

Sexual Assault and Sexual Violence Policy

This Policy applies to all members of the TARA community including: all employees, students, contractors, suppliers of services, individuals who are directly connected to any TARA initiatives, volunteers, and visitors.

This policy is for students of TARA and each student will receive a copy, as it is included in all student contracts.

Student input will be considered in the development of this sexual violence policy, at the time the policy is reviewed and updated (at least once every 3 years) and amended as appropriate, via email correspondence from the college's administrator.

This sexual violence policy has been designed in accordance with the regulations under the Private Career Colleges Act, 2005

Information will be provided to the Superintendent concerning

-the number of times supports, services, and accommodation relating to sexual violence are requested and obtained by students

-any initiatives and programs to promote awareness of supports and services available to students,

-the number of incidents and complaints of sexual violence reported by students, and - the implementation and effectiveness of its sexual violence policy;

The information TARA provides to the Superintendent does not include personal information within the meaning of the Freedom of Information and Protection of Privacy Act (FIPPA)

All members of the TARA Community have a right to work and study in an environment that is free from any form of sexual violence. This Policy and its related Protocol sets out the way in which we address sexual violence. It ensures that those who are affected by sexual violence are believed and appropriately accommodated and ensures that TARA has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual violence accountable.

TARA is committed to being a safe and positive space where members of the colleges community feel able to work, learn, and express themselves in an environment free from sexual violence. We endeavour to reduce sexual violence in our College community and create a safe space for survivors and those who are affected by sexual violence.

All reported incidents of sexual violence will be investigated and in a manner that ensures due process. It is the intention of TARA that individuals feel comfortable about making a report in good faith about sexual violence that they have experienced or witnessed.

TARA recognizes that sexual violence can occur between individuals regardless of sexual orientation, gender, gender identity, or relationship status as articulated in the Ontario Human Rights Code. We also recognize that individuals who have experienced sexual violence may experience emotional, academic, financial, or other challenges.

TARA is committed to:

1. participating in the creation of a campus atmosphere in which sexual violence is not tolerated;

2. treating individuals who disclose sexual violence with compassion and recognizing them as a decision maker regarding their interests;
3. assisting those who have been affected by sexual violence by providing choices, including detailed information and support, which may include a provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic, work, and other accommodations;
4. ensuring that those who disclose that they have been sexually assaulted have their experiences validated, and that their right to dignity and respect is protected throughout the process of disclosure, investigation, and institutional response;
5. engaging in appropriate procedures for investigation and adjudication of a complaint that ensures fairness and due process;
6. ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
7. engaging in public education and prevention activities, which would include appropriate training of the TARA community about responding to the disclosure of sexual violence; and
8. providing information that may affect the TARA community about sexual violence on campus

TARA RESPONSE TO AND ADDRESSING OF INCIDENTS

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

**On September 16, 2021, the ministry announced regulatory changes to support post-secondary students reporting sexual violence or harassment. As a result, Subsection 36.0.2 of Ontario Regulation 415/06 (General) under the Private Career Colleges Act, 2005 has been amended. The following regulation amendment will come into effect on March 1, 2022:

1. 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 private career college's policies relating to drug or alcohol use at the time the alleged sexual violence occurred;
2. Students who disclose their experience of sexual violence through reporting an incident of, making a complaint about, or accessing supports and services for sexual violence, will not be asked irrelevant questions during the investigation process by the private career college's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history

In the event a TARA student is the victim of Sexual Assault or Sexual Violence, these are the steps to follow with regards to support from the college-

1. Students who may be the victims of sexual assault or sexual violence are encouraged to seek medical attention if necessary. Students are then asked to speak with a member of the TARA administration (Shannon Murray or James Mead) as quickly as possible following the event.

2. Upon doing so, administration will (*if the student agrees to) create a report of the event.

*A formal report of an incident of sexual violence is not necessary to access supports, services, or accommodations.

