

Purpose

All members of the College community have a right to work and study in an environment that is free from any form of sexual violence. This policy sets out the way in which we address sexual violence. It ensures that those who experience sexual violence are believed, 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 violence accountable.

Scope

1. This Policy applies to all members of the College community including all employees, governors, students, contractors, and suppliers of services, individuals who are directly connected to any College initiatives, volunteers, and visitors.
2. This Policy supersedes all other policies in relation to sexual assault and sexual violence. The Board recognizes that lobbying on specific issues may involve joint action with the College administration, Colleges Ontario, Colleges, and Institutes Canada (CICan), or other interested parties. The Board also may advocate on its own.

Definitions

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 two 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 five 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 an 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.

Complainant: The person(s) who brings forward a violation of this Policy. Note: The use of “complainant” is the accepted terminology as per the Ontario Human Rights Commission.

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 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 incapacitated due to the consumption of drugs or alcohol cannot give consent.
- A person may be unable to give consent if they have a mental disability preventing them from fully understanding 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 the course of a sexual encounter.
- A person cannot give consent to a person in a position of trust, power, or authority.
- Consent cannot be given on behalf of another person.

Disclosure: a disclosure or to disclose refers to when someone informs or tells their lived sexual violence experience to a member of the College Community. A disclosure does not constitute a report/complaint.

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.

Minor: As defined by Ontario’s Age of Majority and Accountability Act: Every person attains the age of majority and ceases to be a minor on attaining the age of eighteen years. R.S.O. 1990, c. A.7, s. 1.

Respondent: refers to an individual against whom a complaint has been made under this Policy.

Sexual assault: A criminal offence under the [Criminal Code of Canada](#). Sexual assault is any type of unwanted physical contact with a sexual connotation 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 consenting to.

Sexual Misconduct: physical sexual relations with an individual, touching of sexual nature or behaviour or remarks of a sexual nature where:

- the act constitutes an offence under the Criminal Code
- the act infringes the right of the individual under clause 7 (3)(a) of the Human Rights Code to be free from a sexual solicitation or advance.

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.¹

Stalking: A form of criminal harassment prohibited by the [Criminal Code of Canada](#). It involves behaviours that instill fear in the victim or threaten the victim/target’s safety or mental health. Stalking can include following, communicating with or watching over one’s dwelling or home, 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, digital messaging, email, social media); threatening or obscene gestures; surveillance; sending unsolicited gifts; “creeping” via social media/cyber-stalking; and uttering threats.

Survivor: Someone who has experienced sexual violence may choose to identify as a survivor. Others may prefer the term “victim”. This document uses “survivor” because some who have experienced sexual assault believe they have overcome the violent experiences and do not wish to self-identify as victims. However, persons who have experienced sexual violence have the prerogative to self-identify as they wish.

Policy Statement

Sexual assault and sexual violence are unacceptable and will not be tolerated. The College is committed to challenging and preventing sexual violence and creating a safe space for anyone in our College.

All reported incidents of sexual violence will be investigated and will be investigated 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.

¹ Sexual violence is used to describe sexual assault and/or sexual violence throughout this document.

We recognize that sexual violence can occur between individuals regardless of sexual orientation, gender, gender identity, gender expression 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.

We are committed to:

- assisting those who have experienced or been affected by 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;
- ensuring that those who disclose that they have been sexually assaulted are treated with dignity and respect throughout the process of disclosure, investigation and institutional response;
- addressing harmful attitudes and behaviours (e.g., adhering to myths of sexual violence) that reinforce that the person who experienced sexual violence is somehow to blame for what happened;
- treating individuals who disclose sexual violence with compassion, recognizing that they are the final decision-makers about their own best interests while being aware and informing the individual, if necessary, that some disclosures are mandatory (e.g. CAS reporting for individuals 16 or 17 years of age is mandatory only in cases where the complaint of sexual violence is against a parent or the person having charge of the child which could include but is not limited to parent, guardian, College staff and faculty).
- 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;

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

1. Reporting and Responding to Sexual Violence

- a. Members of the College community shall 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.
 - i. Campus Security: 705-566-8101, ext. 7911
 - ii. Wabnode Centre for Indigenous Services: 705-566-8101, ext. 7700 or room 2133
 - iii. Greater Sudbury Police 911 / 705-675-9171
 - iv. Voices for Women / Sudbury Sexual Assault Centre: 705-671-5495
 - v. Violence Intervention and Prevention Program (VIPP): 705-675-4743
- b. Staff members with certain credentials may be legally bound by an authority to maintain confidentiality.

