

Sexual Violence Policy
of
Knox College
Toronto, Ontario

Adopted January 1, 2017 and
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Sexual Violence Policy of Knox College

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I. DEFINITIONS

1. The following terms are defined to be applied in the interpretation of this Policy:

a. **Policy:** Sexual Violence Policy of Knox College

b. **College:** Knox College, Toronto, Ontario

c. **Student:** any student enrolled at or living in residence of the College

d. **Designated Person:** a member of faculty, the Principal, a member of the executive staff, Convener of the Board of Governors or Chair of the **Standing Committee on Sexual Violence**.

e. **Standing Committee:** Standing Committee on Sexual Violence established by the Board of Governors to carry out the procedure under this Policy.

f. **Notice of Claim:** the standard form of the College attached to this Policy as Schedule "A" for completion by a Complainant for the purpose of Reporting an Incident of Sexual Violence.

g. **Response to Claim:** the standard form of the College attached as Schedule "B" to this policy for completion by a Respondent in response to a Notice of Claim.

h. **Reply:** the standard form of the College attached as Schedule "C" to this policy for completion by a Complainant in reply to a Response to Claim.

i. **Member(s) of the College Community:** all Students, faculty, post-doctoral fellows, employees, contractors, the Principal, a member of the executive staff and members or delegates of the Board of Governors of Knox College. For clarity, faculty includes clinical, adjunct, sessional, retired, and visiting faculty.

j. **Complainant:** a Student who has Reported an Incident of Sexual Violence experienced by that Student.

k. **Respondent:** a Member of the College Community against whom an allegation of Sexual Violence has been Reported by a Student.

l. **Reporting:** the sharing of information by a Complainant with a Designated Person regarding an Incident of Sexual Violence experienced by that Complainant, with the intention of initiating the processes set out in this Policy, which could result in disciplinary action being taken against the Respondent alleged to have committed Sexual Violence.

m. **Incident of Sexual Violence:** includes any instance of Sexual Violence, including Sexual Harassment and all associated definitions provided herein.

n. **Sexual Violence:** any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes Sexual Assault, Sexual Harassment, Cyber Sexual Violence, Cyber Sexual Harassment, Gender-based Harassment, stalking, indecent exposure, voyeurism, and sexual exploitation.

o. **Sexual Harassment:** any sexual solicitation or advance made to a Student by a Member of the College Community where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome. Sexual harassment also includes a reprisal or a threat of reprisal for the rejection of a sexual solicitation or advance, where the reprisal is made or threatened by a person in a position to confer, grant or deny a benefit or advancement to the Student.

p. **Sexual Assault:** any form of sexual contact without a Student's consent, including the threat of sexual contact without consent, unwanted sexual touching and sexual intercourse; and a Sexual Assault can involve situations where sexual activity is obtained by someone abusing a position of trust, power or authority.

q. **Cyber Sexual Violence:** knowingly publishing, distributing, transmitting, selling, making available or advertising an intimate image of a Student, knowing that the Student depicted in the image did not give their consent to that conduct, or being reckless as to whether or not that Student gave their consent to that conduct. An intimate image includes but is not limited to a visual recording of a Student made by any means, including a photographic, digital or video recording, in which the person is nude and/or engaged in sexual activity. For the purpose of this Policy, Sexual Violence includes Cyber Sexual Violence.

r. **Cyber Sexual Harassment:** means Sexual Harassment conducted in whole or in part through electronic means, such as email, web postings, text messaging, and other forms of electronic behaviour. For the purpose of this Policy, Sexual Harassment includes Cyber Sexual Harassment.

s. **Gender-based Harassment:** engaging in a course of vexatious comment or conduct related to a Student's sex, gender, sexual orientation, gender identity or gender expression that is known or ought reasonably to be known to be unwelcome.

t. **Consent:** the voluntary agreement of a Student to engage in a sexual act. Consent is positive, active and ongoing, and can be revoked at any time. Consenting to one kind of sexual act does not mean that consent is given for another sexual act. Consent is NOT obtained where a Student is incapable of consenting, for example due to intoxication, or where a Student is induced to engage in the activity by someone abusing a position of trust, power or authority.

