

Responsibility: Trontario Truck Driving School

Effective Date: October 12th, 2023

Revised: October 12th, 2023

Review Date: October 12th, 2023



Sexual Assault and Sexual Violence Policy and Protocol

This Policy applies to: All members of the Trontario Truck Driving School “Registered as a Private Career College under The Private Career Colleges Act, 2005” community including: all employees, governors, students, contractors, suppliers of services, individuals who are directly connected to any College initiatives, volunteers, and visitors.

1. 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 behaviors from any unwanted touching to penetration. Sexual assault is characterized by a broad range of behaviors 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.

Sexual violence: A broad term that describes any violence, physical or psychological, carried out through sexual means or by targeting sexuality. This violence takes different forms including sexual abuse and sexual assault.

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 behavior, and requires that a person can 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. It is also imperative that everyone understands the following:

- Silence or non---communication must never 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 preventing them from fully understanding the sexual acts.
- 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 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 who they teach, 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.

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

- a) the agreement is expressed by the words or conduct of a person other than the complainant;
- b) the complainant is incapable of consenting to the activity;
- c) the accused induces the complainant to engage in the activity by abusing a position of trust, power, or authority;
- d) the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
- 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.

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 years---old's 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 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.

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.

- 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.
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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.

1. Purpose and Intent of the Policy

All members of [Insert Name of the College] College community have a right to a work and study in an environment that is free from any form of sexual violence. This document sets out our policy and response protocol to sexual violence and ensures that those who experience sexual violence are believed and their rights respected, 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.

2. Policy Statement

Sexual assault and sexual violence are unacceptable and will not be tolerated. We are committed to challenging and preventing sexual violence and creating a safe space for anyone in our College community who has experienced sexual violence. The College is expected to be a safe and positive space where members of the College community feel able to work, learn and express themselves in an environment free from sexual violence.

All reported incidents of sexual violence will be investigated to the best of the administration's ability and in a manner that ensures due process. It is this policy's intention to make individuals feel comfortable about making a report in good faith about sexual violence that they have experienced or witnessed.

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. We also recognize that individuals who have experienced sexual violence may experience emotional, academic, or other difficulties.

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We are committed to:

- 3.1. assisting those who have experienced 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;
- 3.2. 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;
- 3.3. addressing harmful attitudes and behaviors (e.g., adhering to myths of sexual violence) that reinforce that the person who experienced sexual violence is somehow to blame for what happened;
- 3.4. treating individuals who disclose sexual violence with compassion recognizing that they are the final decision-makers about their own best interests;
- 3.5. 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;
- 3.6. engaging in appropriate procedures for investigation and adjudication of a complaint which are in accordance with College policies, standards and applicable collective agreements, and that ensure fairness and due process;

- 3.7. ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
- 3.8. engaging in public education and prevention activities;
- 3.9. providing information to the College community about our sexual violence policies and protocols;
- 3.10. providing appropriate education and training to the College community about responding to the disclosure of sexual violence;
- 3.11. contributing to the creation of a campus atmosphere in which sexual violence is not tolerated; and
- 3.12. monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.
- 3.13.

5. Reporting and Responding to Sexual Violence

- 4.1. Members of the College community should immediately report sexual violence incidents they witness or have knowledge of, or where they have reason to believe that sexual violence has occurred or may occur. Members who have experienced sexual violence are encouraged to come forward to report as soon as they are able to do so.
- 4.2. Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual violence from occurring.
- 4.3. Where the College becomes aware of incidents of sexual violence by a member of the College community or against a member of the College community, which occur on or off College property and that pose a risk to the safety of members of the College community, the College shall take all reasonable steps to ensure the safety of the College community.

6. 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 College community.

The College 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.

5.1. 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 act on the issue identified in the complaint to comply with its obligation under this Policy and/or its legal obligations.

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:

- having pursued rights 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.
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Anyone engaged in such conduct may be subject to sanctions and/or discipline.

5.3. 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. [Colleges may wish to reference their own policies regarding recordkeeping.]

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. 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 the College does its best to respect the confidentiality of all persons, including the complainant, respondent, and witnesses.

However, confidentiality cannot be assured in the following circumstances:

- an individual is at imminent risk of self---harm;
- an individual is at imminent risk of harming another; and/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 would only be shared with necessary services 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, the College may also have an obligation to take steps to ensure that the matter is dealt with to comply with the College's legal obligation and/or its policies to investigate such allegations. In such cases, certain College 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.

1. If You Have Experienced Sexual Violence

If you have experienced sexual violence, please call Elizabeth Hurtado at 647-430-7175, and we will assist you by providing the resources and support you need.

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.

Anyone who has experienced sexual violence has the right to:

- be treated with dignity and respect,
- be believed,
- be informed about on--- and off---campus services and resources,
- decide whether to access available services and to choose those services they feel will be most beneficial,
- decide whether to report to campus security and/or local police,
- have an on---campus investigation with the institution's full cooperation,
- have a safety plan, and
- have reasonable and necessary actions taken to prevent further unwanted contact with the alleged perpetrator(s).