- c. 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. 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.
- d. 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.
- e. All students and employees should expect that their disclosures are escalated to the appropriate department for the safety of the College community.
- f. Individuals who have experienced or been affected by sexual violence are encouraged to come forward to access ongoing support and accommodations, including the creation of a personal safety plan, and to discuss their choices for reporting to the College or external agencies, if desired. Individuals who disclose can receive support without making a Complaint.
- g. The College is committed to responding to complaints fairly and expeditiously.

2. Complaint Process and Investigation

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, provide, and respect the principals of procedural fairness in dealing with all complaints. As such, no sanction and/or disciplinary action will be taken against persons or groups 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.

A complainant acting in good faith, who discloses or reports sexual violence, will not be subject to actions for violations of the institution’s policies related to drug and alcohol use at the time the sexual violence took place.

During the institutions investigative process, students who share their experience of sexual violence through disclosing, accessing support, and/or reporting to the college, will not be asked irrelevant questions from institution’s staff or investigators, such as those relating to past sexual history or sexual expression.

a. Right to Withdraw a Complaint

- i. 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 in order to comply with its obligation under this Policy and/or its legal obligations.

b. Protection from Reprisals, Retaliation or Threats

- i. Pursuant to Cambrian Human Rights Policy, all College community members have the right to express legitimate concerns about incidents of discrimination and harassment that they are experiencing in their education, work, or residence at Cambrian College without fear of reprisal.
- ii. The College will not tolerate any retaliation or reprisal through any means against any party involved in the process of investigation the Complaint.
- iii. Anyone engaged in such conduct may be subject to further disciplinary action under this Policy or other College Policies.

c. Frivolous or Vexatious Complaints

- i. Disclosures or complaints that are found following an 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.

d. Disciplinary Measures

- i. Individuals found guilty of Sexual Assault, Sexual Harassment and/or misconduct will be subject to disciplinary actions, these may include but not limited to, immediate termination, suspension, or criminal charges.
- ii. Where an employee is discharged or disciplined for committing an act of sexual misconduct against a student:
 - the discharge or disciplinary measure will be deemed to be for just cause for all purposes;
 - 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
 - no arbitrator, arbitration board or other adjudicator shall substitute any other penalty for the discharge or disciplinary measure imposed by the College.
- iii. Where an employee is discharged or resigns for committing an act of sexual misconduct against a student, they will not be eligible for re-employment with the College. Should the College determine that it has later re-employed an individual contrary to the above, the College shall discharge the employee and clauses (B) (i) to (iii) shall apply to the discharge.
- iv. No agreements prohibiting the College, or any person related to the College, from disclosing that an allegation or complaint has been made about an employee of the College committing an act of sexual misconduct toward student at the College shall be allowed. Notwithstanding this, where the student requests that the College enter into such an agreement, the parties may do so provided that:

- the student has had a reasonable opportunity to receive independent legal advice;
- there have been no undue attempts to influence the student with respect to the request;
- 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
- the agreement is of a set and limited duration.

3. Confidentiality

The confidentiality of all parties involved in a report of sexual violence must be strictly observed, and the College will endeavour to abide by the parameters indicated in this Policy and supporting Procedure.

Disclosure of any information will follow the Freedom of Information and Protection of Privacy Act (FIPPA) and Personal Health Information Protection Act (PHIPA).

However, confidentiality cannot be assured in the following circumstances:

- a. Where an individual is under the age of 18 and has disclosed sexual violence by a parent, a person in a position of authority, or the person having charge of the child (which could include, but is not limited to parent, guardian, College staff or faculty);
- b. an individual is at imminent risk of self-harm;
- c. an individual is at imminent risk of harming another; and/or
- d. 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 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 in order to comply with the College’s legal obligation and/or its policies to investigate such allegations.