As per the *Criminal Code of Canada*, it is not a defence to an allegation of Sexual Violence that the Respondent believed that the Complainant consented to the activity that forms the subject matter of the complaint, where (a) the Respondent's belief arose from the Respondent's (i) self-induced intoxication; or

(ii) recklessness or willful blindness; or (b) the Respondent did not take reasonable steps, in the circumstances known to the Respondent at the time, to ascertain that the Complainant was consenting.

II. STATEMENT OF COMMITMENT

2. All Students should have the ability to study, work, and live in a campus environment free from Sexual Violence, including Sexual Assault and Sexual Harassment.

3. The College is committed to making available resources to educate Members of the College and its Community on the prevention of and response to Sexual Violence.

4. The College is committed to responding to and addressing Reported Incidents of Sexual Violence involving its Students alleged to have been committed by a Member of the College Community, and to ensuring that those Students who are affected by Sexual Violence receive support.

III. APPLICATION AND SCOPE

5. This Policy applies to all Members of the College Community. Where a Member of the College Community is covered by a policy with respect to Sexual Violence of the University of Toronto (“U of T”) or any of its colleges (“such other policy”) or The Presbyterian Church in Canada (“PCC”) Leading with Care Policy, proceedings under this Policy may be stayed in the discretion of the Standing Committee pending a final outcome under such other policy or the PCC Leading with Care Policy. The Standing Committee may take into consideration the final outcome under such other policy or the PCC Leading with Care Policy in determining in its discretion whether to proceed with the matter under this Policy.

6. This Policy is in addition to the Sexual Harassment Policy of Knox College as amended from time to time (the “SHP”), except that the provisions of this Policy supersede the provisions of the SHP in case of any inconsistency.

7. This Policy relies on a system of Reporting, investigation and decision-making for complaints of Sexual Violence in order to avoid actual or perceived conflicts of interest or reasonable apprehension of bias, to preserve privacy, to minimize risk of reprisal, and to ensure coordination and consistency across all academic divisions and services of the College.

8. The Reporting procedure and the processes it initiates apply to all Incidents of Sexual Violence in which both the Complainant and the Respondent are Members of the College Community, regardless of whether the event occurred on campus, off campus, or using social media or other electronic media.

IV. EDUCATION, SUPPORT, AND RESOURCES

9. The College provides support to Students as provided in this Policy.

10. The College has a mandate to conduct intake, accept Reporting of Sexual Violence, and provide support to Students who have experienced Sexual Violence as set out in this Policy. The College will also provide training to Members of the College Community with respect to how to respond to the Reporting of Sexual Violence and how to support Complainants.

11. The College makes available to all Members of the College Community information or training on this Policy, including the College's process for responding to and addressing Reported Incidents of Sexual Violence.

V. PRINCIPLES RESPECTING PROCESS

12. A Student who has made a Report of Sexual Violence has autonomy in decision making, and in particular, whether to Report, whether to pursue recourse to the criminal or civil justice systems, and whether to access support and accommodations as described in this Policy.

13. The College is committed to the provision of a fair process for all parties and one that respects due process and procedural fairness.

14. The College will appropriately accommodate the needs of a Student who is affected by Sexual Violence upon the Student contacting one of the Designated Persons under this Policy.

15. The College will take measures to protect against reprisal, through any means including through social or other electronic media, against a Student who Reports an Incident of Sexual Violence, or who participates in a College process that is addressing allegations of Sexual Violence against a Member of the College Community.

16. Confidential counselling and support will be made available as quickly as practicable to any Student who experiences an Incident of Sexual Violence.

17. The College will respond to Reports of Sexual Violence fairly and expeditiously.

VI. CONFIDENTIALITY AND PRIVACY

18. The College will treat Reports of an Incident of Sexual Violence in a confidential manner in accordance with this Policy.

19. The College will limit sharing of information to those within the College who need to know the information for the purposes of implementing this Policy, including providing accommodation and interim measures, and the investigation and decision-making processes; and taking corrective action resulting from those processes. For example, where a Complainant wishes to make a Report, fairness to the Respondent will require disclosure of the Complainant's identity and the material allegations being made.