2. If You Would like to File a Formal Complaint

Elizabeth Hurtado can also assist you with filing a complaint. If the alleged perpetrator is another member of the College community, you may file a complaint under this Policy.

Individuals who have experienced sexual violence may also wish to press charges under the Criminal Code. Elizabeth Hurtado can also assist you with contacting the local Police.

3. What to Do if You Witnessed Sexual Violence

If you witness sexual violence, please call Elizabeth Hurtado at 647-430-7175, and we will assist you by providing all the resources and necessary support.

If a member of faculty or staff of the College becomes aware of an allegation of sexual violence against another member of the College community, the faculty or staff is required to report the alleged incident to Elizabeth Hurtado immediately.

4. What to Do if Someone Discloses Allegations of Sexual Violence

A person may choose to confide in someone about an act of sexual violence, such as a student, instructor, teaching assistant, coach, or staff from housing, health, counselling or security. An individual who has experienced sexual violence may also disclose 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 and/or Elizabeth Hurtado at 647-430-7175;
- 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.

5. Communicating with Individuals who have Experienced Sexual Violence

Sensitive and timely communication with individuals who have experienced sexual violence and their family members (when an individual consent to this communication) is a central part of the College's first response to sexual violence. To facilitate communication the College will:

- Ensure that designated employees in Trontario Truck Driving School, 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 have experienced sexual violence;
- Ensure designated employees respond in a prompt, compassionate, and personalized fashion; and
- Ensure that the person who has experienced 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. Roles and Responsibilities of the College Community

While everyone on campus has a role to play in responding to incidents of sexual violence, some campus members will have specific responsibilities which might include:

- On---campus health supports to provide psychological and emotional support, assist with safety planning and make referrals to other services, including medical services;

Faculty, staff and administrators to facilitate academic accommodations and other academic needs of those who have experienced sexual violence, e.g., extensions on assignments, continuing studies from home, and dropping courses;

- Student operated sexual violence services to provide peer supports;
- Human Resources to assist with any incidents relating to employees; and
- Security to assist with investigations and gathering evidence, to implement measures to reduce sexual violence on campus, and to collaborate with local police where appropriate.

7. How Will the College Respond to a Report of Sexual Violence?

Where a complaint of sexual violence has been reported to the College, the College will exercise care to protect and respect the rights of both the complainant and the respondent. The College understands that individuals who have experienced sexual violence may wish to control whether and how their experience will be dealt with by the police and/or the College. In most circumstances, the person will retain this control. However, in certain circumstances, 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 person's consent, if the College believes that the safety of other members of the College community is at risk. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

A report of sexual violence may also be referred to the police, or to other community resources at the complainant's request, 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.

7.1. Where the Respondent is a Student

Sexual violence is a violation of Trontario Truck Driving School Policy. It is considered a serious offence and will be addressed in a manner which is consistent with other serious offences.

Where the Respondent is an Employee

Sexual violence is a violation of Trontario Truck Driving School Policy. Allegations against 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. If the complaint is sustained following an investigation, the College will decide on the appropriate disciplinary actions consistent with any applicable collective agreement and/or policies regarding discipline.

7.2. Where the Respondent is not a Student or Employee

Contractors, suppliers, volunteers, or visitors who attend on campus will be subject to complaints if they engage in prohibited conduct. Where a complaint against the respondent is substantiated, the College will take appropriate action. All contractual relationships entered into by the College will be governed by a standard contract compliance clause stating that contractors must comply with this Policy and the Ontario Human Rights Code, including co---operating in investigations. Breach of the clause may result in penalties, cancellation, or other sanctions.

7.3. 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.

APPENDIX I

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 behavior 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

Myth	Fact
It wasn't rape, so it wasn't sexual violence.	Sexual assault and sexual violence encompass a range of unwanted sexual activity. Any unwanted contact is considered to be sexual violence. Victims can be severely affected by all forms of sexual violence, including unwanted fondling, rubbing, kissing and sexual acts. Many forms of sexual violence involve physical contact, such as stalking or distributing visual recordings. All of these acts are serious and damaging.
Sexual assault can't happen to me or anyone I know.	Sexual assault can and does happen to anyone. People from all socioeconomic and ethnic backgrounds are victims of sexual assault, but the vast majority of sexual assaults happen to women and girls. Young women, women with disabilities and women with mental health issues 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 residences or private homes.
If an individual doesn't report to the police, it wasn't sexual assault.	Just because a victim doesn't report the assault to the police doesn't mean it didn't happen. Fewer than one in ten victims report the crime to the police.
It's not a big deal to have sex with someone while they are drunk, stoned or passed out.	If a person is unconscious or incapable of consenting to the use of alcohol or drugs, they cannot legally consent. Without consent, it is sexual assault.
If the person chose to drink or use drugs, then it isn't	This is a prominent misconception about sexual assault.