3. Students will then be directed (via TARA administration) to a variety of assistance and supports throughout the region including-

The Sexual Assault Program of Ottawa <https://sascottawa.com/> The Rape Crisis Centre <http://www.orcc.net/>

The Sexual Assault Network <http://www.sanottawa.com/>

4. Based on the preference of the student, the TARA administrator will appropriately accommodate the needs of students affected by sexual violence

5. TARA 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 penalty. Students may face discipline, up to and including expulsion. Employees may face discipline, up to and including discharge. Contractors, suppliers, volunteers and visitors may face penalties, cancellation of contracts and other sanctions.

This TARA sexual violence policy will be posted in a in common space at its campus. TARA will provide or make available training on its sexual violence policy to owners, managers, staff, and students. Training will be conducted by TARA owners as per Superintendants guidelines.

Definitions

Sexual Assault and Sexual Violence

Sexual assault: A criminal offence under the Criminal Code of Canada. Sexual assault is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim and involves a range of behaviours from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviours that involve the use of force, threats, or 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.

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, stalking, indecent exposure, voyeurism, and sexual exploitation.

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 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 a mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

1. silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent;
2. a person is incapable of giving consent if they are asleep, unconscious, or otherwise unable to communicate;
3. 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;
4. a person who is drugged is unable to consent;
5. a person is unable to give consent when under the influence of alcohol and/or drugs;
6. a person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts;
7. 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;
8. a person can withdraw consent at any time during the course of a sexual encounter;
9. 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 who they teach, an administrator in a relationship with anyone who reports to that position;
10. 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.

Note: For information purposes only, the Criminal Code defines "consent" as follows: **Consent:** The voluntary agreement to engage in the sexual activity in question. No consent is obtained where:

1. the agreement is expressed by the words or conduct of a person other than the complainant;
2. the complainant is incapable of consenting to the activity;
3. the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
4. the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
5. 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.

Other Relevant Terms

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 themselves. 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.

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.

Indecent exposure: The exposure of the private or intimate parts of the body in a lewd manner, when the perpetrator may be readily observed.

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/target or threaten the victim/target's safety or mental health. Stalking can also include threats of harm to the victim/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.

Sexual harassment: Engaging in a course of conduct of a gender-related or sexual nature that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile, or inappropriate. Depending on its severity, one action may constitute sexual harassment.

This may include, but is not limited to: demeaning gestures, remarks and jokes; slurs, taunting, innuendo based on gender or sexual orientation; unwanted physical contact; leering; inappropriate comments about clothing, physical characteristics or activities; unwanted questions or comments about one's private life, sexual orientation, marital or family status; the display of sexually offensive material; solicitation; unwanted attention; implied or expressed promise of reward or benefit in return for sexual favours; implied or expressed threat or act of reprisal if sexual favours are not given; or sexual assault (Criminal Code offense).

Sexual Exploitation: Occurs when a perpetrator takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

Survivor: Some who have experienced 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 experienced 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.

Voyeurism: Observing a person, including by mechanical or electronic means, or making a visual recording of a person who is in circumstances that give rise to a reasonable expectation of privacy.

Purpose and Intent of the Policy

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Policy Statement

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TARA recognizes that sexual violence can occur between individuals regardless of sexual orientation, gender, gender identity, or relationship status as articulated in the Ontario Human Rights Code. We also recognize that individuals who have experienced sexual violence may experience emotional, academic, financial, or other challenges.

TARA is committed to:

9. participating in the creation of a campus atmosphere in which sexual violence is not tolerated;
10. treating individuals who disclose sexual violence with compassion and recognizing them as a decision maker regarding their interests;
11. assisting those who have been affected by sexual violence by providing choices, including detailed information and support, which may include a provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic, work, and other accommodations;
12. ensuring that those who disclose that they have been sexually assaulted have their experiences validated, and that their right to dignity and respect is protected throughout the process of disclosure, investigation, and institutional response;
13. engaging in appropriate procedures for investigation and adjudication of a complaint that ensures fairness and due process;
14. ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
15. engaging in public education and prevention activities, which would include appropriate training of the TARA community about responding to the disclosure of sexual violence; and
16. providing information that may affect the TARA community about sexual violence on campus.