20. Confidentiality cannot be maintained where information needs to be disclosed in order to address a risk to the health and safety of Members of the College Community or where the College is obliged by law to disclose the information. For example, confidentiality cannot be maintained where:

- a. an individual is at risk of imminent and serious harm to themselves or others;
- b. Members of the College Community may be at risk of harm; and/or
- c. reporting or investigation is required by law (for example, but not limited to, an incident involving a minor, or obligations related to occupational health and safety or to human rights legislation).

VII. ACCESSING THE POLICY: REPORTING

21. Reporting is a step that the Complainant can choose to take under this Policy. The College offers confidential support and services to those who have experienced Sexual Violence.

22. Reporting is the sharing of information by a Student with a Designated Person regarding an Incident of Sexual Violence experienced by that Student, with the intention of initiating one of the processes set out in this Policy, which could result in a disciplinary action being taken against the Member of the College Community alleged to have committed Sexual Violence. When contacted by a Student, a Designated Person shall provide to the Student a standard form Notice of Claim, in the form of Schedule "A" to this Policy, to be completed by the Student for the purpose of Reporting under this Policy. Designated Persons as defined in this Policy receive the completed Notice of Claim pursuant to the provisions for Reporting under this Policy.

23. A Member of the College Community who witnesses an Incident of Sexual Violence affecting another Member of the College Community should contact a Designated Person or the U of T Campus Police immediately.

24. The College recognizes that a Student who has experienced an Incident of Sexual Violence may require time and reflection before making the decision as to whether or not they wish to make a Report of the Incident of Sexual Violence. Notwithstanding those considerations, Students who have experienced an Incident of Sexual Violence are encouraged to make a Report as soon as they are able to do so, recognizing that the passage of time may affect the College's ability to address the issues raised by a Report.

VIII. REPORTING

A. REPORTING PROCESS

25. A Designated Person is responsible for receiving Reports of Incidents of Sexual Violence from Students involving a Member of the College Community in a non-emergency situation.

26. In an emergency with respect to an Incident of Sexual Violence, a Student should contact U of T, Campus Police or 911 for municipal police. A Report can also be made by a Student at a later date following the Incident of Sexual Violence.

27. Reporting shall be initiated by a Complainant contacting a Designated Person and providing a Notice of Claim completed and signed by the Complainant in the form attached to this Policy as Schedule "A". The Designated Person shall provide the Notice of Claim to the Chair of the Standing Committee. The College will maintain a confidential database of Reports received.

28. The Standing Committee has the jurisdiction to investigate Reports of Sexual Violence made against a Member of the College Community under this Policy.

29. The Standing Committee does not have the jurisdiction to address allegations made against a person who is not a Member of the College Community. However, in the event of such allegations, the College may provide support to the Students who are Members of the College Community.

30. A Complainant is not precluded from Reporting an Incident of Sexual Violence to municipal police services if they have Reported the Incident to a Designated Person of the College. A Complainant is not precluded from Reporting an Incident of Sexual Violence to a Designated Person of the College if they have reported the Incident to municipal police services. A Complainant may choose to Report to one or the other, to neither or to both.

31. Once a Complainant has made a Report of an Incident of Sexual Violence by providing a completed Notice of Claim to the Designated Person of the College, the Complainant has initiated the College's Reporting process. The intention of this Policy is for the Reporting process and each of its steps to be completed as expeditiously as practicable.

32. Both the Complainant and the Respondent have the right to be accompanied by their legal representative at any point during the Reporting process and subsequent processes under this Policy. The legal representative of a Complainant or Respondent, whether or not a Member of the College Community, is expected to adhere to the provisions outlined in the "Confidentiality and Privacy" section of this Policy.

33. Confidentiality requirements may change once the Complainant decides to Report under this Policy. In addition to the provisions outlined in the "Confidentiality and Privacy" section of this Policy, all Members of the College Community who are involved in receiving a Report of an Incident of Sexual Violence or who are involved in addressing or investigating it should treat the matter as discreetly and confidentially as practicable, within the context of their roles in implementing this Policy. Information will only be shared to the extent necessary to carry out responsibilities under this Policy or as required to provide a fair process during the investigation and decision-making process.