DISPELLING THE MYTHS AND MISCONCEPTIONS ABOUT SEXUAL ASSAULT

Myth	Fact
considered sexual assault.	No one can consent while drunk or incapacitated.
<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>	When an individual is sexually assaulted they are paralyzed with fear and be unable to fight back. A person may be fearful that if they struggle, the perpetrator will become more violent.
If you didn't say no, it must be your fault.	People who commit sexual assault/abuse are trying to gain power and control over their victim. They make it extremely difficult, if not impossible, for a victim to say no. A person does not need to say the word "no" to make it clear that they did not want to participate. The focus in consent is on hearing "no".
If a woman isn't crying or visibly upset, it probably wasn't a serious sexual assault.	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 the experience. It is important not to judge a woman based on how she responds to the assault.
If someone does not have obvious physical injuries, like cuts or bruises, they probably were not sexually assaulted.	Lack of physical injury does not mean that a person was not 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 otherwise incapacitated.
If it really happened, the victim would be able to easily recount all the facts in the proper order.	Shock, fear, embarrassment and distress can affect memory. Many survivors attempt to minimize the details of the assault as a way of coping with the trauma. Memory loss is common when alcohol and/or drugs are involved.
Individuals lie and make up stories about being sexually assaulted; and most reports of sexual assault turn out to be false.	<p>According to Statistics Canada, fewer than 10% of sexual assault victims report the crime to the police. Approximately 2% of sexual assault reports are found to be false.</p> <p>The number of false reports for sexual assault is very low. Sexual assault carries such a stigma that many victims prefer not to report.</p>

DISPELLING THE MYTHS AND MISCONCEPTIONS ABOUT SEXUAL ASSAULT

Myth	Fact
A spouse or significant other cannot sexually assault their partner.	Sexual assault can occur in a married or other partner relationship. The truth is, sexual assault can occur ANY TIME there is not consent for sexual act of any kind. Being in a relationship does not exclude the possibility of, or justify, sexual assault. A person always has the right to say “no” at ANY point.
People who are sexually assaulted “ask for it” by their provocative behavior or dress.	This statement couldn’t be more hurtful or wrong. Nobody deserves to be sexually assaulted. Someone is never deliberately chosen to be violent toward someone. Nobody asks to be assaulted. It doesn’t matter mode of dress, no amount of alcohol or drug use, no matter what the relationship is between the perpetrator or what the survivor’s occupation is, sexual assault is always wrong.
Sexual assault only happens to women	Not true. The majority of sexual assaults are committed against women by men, but people of all genders and all backgrounds have been/can be assaulted.
Sexual abuse of males is rare.	According to Statistics Canada, six per cent of men over 15 reported that they had experienced sexual victimization. Sexual assault/abuse occurs in all economic, ethnic, age and social groups.
If you got aroused or got an erection or ejaculated, you must have enjoyed it.	It is normal for your body to react to physical stimulation. Just because you became physically aroused or had an erection that you liked it, or wanted it or consented to it, or you experienced some physical pleasure, this does not mean you enjoyed it, away the fact that sexual abuse happened or you have feelings of abuse.

APPENDIX II
Sexual Assault Centres (Ontario)

Region in Ontario	Sexual Assault Centre	24-hr Crisis Line	Office Phone
Kawartha (Peterborough & Area)	Kawartha Sexual Assault Centre	705-741-0260	705-748-5901
Kingston	Sexual Assault Centre Kingston	613-544-6424 1-877-544-6424	613-545-0762
Waterloo	Sexual Assault Support Centre of Waterloo Region	519-741-8633	519-571-0121
Muskoka	Athena's Sexual Assault Counselling & Advocacy Centre	705-737-2008 1-800-987-0799	705-737-2884
Niagara	Niagara Region Sexual Assault Centre	905-682-4584	905-682-7258
Oshawa-Durham	Oshawa-Durham Rape Crisis Centre	905-668-9200	905-444-9672
Ottawa SASC	Sexual Assault Support Centre of Ottawa	613-234-2266	613-725-2160
Ottawa RCC	Ottawa Rape Crisis Centre	613-562-2333	613-562-2334
Peel	Hope 24/7: Sexual Assault Centre of Peel	1-800-810-0180	905-792-0821
Sudbury	Voices for Women Sudbury		705-523-7100 ext. 2647
Thunder Bay	Thunder Bay Sexual Abuse & Sexual Assault Counselling & Crisis Centre	807-344-4502	807-345-0894
Timmins	Timmins and Area Women in Crisis	1-877-268-8380	705-268-8381
Toronto	Multicultural Women Against Rape/Toronto Rape Crisis Centre	(416) 597-8808	416-597-1171
Windsor-Essex	Sexual Assault Crisis Centre of Essex County	519-253-9667	519-253-3100
York	Women's Support Network of York Region	1-800-263-6734 905-895-7313	905-895-3646

