



Carefirst Vocational Training Centre

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Sexual Assault and Violence Policy

1. Purpose

It is the policy of Carefirst Vocational Training Centre that all employees and students have a right to work and study in an environment that is free from any form of sexual assault and sexual violence. This document sets out our policy on sexual assault and sexual violence and ensures that those who experience sexual assault or sexual violence are believed and their rights are respected, that Carefirst VTC has a process of investigation that protects the rights of all individuals and holds individuals who have committed an act of sexual assault or sexual violence accountable.

2. Policy

- 2.1 Sexual assault and sexual violence are not acceptable and will not be tolerated. Carefirst VTC is committed to prevent sexual assault and sexual violence and creating a safe space for anyone in our school. The school is expected to be a safe and positive space where members of the school able to work, learn and express themselves in an environment free from sexual assault and sexual violence.
- 2.2 All reported incidents of sexual assault and sexual violence will be investigated to the best of the administration's ability. It is this Policy's intention to make individuals feel comfortable about making a report in good faith about sexual assault or sexual violence that they have experienced or witnessed.
- 2.3 We recognize that sexual assault and sexual violence can occur between individuals regardless of sexual orientation, gender and gender identity, relationship status, class or culture as articulated in the Ontario Human Rights Code.
- 2.4 We are committed to:
 - assisting those who have experienced sexual assault or 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 or have experienced sexual violence are believed, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response;
 - addressing harmful attitudes and behaviours (e.g., adhering to myths of sexual assault and sexual violence) that reinforce that the person who experienced sexual assault or sexual violence is somehow to blame for what happened;
 - treating individuals who disclose sexual assault or sexual violence with compassion recognizing that they are the final decision-makers about their own best interests;
 - ensuring that internal investigation procedures are available in the case of sexual assault and 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 school 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 assault and sexual violence on campus;
- engaging in public education and prevention activities;
- providing information to the school about our sexual assault and sexual violence policies and procedures;
- providing appropriate education and training to the school about responding to the disclosure of sexual assault and sexual violence;
- contributing to the creation of an organization atmosphere in which sexual assault and sexual violence is not tolerated; and
- monitoring and updating our policies and procedures to ensure that they remain effective and in line with other existing policies and best practices.

Procedures

Carefirst has the responsibility for ensuring that the governing body, management, staff, students, and clients are:

- Informed and sensitized to the issues of sexual assault and sexual violence and their effects;
- Informed of their responsibilities in creating and maintaining a work and service environment that is free from sexual assault and sexual violence; and
- Informed of this policy and the complaint channels available.

3. Reporting and Responding to Sexual Assault and Sexual Violence

- 3.1 Members of the Carefirst VTC should immediately report sexual assault and sexual violence incidents they witness or have knowledge of, or when they have reason to believe that sexual assault or sexual violence has occurred or may occur. Members who have experienced sexual assault or sexual violence are encouraged to come forward to report as soon as they are able to do so as per school's Sexual Assault and Sexual Violence Procedures.
- 3.2 Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual assault and sexual violence from occurring.
- 3.3 Where the school becomes aware of incidents of sexual assault or sexual violence by a member of Carefirst VTC or against a member of Carefirst VTC, which occur on or off Carefirst's property and that pose a risk to the safety of members of Carefirst, the school shall take all reasonable steps to ensure the safety of the school.

4. Complaint and Investigation

- 4.1 A complaint of sexual assault or any other kind of sexual violence can be filed under this Policy by any member of the Carefirst VTC.
- 4.2 The school 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.
- 4.3 Every person receiving a complaint or conducting an investigation will maintain all information received in strict confidence, consistent with the necessity of completing an effective investigation and taking appropriate steps arising therefrom.

4.4 Right to Withdraw a Complaint

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

4.5 Protection from Reprisals, Retaliation or Threats

- Threats or reprisals against the complainant or witnesses for filing a complaint or taking part in an investigation are violations of Carefirst's policies and the Ontario Human Rights Code.
- Threats and reprisals are an interference with the application and implementation of the policy. Those persons making threats or taking reprisals will be subject to appropriate disciplinary action and may be subject to other penalties, including complaints to the appropriate tribunals.

4.6 Unsubstantiated or Vexatious Complaints

- If a person, in good faith, discloses or files a sexual assault or 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.

5. Confidentiality

5.1 Confidentiality is particularly important to those who have disclosed sexual assault or sexual violence. The confidentiality of all persons involved in a report of sexual assault or sexual violence must be strictly observed, and Carefirst VTC does its best to respect the confidentiality of all persons, including the complainant, respondent, and witnesses.

5.2 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 school 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.

5.3 Where the school becomes aware of an allegation of sexual assault or sexual violence by a member of the school against another member of the school, the school may also have an obligation to take steps to ensure that the matter is dealt with in order to comply with the school's legal obligation and/or its policies to investigate such allegations. In such cases, administrator 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.

6. Monitoring

An annual report shall be provided to the Carefirst SQSC summarizing the frequency and severity of incidents of sexual assault and sexual violence, with comparative trend information where possible. Information provided will take into account the need to ensure confidentiality where appropriate.

Sexual Assault and Violence Policy – Appendix I

Definitions:

1. **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 of a sexual nature 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, or is incapable of consenting.
2. **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.
3. **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 intoxicated 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 the course of 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 or 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:

4. **Consent:** The voluntary agreement to engage in the sexual activity in question. No consent is obtained, where
 - the agreement is expressed by the words or conduct of a person other than the complainant;
 - the complainant is incapable of consenting to the activity;

- the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
- the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
- 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:

- 1. Acquaintance sexual assault:** Sexual contact that is forced, manipulated, or coerced by a partner, friend or acquaintance.
- 2. 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.
- 3. 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.
- 4. 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.
- 5. 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.