34. The Standing Committee will take reasonable steps to protect Complainants and others who participate in a process under this Policy that is addressing allegations of Sexual Violence from reprisals, including: advising a Member of the College Community in writing of their duty to refrain from committing an act of reprisal, and sanctioning a breach of that duty. The Standing Committee may also address the potential for reprisals by providing an accommodation appropriate for the circumstances. Threats of or acts of reprisal will be treated as Incidents of Sexual Violence.

B. COLLEGE RESPONSE

35. When the Standing Committee receives a Report of an Incident of Sexual Violence, it will take steps to engage as soon as practicable in an intake discussion with the Complainant.

36. At the intake discussion, the Standing Committee will provide assistance to the Complainant and will discuss with the Complainant the potential available options. The Standing Committee will outline information about available support and services, including information about interim measures and accommodations that may be available to address the immediate situation.

37. The Standing Committee can, on a confidential basis, consult or seek the assistance of other internal personnel or resources of the College for direction, and can consult or seek the assistance of external parties relevant to the particular Incident of Sexual Violence being Reported.

38. Some of the options that may be made available to the Complainant at the first point of contact following a Report include, but are not limited to:

- a. referral to contacts for suitable support, services or resources available within and outside the College and in the municipality;
- b. where appropriate, communication with the Respondent to inform them that the alleged conduct is unwelcome and to note the provisions of this Policy concerning reprisal;
- c. availability of academic accommodation and interim measures, including interim measures provided for under and in accordance with other College policies such as the Student Handbook and human resources policies and guidelines:
 - i. Examples of such measures for Students include: separation of the parties, exam or assignment deferral, class and/or schedule changes, emergency bursaries, and/or housing changes;
 - ii. Examples of such measures for Student employees include: making changes that are not disciplinary but precautionary to avoid contact between parties.
- d. information about the investigation and decision-making processes that may occur.

39. The Chair of the Standing Committee will be responsible for coordinating the implementation of accommodations and interim measures as expeditiously as practicable, including appropriate steps for the purposes of addressing any non-compliance.

C. ASSESSMENT AND APPOINTMENT OF AN INVESTIGATOR

a) ASSESSMENT

40. The assessment and investigation processes will be coordinated through the Chair of the Standing Committee.

41. Upon receipt of a Report by Notice of Claim, the Designated Person of the College will send the Notice of Claim to the Standing Committee which will assess the Notice of Claim to determine whether the matter falls within the scope of this Policy. If it is determined that the matter falls within the scope of this Policy, the Standing Committee will decide in its discretion whether to commence an investigation.

42. The Complainant can choose not to request an investigation by the College and has the right not to participate in any investigation that may occur. Where a choice not to participate in an investigation is made, the Complainant will be advised that this may affect the nature of the investigation and the ability to draw conclusions from any investigation report. For further clarity about what will occur in this situation, see the section of this Policy entitled "College's Obligation when a Complainant Requests No Investigation or Chooses Not to Participate."

43. If the Standing Committee makes the determination that the Report does not appear to fall within the scope of this Policy, or decides not to commence an investigation, the Standing Committee will notify the Complainant of this determination. The Standing Committee will also determine whether or not to disclose the fact that allegations were made and any other information to the Respondent.

44. If there is a determination that a Report will not be investigated, the Complainant may seek a review of that decision by making a request in writing within 14 days of the decision to the Chair of the Standing Committee for referral to the Board of Governors or designate, who will review the matter and advise the Complainant of their decision in writing.

b) APPOINTMENT OF AN INVESTIGATOR

45. Once a determination has been made to commence an investigation, a competent person with the appropriate skills, training and/or experience will be appointed to conduct the investigation. The investigator will either be someone who is a Member of the College Community or a person who is external to the College, as appears in the discretion of the Standing Committee appropriate in the circumstances.

46. The Standing Committee will send the Notice of Claim to the Respondent, advise that an investigation of a Report of Sexual Violence under this Policy is being initiated, provide the name of the investigator, and advise that the Respondent will have an opportunity to respond to the allegations by completing a Response to Claim in the form of Schedule "B" to this Policy and that the Respondent has the right to seek legal advice and to bring a legal representative to any meetings during the investigation.

