

Sexual Violence and Sexual Harassment Policy

In accordance with the regulations under the *Private Career Colleges Act, 2005*

1. Policy Application

The Policy applies to all members of FME's community including students, staff, faculty, administrators, contract service providers, contractors, officers, directors and individuals who are directly connected to any of FME's initiatives, volunteers and visitors.

2. The Scope

The Policy applies to complaints of sexual violence or sexual harassment that have occurred on the FME campus or at an FME event and involve members of the career college community as defined in paragraph one, the Policy Application.

3. Purpose and Intent

All members of FME's community have a right to study and work in an environment free of sexual violence and sexual harassment. This document sets out our policy on sexual violence and sexual harassment, defines the prohibited behaviours, and outlines our investigative processes for sexual violence and sexual harassment.

4. Policy Objectives

FME is committed to providing members of our career college community an educational environment free from sexual violence and sexual harassment and treating those individuals who report incidents of sexual violence or sexual harassment with dignity and respect. To that end FME will provide a copy of the policy to our students, and educate and train faculty, staff and students about this Policy. We will also educate them in how to identify situations that involve, or could progress into sexual violence against our students and how to reduce it. Where a complaint has been made, under this Policy, of sexual violence or sexual harassment FME will take all reasonable steps to investigate it, including as follows:

- responding promptly to any complaint and providing reasonable updates to the complainant and the respondent about the status of the investigation;
- assisting those who have experienced sexual violence or sexual harassment in obtaining counselling and medical care;
- providing those who have experienced sexual violence or sexual harassment with appropriate academic and other accommodation;

- providing those who have experienced sexual violence or sexual harassment with information about reporting options; and
- providing on-campus investigation procedures for sexual violence and sexual harassment complaints

This sexual violence and sexual harassment policy considers student input to be an important aspect of the development of the policy and also in any review or amendment that will take place from time to time. This will be done through meetings and written communication with students who volunteer to participate in the process.

5. Definition of Sexual Misconduct

This Policy prohibits sexual misconduct, which includes sexual violence and sexual harassment.

Sexual Violence, without limiting the generality of the foregoing, includes:

- **“sexual violence”** means any sexual act or act targeting a person’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person’s consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

Sexual Harassment, without limiting the generality of the foregoing, includes:

Any course of vexatious comment or conduct of a sexual nature that is known or ought reasonably to have been known to be unwelcome, including:

- offensive jokes or comments of a sexual nature;
- displaying of pornographic or sexist pictures or materials, including online;
- suggestive or offensive remarks;
- unwelcome language related to gender;
- remarks, jokes, innuendoes, propositions, or taunting about a person’s body, attire, sex or sexual orientation;
- leering or inappropriate staring ;
- bragging about sexual prowess;
- physical contact such as touching, patting, or pinching, with an underlying sexual connotation; and
- sexual solicitation or advance made by a person in a position to confer, grant or deny a benefit or advancement to the person where the person making the solicitation or advance knows or ought reasonably to know that it is unwelcome

6. Reporting and Responding to Sexual Violence

All members of our career college community will take all reasonable steps to prevent sexual violence on our career college campus, or at FME events, and report immediately to the FME Administrator if

they are subject to, witness or have knowledge of sexual violence, or have reason to believe that sexual violence has occurred or may occur. To the extent it is possible FME's Administrator will attempt to keep all information disclosed confidential except in those circumstances it believes an individual is at imminent risk of self-harm, or of harming another, or there are reasonable grounds to believe that others in the FME community are at risk. FME recognizes the right of the complainant to determine whether her or his complaint will be dealt with by the police and/or FME. However, in certain circumstances, FME may be required by law, or its internal policies, to initiate an internal investigation and/or inform police without the complainant's consent, if it believes the safety of members of its community are at risk. At all times, FME will do its best to appropriately accommodate the needs of students affected by sexual violence at no cost to the student. In addition, FME community members should be aware that a formal report of an incident of sexual violence is not necessary to access supports, services, or accommodations.

7. Investigating Reports of Sexual Harassment

If a member of the FME community believes she/he has been sexually harassed by a member of our community, she/he may confront the harasser personally or in writing pointing out the unwelcome behaviour and requesting that it stop; or report the complaint to FME's Administrator in writing. A complaint of sexual violence may be filed under this Policy, by any member of FME's community, to the FME Administrator in writing. Upon a complaint of alleged sexual harassment being made to FME's Administrator, the Administrator will initiate an investigation, including as follows:

It should be noted that the complainant and the respondent both have a right to have a person with them during any point in the investigation process.