Reporting and Responding to Sexual Violence

Any member of the TARA community who has been subject to sexual violence is encouraged to immediately report such an incident, as set out in TARA's Sexual Assault and Sexual Violence Protocol.

Any member of the TARA community who has witnessed, or who has knowledge of, an incident of sexual violence perpetrated against another member of the TARA community is encouraged to immediately report such an incident, as set out in TARA's Sexual Assault and Sexual Violence Protocol.

Persons in a position of authority at TARA, including but not limited to, all those who supervise others, shall take immediate action to respond to or to prevent sexual violence from occurring.

Where TARA has become aware of an incident of sexual violence, or a threat of sexual violence, TARA will take all reasonable steps to ensure the safety of the TARA 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 TARA community, precautions may include the provision or disclosure of relevant information to an employee, to employees, and/or to others at risk.

Complaint Process and Investigations

A complaint of sexual assault or any other kind of sexual violence can be filed under this Policy by any member of the TARA community. TARA 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.

Right to Withdraw a Complaint

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

5.2 Protection from Reprisals, Retaliation or Threats

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

1. having pursued rights under this Policy or the Ontario Human Rights Code;
2. having participated or co-operated in an investigation under this Policy or the Ontario Human Rights Code; or
3. having been associated with someone who has pursued rights under this Policy or the Ontario Human Rights Code.

TARA 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. TARA may also address the potential for reprisals by providing an accommodation appropriate in the circumstances.

Unsubstantiated or Vexatious Complaints

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. 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.

Confidentiality

Confidentiality is particularly important to those who have disclosed sexual violence. The confidentiality of all persons involved in a report of sexual violence must be strictly observed, and TARA does its best to respect the confidentiality of all persons, including the complainant, respondent, and witnesses by restricting routine access to information to individuals with a need for such access providing education and training to those who are regularly involved in the administration of reports and complaints.

However, confidentiality cannot be assured in the following circumstances:

1. an individual is at imminent risk of self-harm;
2. an individual is at imminent risk of harming another; and/or
3. there are reasonable grounds to believe that others in the TARA or wider community may be at risk of harm.

In such circumstances, information would only be shared with necessary services to prevent harm, and the name of the survivor would not be released to the public. Where TARA becomes aware of an allegation of sexual violence by a member of the TARA community against another member of the TARA community, TARA may also have an obligation to take steps to ensure that the matter is dealt with in order to comply with TARA's legal obligation and/or its policies to investigate such allegations. In such cases, certain TARA administrators will be informed about the reported incident on a "need to know" and confidential basis, but not necessarily of the identities of the persons involved.

----- Appeal Process

When the Individual Appealing is a TARA Employee-

An appeal can be made to the Administrator in writing.

When the Individual Appealing is a TARA Student.

Appeals in cases where the respondent is a student will normally be decided on by the Administrator.

Submission of an Appeal

A complainant or respondent wishing to appeal a finding or a remedy/sanction in a case shall submit to the Administrator a written request for appeal and an explanation of the basis for the request, within 5 days of communication of the original decision.

Grounds for appeal The Administrator/owner will consider appeals based on the following grounds:

1. Whether there was a substantial procedural error in the application of the policy
2. Whether there is new evidence that could not have reasonably been presented earlier
3. Whether the Administrator's finding is consistent with the evidence.
4. Whether the remedy/sanction are reasonable in the circumstances.

Appeal Review Process

If an appeal is filed by one party, other parties to the case will be notified that an appeal has been submitted. They will also be invited to make a written submission for consideration in the review of the appeal. In deciding on the appeal, the Administrator will review the investigation file, the original findings and remedies/sanctions determined by the decision maker and any other relevant documents or information. The Administrator/owner may also interview the parties.

The Administrator will communicate the findings of their review in writing to all parties, normally within 5 days of commencement of the review. A decision of the owner is final with respect to the options available within the school.

Where applicable, any party not satisfied with the decision may pursue external avenues for remedy.