Responsibilities and Accountability

Cambrian College is responsible for:

1. Ensuring all members of the Cambrian College community should have the ability to study, work, and live in a campus environment free from Sexual Violence, including Sexual Assault and Sexual Harassment.
2. Making available programs and resources to educate its community on the prevention of and response to Sexual Violence.
3. Responding to and addressing incidents and complaints of Sexual Violence involving its students, staff and faculty, and to ensuring that those members of the community who are affected by Sexual Violence receive support.
4. Recognizing that Sexual Violence can occur between individuals regardless of sex, sexual orientation, gender, gender identity or expression, or relationship status.
5. Recognizing that Sexual Violence is overwhelmingly committed against women, and in particular women who experience the intersection of multiple identities such as, but not limited to, Indigenous women, women with disabilities, and racialized women. Additionally, the College recognizes that those whose gender identity or gender expression does not conform to historical gender norms are also at increased risk of Sexual Violence.
6. Recognizing that individuals who have experienced Sexual Violence experience a range of effects that can profoundly affect their lives.
7. Making every reasonable effort to ensure the steps provided for under this Policy are completed as expediently as possible. The University acknowledges, however, that time frames will vary depending on the circumstances involved.
8. Committing to information sharing with a Complainant and a Respondent to a Report, as set out in this Policy. Not tolerating reprisals or retaliation against anyone

who makes a Disclosure or Report of an Incident of Sexual Violence, or who participates in Cambrian College’s process that is addressing allegations of Sexual Violence against a Member of the College Community.

Students / Victims of Sexual Violence are responsible for:

1. Notifying the appropriate authorities as listed in the procedures if they are victims of sexual violence or witness an occurrence of sexual violence.
2. Being familiar with this policy and its procedure.
3. Submitting documentation, information requested by the investigators.
4. Submitting a written complaint to the investigating team. If student is unable to provide a written statement, someone from the team will assist in writing the formal complaint.
5. Following their responsibilities as per the ‘Students Rights and Responsibilities Policy’.
6. Participating/Attending meetings with the investigating team when required.
7. Following the Policy and Procedure as stated.

Manager of Equity, Diversity, and Inclusion:

1. Meeting with the complainant to discuss allegation which includes and not limited to Witnesses.
2. Gathering preliminary information in order to assess.
3. Accepting all Written complaints without any bias – If bias is identified – Manager of EDI will remove themselves from the investigation process.
4. Following the complaint process as noted in the policy and procedure.
5. Providing information and decision in a timely fashion.
6. Reviewing and complete all needed documents.
7. Providing the complainant, a list of resources and support pre and post investigation.

8. Consulting and Updating Deans/Chairs when a complaint lodged and investigated.
9. Providing the Complainant guidance when safety planning.
10. Adhering to the Confidentiality Policy.
11. Providing relevant updates and training as required to students, faculty, and support staff.

College Administrators are responsible for:

1. Ensuring faculty compliance with investigation.
2. Receiving and acting on complaints and concerns from students and employees.
3. Participating in the appeal process if required.
4. Consulting with the Manager of EDI on matters pertaining to Sexual Violence.
5. Providing support, at the request of the student, by reviewing relevant policies and procedures with the student and attending meetings.
6. Holding students, employees, and management accountable.

College Staff are responsible for:

1. Being familiar and complying with this policy.
2. Reporting any incidents of sexual violence.

Campus Security are responsible for:

1. Responding immediately and accordingly to any complaints of sexual violence.
2. Adhering to the Confidentiality Policy.
3. Offering support and resources to the witness or complainant.

Related Procedures

- Procedure for Reporting and Responding to Sexual Violence
- Workplace Violence Prevention Procedure

Related Policies

- [Code of Conduct Policy](#)
- [Confidentiality Policy](#)
- [Workplace Violence Prevention Policy](#)
- Campus Living Centres (CLC) Residence Sexual Assault Policy and Procedures – contact CLC directly.
- Student Rights and Responsibilities Policy

References

- [Bill 26, Strengthening Post-Secondary Institutions and Students Act, 2022](#)
- [Criminal Code of Canada](#)