D. INVESTIGATION

47. The investigation must be completed in a timely manner, taking into consideration the circumstances of the particular matter including its complexity and the requirements of fairness and due process.

48. The investigator will provide the Respondent with a reasonable opportunity to respond in writing by completing and signing the Response to Claim in the form attached to this Policy as Schedule "B". If the Respondent does not respond within a reasonable timeframe set by the investigator, or chooses not to participate in the investigation, the investigator may proceed in the absence of their response.

49. The investigator will provide the written Response to Claim provided by the Respondent, if received, to the Complainant. The Complainant may complete, sign and submit a Reply to the response in the form of Schedule "C" to this Policy within a reasonable timeframe set by the investigator. If no written Reply is

received within the time requested, the investigator can proceed in the absence of a Reply. The investigator will provide the Reply from the Complainant, if received, to the Respondent.

50. The Complainant and Respondent may choose to submit any additional information to the investigator, including the names of any potential witnesses.

51. The investigator may choose to conduct interviews with either or all parties at any time during the investigative process at the investigator's discretion or at the request of the Complainant or Respondent. The investigator may also choose to seek witness information.

52. The investigator will act in a timely, fair, impartial, and professional manner. The investigator will treat the information gathered during the investigation in a confidential manner in accordance with the requirements of this Policy.

53. The investigator will remind individuals contacted of the provisions outlined in the "Confidentiality and Privacy" section of this Policy and keep confidential the personal information of the people contacted except as may be required to implement this Policy.

54. Following the completion of the investigation, the investigator will provide to the Standing Committee a written confidential report containing a summary of the information gathered during the investigation and the findings of fact made based on the balance of probabilities.

55. The Standing Committee will inform the Complainant and the Respondent (and/or their legal representatives) in writing of the results of the investigation, with a reminder as to the provisions outlined in the "Confidentiality and Privacy" section of this Policy.

E. DECISION-MAKING AND APPEAL PROCESS

56. The investigation report will be reviewed by the Standing Committee to determine whether or not the matter will be referred for a hearing in order to determine whether or not Sexual Violence occurred and, if so, the appropriate outcome in accordance with section 60 of this Policy.

57. Once a determination has been made whether to refer the matter to a hearing, a competent person with the appropriate skills, training and/or experience will be appointed by the Standing Committee as Hearing Officer to conduct the hearing. The Hearing Officer may be someone who is a Member of the College Community or a person who is external to the College, as appears in the discretion of the Standing Committee appropriate in the circumstances.

58. The decision of the Hearing Officer shall be in writing, including reasons and recommendations for possible outcomes pursuant to section 60 of this Policy, and shall be provided to the Standing Committee, the Complainant and the Respondent within a reasonable time.

59. The decision of the Hearing Officer is final unless an appeal against the decision of the Hearing Officer is made within 30 days from the date of the decision to the Board of Governors, excluding members of the Standing Committee. The Board of Governors as constituted for the appeal may, in their discretion on appeal, either affirm or rectify the decision of the Hearing Officer or order a new hearing to be conducted by a different Hearing Officer to be appointed by the Standing Committee in accordance with section 57 of this Policy. The decision of the Board of Governors, as constituted for the appeal, shall be final and provided in writing to the Standing Committee, the Complainant and the Respondent within a reasonable time.

60. A final decision that a Member of the College Community has committed an act of Sexual Violence may result in a number of possible outcomes, including the imposition of education and training, corrective action such as relocation or change of duties or supervision, reprimand, suspension, termination or expulsion, commensurate with the nature of the Incident of Sexual Violence complained of and taking into account all other relevant considerations and in accordance with the applicable College policies and procedures, or employment contract. The Board of Governors, including the Standing Committee, shall determine and implement the outcome based on the final decision.

61. "Informal resolution" or "mediation" is available under this Policy only under the following conditions:

- a. Both parties must consent to such pre-adjudicative resolution,
- b. Such pre-adjudicative resolution must not require any face-to-face meeting between the Complainant and the Respondent, and
- c. The mediator shall be an independent professional mediator appointed by the Standing Committee with the consent of the Complainant and Respondent.