- determining whether the incident should be referred immediately to police;
- meeting with the complainant to determine the date and time of the incident, the persons involved, the names of any person who witnessed the incident and a complete description of what occurred;
- interviewing the complainant, any person involved in the incident and any identified witnesses;
- interviewing any other person who may have knowledge of incidents related to the complaint or any other similar incidents;
- informing the respondent of the complaint, providing details of the allegations and giving the individual an opportunity to respond to those allegations;
- providing reasonable updates to the complainant and the respondent about the status of the investigation; and
- submitting the investigation report to the Investigation Review Committee, who will then determine what disciplinary action, if any, should be taken.

8. Decision Making Process by the Committee

The investigation report shall be given to the President of the Board of Directors who will share it with the other members of the Board of Directors, and the Director of Training. The Board of Directors, along with the Director of Training, will convene an Investigation Review Committee (the Committee) to determine whether the Policy has been breached, based on the investigation report. The Committee will review the investigation report and, if it deems necessary, may meet with any individual who may have relevant information to determine whether there are reasonable grounds to believe the Policy has been breached. The Committee will either:

- Make a finding that it is more likely than not that the Policy has been breached, and decide upon disciplinary sanctions to be imposed, or
- Make a finding that it is more likely than not that the Policy has not been breached, and recommend that the matter be closed; or,
- Make a finding that it is more likely than not that the Policy has not been breached, but review and potentially implement new measures to promote a safe and inclusive environment that is free of Sexual Violence.

The Committee shall notify the complainant and the respondent in writing of its decision within 10 business days of the receipt of the investigative report or sooner.

9. Disciplinary Measures

If it is determined by FME that a member of our community has been involved in sexual violence or sexual harassment of a member of our community, immediate disciplinary or corrective action will be taken up to and including termination of employment or expulsion of a student. In cases where criminal proceedings are initiated, FME will assist police agencies, lawyers, insurance companies, and courts to the fullest extent. Where criminal and/or civil proceedings are commenced in respect of allegations of sexual violence or sexual harassment, FME may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures.

10. Appeals Process

Should the complainant or the respondent not agree with the decision resulting from the investigation, she/he may appeal the decision to FME's Administrator. Grounds for appeal include the following:

- Relevant evidence has emerged that was not available when the formal report was submitted.
- There is a reasonable apprehension of bias on the part of those who made the decision.
- There was a fundamental procedural error that substantially affected the outcome of the decision.

The appeal must be made within 5 business days of receiving the written decision from the Committee. This will be done by submitting a letter addressed to the Administrator advising of the person's intent to appeal the decision. The letter should include the following information:

- The reason or reasons for the request.
- The reason or reasons why the review should be granted.

FME's Administrator will provide a response to the request within 3 business days or sooner. Should an appeal be granted, FME's Administrator will begin an investigation and review of the entire case.

11. Making False Statements

It is a violation of this Policy for anyone to knowingly make a false complaint of sexual violence or sexual harassment or to provide false information about a complaint. Individuals who violate this Policy are subject to disciplinary and / or corrective action, up to and including termination of employment or expulsion.

12. Reprisal

It is a violation of this Policy to retaliate or threaten to retaliate against a complainant, acting in good faith, who has brought forward a complaint of sexual violence or sexual harassment, provided information related to a complaint, or otherwise been involved in the complaint investigation process.

13. Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. However FME 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.

14. Review

This policy will be reviewed at least once every three years and will be amended as appropriate.

15. Collection of Student Data

The Foundation for Montessori Education shall collect and be prepared to provide upon written request by the Superintendent of Private Career Colleges such data and information as required according to subsection 32.3 (8), (9) and (10) of Schedule 5 of the private Career Colleges Act, 2005 as amended such as:

- 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.

FME will ensure that the information provided to the Superintendent does not include personal information within the meaning of the Freedom of Information and Protection of Privacy Act, and to conduct a survey of its students relating to sexual violence as directed by the Superintendent and to disclose the results of the survey to the Superintendent.

16. Training

Training will be made available to staff, students, faculty and directors at the beginning of each academic year.

17. Resources

Appendix 1 lists provincial sexual violence and harassment centres which could be provided as resources.ⁱ

18. Employee Sexual Misconduct Policy

Background: On July 1, 2023, Bill 26 amended the *Private Career Colleges Act, 2005* including rules respecting sexual misconduct toward students by employees of private career colleges, and to address related matters.

Definition of Employee: An employee of Foundation for Montessori Education (FME) is defined as anyone who provides services and/or performs work for wages.

