [http://www.satcontario.com/en/locate\\_centre.php](http://www.satcontario.com/en/locate_centre.php). The following Canadian Association of Sexual Assault Centres can be used as resources:

English  
Assaulted Women's Helpline  
Toll Free: 1-866-863-0511

Français  
Fem'aide  
Toll-Free: 1-877-336-2433

Other services in the Toronto area are:

- Emergency Services (Police, Ambulance, Fire) dial 911
- Women's College Hospital Sexual Assault/Domestic Violence: 416.323.6040
- Toronto Rape Crisis Centre: 416.597.8808
- Oasis Centre des Femmes: 416-591-6565
- YWCA Toronto: 416-497-7151 ext. 266: Healing from Violence and Trauma Groups
- The Gatehouse (in case there are historical issues of childhood sexual abuse that compound a recent incident): 416-255-5900
- Tropicana Community Services (Counselling for the Black Community): 416-439-9009
- Scarborough Hospital Sexual Assault/Domestic Violence Care Centre: 416-495-2555
- Barbara Schlifer Commemorative Clinic (Counselling and legal support): 416-323-9149
- Assaulted Women's Helpline: 1.866.863.0511
- Support Services for Male Survivors of Sexual Abuse: 1-866-887-0015
- Anishnawbe Health: 416-891-8606
- Toronto Family Services Association: 416-595-9618
- Distress Centres Line: 416-408-4357
- David Kelly Services (LGBTQ): 416-595-9618
- 519 Church Street Community Centre (LGBTQ Counselling and Legal Support): 416-392-6874
- LGBTQ Youthline: 1-800-268-9688
- Gerstein 24 hour Crisis Line: 416-929-5200