



PHOENIX DRIVER TRAINING

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Employee Sexual Misconduct Policy

POLICY STATEMENT:

It is the policy of PHOENIX DRIVER TRAINING (the "College") that all of our students have a right to an academic environment that is free from sexual remarks or touching by or from college employees, including but not exclusive to college faculty, which would be considered sexual solicitation or sexual advance.

SCOPE:

The Policy applies to all employees of the college, as defined by the Employment Standards Act, 2000 ("ESA").

This Policy does not apply to consensual sexual or romantic relationships that do not meet the criteria of a Prohibited Relationship set out below.

PURPOSE

The purpose of this policy is to ensure that the rights of those affected by sexual assault/sexual misconduct are respected and appropriately accommodated and ensures the College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual assault/sexual misconduct accountable.

DEFINITIONS:

Sexual Misconduct:

Sexual misconduct is broadly defined as any act that includes sexual harassment, sexual violence, sexual assault, stalking, and sexual exploitation.

In relation to a student enrolled at the college, all employees of the College shall not:

- a) Engage in physical sexual relations with a student, touching of a sexual nature with a student or behave or make remarks of a sexual nature towards a student were
 - i. the act constitutes an offence under the Criminal Code (Canada)
 - ii. the act infringes the right of the student under clause 7 (3) (a) of the *Human Rights Code* to be free from a sexual solicitation or advance, or
 - iii. the act constitutes sexual misconduct as defined in the College employee sexual misconduct policy or contravenes the policy or any other policy, rule or other requirement of the career college respecting sexual relations between employees and students, or
- b) Engage in any conduct that infringes the right of the student under clause 7 (3) (b) of the *Human Rights Code* to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

Employee:

An employee of the College is defined as anyone who provides services and/or performs work for wages.

Student:

Any person currently enrolled in studies at the College, whether in a full-time, part-time or continuing education capacity.

REPORTING:

The procedures provided for reporting a complaint under the College's Sexual Violence & Harassment Policy, Complaint Procedure, shall be used to report complaints under this policy.

Complainants should also reference the College's Sexual Violence & Harassment Policy for guidance and support as appropriate.

DISCHARGE OR DISCIPLINE:

If an employee of the College commits an act of sexual misconduct toward an enrolled student, the college may discharge or discipline the employee for that act, and,

- a) the discharge or disciplinary measure is deemed to be for 'just cause' for all purposes.
- b) the employee will not be entitled to notice of termination or termination pay or any other compensation or restitution as a result of the discharge or disciplinary measure; and
- c) despite subsection 48 (17) of the Labour Relations Act, 1995, and despite any provision of an employment contract specifying a penalty for the infraction, no arbitrator, arbitration board or other adjudicator shall substitute any other penalty for the discharge or disciplinary measure imposed by the College.

RE-EMPLOYMENT:

If an employee of the College commits an act of sexual misconduct toward a student enrolled at the college and the college discharges the employee for that act or the employee resigns from their employment, the College shall not subsequently re-employ the employee.

DISCLOSURE:

the College will not enter into an agreement which prohibits disclosure that an allegation or complaint has been made that an employee of the College committed an act of Sexual Misconduct toward a student unless such request is made by the student and,

- a) the student has had a reasonable opportunity to receive independent legal advice.
- b) there have been no undue attempts to influence the student with respect to the request.
- c) the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so, and
- d) the agreement is of a set and limited duration.

REFERENCES:

- Criminal Code (Canada)
- Human Rights Code
- *Ontario Career Colleges Act, 2005*
- PHOENIX DRIVER TRAINING Sexual Violence & Harassment Policy
- PHOENIX DRIVER TRAINING Complaint Procedure