Employee Sexual Misconduct Policy

1. Definition of 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 FME shall not:

- a) engage in physical sexual relations with the student, touching of a sexual nature with a student or behave or make remark of a sexual nature toward a student where,
 - (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 FME 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.

2. Discharge or discipline for sexual misconduct

If an employee of FME commits an act of sexual misconduct toward an enrolled student, the employee may be discharged or disciplined for that act, and,

- a) the discharge or disciplinary measure is deemed to be for 'just cause' for all purposes;
- b) the employee is not 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 FME.

3. Re-employment of Employees Who Have Committed Sexual Misconduct

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

If FME determines that it has re-employed an individual contrary to our no re-employment policy, FME shall discharge the employee, and clauses 2 a to c shall apply to the discharge.

5. Non-disclosure Agreement

An agreement between FME and any person, including an agreement settling existing or contemplated litigation, that is entered into on or after the day section 1 of Schedule 2 to the *Strengthening Post-secondary Institutions and Students Act, 2022* comes into force, shall not contain any term that, directly or indirectly, prohibits FME or any person related to the college from disclosing that an allegation or complaint has been made, that an employee of FME committed an act of sexual misconduct toward a student of FME, and any such term that is included in an agreement is void.

6. Limited Exception

FME may enter into an agreement that contains a term described in point subsection 5 if the student requests that the career college do so, provided that,

- 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.

7. Contrary term, rule, etc.

Sections 2 to 6 will apply despite any contrary term in an employment contract or any contrary rule or principle of common law or equity.

8. Requirement of Registration

It is a condition of registration that FME have an Employee Sexual Misconduct Policy that includes at a minimum,

- a) FME's rules with respect to sexual behaviour that involves employees and students enrolled at the college, and
- b) Disciplinary measures that may be imposed on employees who contravene the policy.

Additional Notes

- FME will include its sexual violence policy in every contract made between the career college and a student.
- FME will ensure that student input is considered, in accordance with any regulations, in the development of its sexual violence policy every time the policy is reviewed or amended.
- FME will review its sexual violence policy at least once every three years and amend it as appropriate.
- FME will collect from its students and other persons, and provide to the Superintendent, such data and other information relating to the following as may be requested by the Superintendent, in the manner and form directed by the Superintendent:
 1. The number of times supports, services and accommodation relating to sexual violence are requested and obtained by students enrolled at the career college, and information about the supports, services and accommodation.
 2. Any initiatives and programs established by the career college to promote awareness of the supports and services available to students.
 3. The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.
 4. The implementation and effectiveness of the policy.
- FME will take reasonable steps to ensure that information provided to the Superintendent does not disclose personal information within the meaning of section 38 of the *Freedom of Information and Protection of Privacy Act*.
- The Superintendent of Private Career Colleges may conduct, or may direct FME to conduct or participate in, a survey of students and other persons as identified by the Superintendent, relating to the effectiveness of the career college's sexual violence policy, to the incidence of sexual violence at the career college and to any other matter mentioned in paragraphs 1 to 4 of subsection (8).
- If FME is directed by the Superintendent to conduct a survey it shall disclose the results of the survey to the Superintendent.

Appendix 1

Supports

OCRCC – Ontario Coalition of Rape Crisis Centres: <https://sexualassaultsupport.ca/>

Assaulted Women’s Helpline: 1-866-863-0511

Talk4Healing, for Indigenous women: 1-855-554-HEAL

Male Survivors of Sexual Violence: 1-866-887-0015

Good2Talk: <https://good2talk.ca/> 1-866-925-5454

SEXUAL ASSAULT CENTRES (ONTARIO)

Toronto Rape Crisis Centre

Crisis Line: (416) 597-8808

Office Line: (416) 597-1171

Region: Toronto

Hope 24/7

Crisis Line: (800) 810-0180

Office Line: (905) 792-0821

Region: Peel

Family Transition Place

Crisis Line: (800) 265-9178

Office Line: (519) 942-4122

Region: Dufferin County, Peel

Sexual Assault and Violence Intervention Services of Halton

Crisis Line: (905) 875-1555

Office Line: (905) 825-3622

Region: Halton (Oakville)

Women’s Support Network of York Region

Crisis Line: (800) 263-6734

Office Line: (905) 895-3646

Region: York

Durham Rape Crisis Centre

Crisis Line: (905) 668-9200

Office Line: (905) 444-9672

Region: Durham

Niagara Region Sexual Assault Centre

Crisis Line: (905) 682-4584

Office Line: (905) 682-7258

Region: Niagara (Niagara Falls-St. Catharines)