62. If the Respondent's relationship to the College ends and that person is no longer a Member of the College Community, the Standing Committee may choose to suspend the processes under this Policy. If the Respondent becomes a Member of the College Community again, the College can reinstate the process with notice to the Complainant and Respondent. A leave of absence or any other temporary break from the College does not constitute the end of a relationship with the College for the purposes of this Policy.

F. COLLEGE'S OBLIGATION WHEN A COMPLAINANT REQUESTS NO INVESTIGATION OR CHOOSES NOT TO PARTICIPATE

63. The Complainant can choose not to request an investigation by the College and has the right not to participate in any investigation that may occur.

64. If a Complainant requests that the College not investigate or act on the Complainant's Report of an Incident of Sexual Violence, the Standing Committee will consider that person's request but may decide to proceed, having regard to the health and safety of Members of the College Community and its obligations and responsibilities. In such cases, the Complainant has a right to choose not to participate in such an investigation.

65. The Complainant is entitled to receive other support outlined in this Policy regardless of whether they decide to request an investigation or choose not to participate in one.

66. If requested by the Complainant and/or the Respondent, and subject to any applicable legal obligations and access to information and privacy legislation, the Complainant and / or the Respondent will be informed of the outcome of such an investigation.

G. COLLEGE'S OBLIGATION WHEN SOMEONE OTHER THAN THE COMPLAINANT MAKES A REPORT, OR A REPORT IS MADE ANONYMOUSLY

67. An allegation of Sexual Violence made by someone other than the Complainant can also be Reported to a Designated Person under this Policy. However, the College's ability to address the allegation will depend on a number of factors regarding the information available and the Complainant's decision respecting whether or not to participate in a College process.

68. It may transpire that an allegation of Sexual Violence is Reported to the College anonymously. The College's ability to address the allegation will be dependent on a number of factors, including the information available to substantiate the allegation and to permit a fair process.

69. In such circumstances, the Standing Committee will make a determination under the section of this Policy entitled "Assessment and Appointment of an Investigator."

IX. REVIEW OF POLICY

70. The College recognizes that appropriately addressing Sexual Violence on campus is an evolving issue and that the College will revisit this Policy and its associated resources and other related and existing College policies on a regular basis.

71. The College will conduct a review of this Policy every three years that will include consultation with Members of the College Community including Students, staff and faculty, and will amend the Policy as appropriate.

Schedule "A"

NOTICE OF CLAIM UNDER SEXUAL VIOLENCE POLICY OF KNOX COLLEGE

I, [full name] _____, Complainant,
Report that I experienced an Incident of Sexual Violence committed on or about the ____ day
of _____, 20____, at [location/address] _____,
by the Respondent [full name] _____.

DETAILS OF THE INCIDENT OF SEXUAL VIOLENCE are as follows:

SIGNATURE OF COMPLAINANT: _____

DATED: _____

Schedule “B”

RESPONSE TO CLAIM UNDER SEXUAL VIOLENCE POLICY OF KNOX COLLEGE

I, [full name] _____, the Respondent,
responds to the Notice of Claim of the Complainant, [full name] _____,
dated _____ as follows:

SIGNATURE OF RESPONDENT: _____

DATED: _____

Schedule “C”

REPLY OF COMPLAINANT TO RESPONDENT’S RESPONSE TO CLAIM

I, [full name] _____, the Complainant, reply to the
Response to Claim of the Respondent, [full name] _____,
dated _____, as follows:

SIGNATURE OF COMPLAINANT: _____

DATED: _____

APPENDIX

REFERENCES TO OTHER POLICIES AND LEGISLATION

Selected Relevant Legislation

- Ministry of Training, Colleges and Universities Act of Ontario, 2016, section 17
- Ontario Regulation 131/16: Sexual Violence at Colleges and Universities
- Ontario *Human Rights Code*
- *Criminal Code of Canada*

Selected Relevant College Policies and Guidelines

- Sexual Harassment Policy of Knox College (SHP)
- Student Handbook of Knox College
- Faculty Handbook of Knox College
- Residence Handbook of Knox College
- PCC Policy on Leading with Care
- Sexual Violence Policies of U of T and its other colleges