Sexual Assault Centre Hamilton & Area

Crisis Line: (905) 525-4162

Office Line: (905) 525-4573

Region: Hamilton

Guelph-Wellington Women in Crisis

Crisis Line: (800) 265-7233
Office Line: (519) 836-1110
Region: Guelph-Wellington

Sexual Assault Centre of Brant

Crisis Line: (519) 751-3471
Office Line: (519) 751-1164
Region: Brant

Sexual Assault Support Centre of Waterloo Region

Crisis Line: (519) 741-8633
Office Line: (519) 571-0121
Region: Waterloo

Kawartha Sexual Assault Centre

Crisis Line: (705) 741-0260
Office Line: (705) 748-5901
Region: Kawartha (Peterborough & Area)

Athena's Sexual Assault Counselling & Advocacy Centre

Crisis Line: (800) 987-0799
Office Line: (705) 737-2884
Region: Barrie, Simcoe

Muskoka Parry Sound Sexual Assault Services

Crisis Line: (800) 461-2929
Office Line: (705) 646-2122
Region: Muskoka

Women's House Serving Bruce and Grey: Sexual Assault Services

Crisis Line: (866) 578-5566
Office Line: (519) 372-1113
Region: Bruce County

Anova

Crisis Line: (800) 265-1576
Office Line: (519) 642-3003
Region: London-Middlesex

Sexual Assault Centre for Quinte & District

Crisis Line: (877) 544-6424
Office Line: (613) 967-6300
Region: Belleville-Quinte

Pour le support francophone aux femmes victimes d'agression sexuelle:

CALACS (Francophone Sexual Assault Centres) in Ontario

Centre Passerelle pour femmes: CALACS du Nord de l'Ontario
C.P. 849 Timmins (Ontario) P4N 7G7
705 360-5657 www.centrepasserelle.ca

Centre francophone d'aide et de lutte contre les agressions à caractère sexuel d'Ottawa

www.calacs.ca

40, rue Cobourg
Ottawa (Ontario) K1N 8Z6
613 789-8096 calacs@calacs.ca

Centre Novas : Centre francophone d'aide et de lutte contre les agressions à caractère sexuel de Prescott-Russell

C.P. 410
Casselman (ON) K0A 1M0
613 764-5700
1 866 772-9922 poste 221 www.centrenovas.ca
administration@centrenovas.ca

Carrefour des femmes du Sud-Ouest de l'Ontario: CALACS de la région du Sud-Ouest

Casier Postal 774, London (ON) N6A 4Y8
519 858-0954
1 888 858-0954 www.carrefourfemmes.on.ca
bienvenue@carrefourfemmes.on.ca

Centre Victoria pour femmes

www.centrevictoria.ca
C.P. 308
Sudbury (ON) P3E 4P2
705 670-2517
info@centrevictoria.ca

Centr'Elles, centre des Femmes Francophones du Nord-Ouest de l'Ontario

P.O. Box 26058
Thunder Bay (Ontario)
P7B 0B2
807 684-1955 www.centrelles.com
1 888 415-4156
admin@centrelles.com

Oasis Centre des femmes

465 Yonge Street PO Box 73022 Wood Street PO Toronto ON M4Y 2W5
Toronto
416 591-6565 www.oasisfemmes.org
services@oasisfemmes.org

Colibri – Centre des femmes francophones du comté de Simcoe

80, rue Bradford, bureau 340

Barrie (ON) L4N 6S7

Barrie

705 797-2060

www.centrecolibri.ca

1 877 797-2050

admin@centrecolibri.ca

Centre de santé communautaire Hamilton/Niagara – Espace entre Elles

1320 rue Barton Est

Hamilton (Ontario) L8H 2W1

905 528-0163

1 866 437-7606

www.centredesantecommunautaire.com

cschn@cschn.ca

Pour le support francophone aux femmes victimes d'agression sexuelle, se il vous plaît visitez (*for French-language support to women victims of sexual assault, please also visit*): Action ontarienne contre la violence faite aux femmes.

ⁱ **Acknowledgements:**

A number of resources contributed to the development of this document, including the sexual assault policies and procedures from several colleges, PCCs and universities in Ontario, notably, Durham College, Grade Learning, Trillium College, Stanford International College, University of Guelph and Lakehead University. The Ontario Women's Directorate resource, "Developing a Response to Sexual Violence: A Resource Guide for Ontario's Colleges and Universities" served as a reference. In addition, the Ontario Coalition of Rape Crisis Centres provided a list of sexual assault centres in Ontario and their hotline numbers.