



## Sexual Violence Policy

### 1. Sexual Violence Policy:

Newbarry College of Business, Service and Technology is committed to providing its students with an educational environment free from sexual violence and treating its students who report incidents of sexual violence with dignity and respect.

Newbarry College of Business, Service and Technology has adopted this Sexual Violence Policy, which defines sexual violence and outlines its training, reporting, investigative and disciplinary responses to complaints of sexual violence made by its students that have occurred on its campus, or at one of its events and involves its students.

The person accused of engaging in sexual violence will be referred to as the “Respondent” and the person making the allegation as the “Complainant”.

### 2. Scope:

The Policy applies to complaints of sexual violence that have occurred on our career college campus or at a one of our events and involve our students.

### 3. Definition of Sexual Violence

**3.1 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.

**3.2 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 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.

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#### 4. Consent

The voluntary and explicit agreement to engage in the sexual activity is 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 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/cognitive disability that prevents 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 whom 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.

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## 5. Training, Reporting and Responding to Sexual Violence

- 5.1 Newbarry College of Business, Service and Technology Shall include a copy of the Sexual Violence Policy in every contract made between it and its students, and provide a copy of the Sexual Violence Policy to career college management (corporate directors, owners, partners, other persons who manage or direct the career college's affairs, and their agents), instructors, staff, other employees and contractors and train them about the policy and its processes of reporting, investigating and responding to complaints of sexual violence involving its students. \*Any company participating in offering student internships on their premises must provide an undertaking in writing that it is in compliance with all applicable legislation, including the Ontario Human Rights Code and the Occupational Health and Safety Act and will provide students access to those policies should they encounter issues relating to sexual violence in the workplace.
- 5.2 The Sexual Violence Policy shall be published on its website
- 5.3 Career college management, instructors, staff, other employees and contractors of Newbarry College of Business, Service and Technology) will report incidents of or complaints of sexual violence to the Newbarry College of Business, Service and Technology Executive Director upon becoming aware of them.
- 5.4 Students who have been affected by sexual violence or who need information about support services should contact the Newbarry College of Business, Service and Technology Executive Director.
- 5.5 Subject to Section 6 below, to the extent it is possible, Newbarry College of Business, Service and Technology will attempt to keep all personal information of persons involved in the investigation confidential except in those circumstances where it believes an individual is at imminent risk of self-harm, or of harming another, or there are reasonable grounds to believe that others on its campus or the broader community are at risk. This will be done by:
- a) Ensuring that all complaints/reports and information gathered as a result of the complaint/reports will be only available to those who need to know for purposes of investigation, implementing safety measures and other circumstances that arise from any given case; and
  - b) Ensuring that the documentation is kept in a separate file from that of the Complainant/student or the Respondent.

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- 5.6** Newbarry College of Business, Service and Technology recognize the right of the Complainant not to report an incident of or make a complaint about sexual violence or not request an investigation and not to participate in any investigation that may occur.
- 5.7** Notwithstanding 5.6, in certain circumstances, Newbarry College of Business, Service and Technology 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 campus or the broader community is at risk.
- 5.8** In all cases, including 5.6 above, Newbarry College of Business, Service and Technology will appropriately accommodate the needs of its students who are affected by sexual violence. Students seeking accommodation should contact the Newbarry College of Business, Service and Technology Executive Director.
- 5.9** In this regard, Newbarry College of Business, Service and Technology will assist students who have experienced sexual violence in obtaining counseling and medical care, and provide them with information about sexual violence supports and services available in the community as set out in **Appendix 1** attached hereto. Students are not required to file a formal complaint in order to access supports and services.

## **6. Investigating Reports of Sexual Violence**

- 6.1** Under this Sexual Violence Policy, any student of Newbarry College of Business, Service and Technology may file a report of an incident or a complaint to the Newbarry College of Business, Service and Technology Executive Director in writing. At least one College Administrative staff member and the Campus Director will be involved in the investigation.
- 6.2** Upon receipt of a report of an incident or a complaint of alleged sexual violence being made, Newbarry College of Business, Service and Technology Executive Director will respond promptly and:
- a) Determine whether an investigation should proceed and if the Complainant wishes to participate in an investigation;
  - b) Determine who should conduct the investigation having regard to the seriousness of the allegation and the parties involved;

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- c) Determine whether the incident should be referred immediately to the police; In such cases or where civil proceedings are commenced in respect of allegations of sexual violence, Newbarry College of Business, Service and Technology may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures; and
- d) Determine what interim measures ought to be put in place pending the investigation process such as removal of the Respondent or seeking alternate methods of providing necessary course studies.

**6.3** Once an investigation is initiated, the following will occur:

- a) The Complainant and the Respondent will be advised that they may ask another person to be present throughout the investigation;
- b) Interviewing the Complainant to ensure a complete understanding of the allegation and gathering additional information that may not have been included in the written complaint such as 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;
- c) Informing and interviewing the Respondent of the complaint, providing details of the allegations and giving the Respondent an opportunity to respond to those allegations and to provide any witnesses the Respondent feels are essential to the investigation;
- d) Interviewing any person involved or who has, or may have, knowledge of the incident and any identified witnesses;
- e) Providing reasonable updates to the Complainant and the Respondent about the status of the investigation; and
- f) Following the investigation, the Newbarry College of Business, Service and Technology Executive Director will:
  - Review all of the evidence collected during the investigation;
  - Determine whether sexual violence occurred; and if so
  - Determine what disciplinary action, if any, should be taken as set out in Section 7 below.

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## **7. Disciplinary Measures**

If it is determined by Newbarry College of Business, Service and Technology that a student of our career college has been involved in sexual violence, immediate disciplinary or corrective action will be taken up to and including termination of employment of instructors or staff or expulsion of a student.

In cases where criminal proceedings are initiated, Newbarry College of Business, Service and Technology 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 Newbarry College of Business, Service and Technology may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures.

## **8. Making False Statements**

It is a violation of this Policy for anyone to knowingly make a false complaint of sexual violence 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 of instructors or staff or expulsion of a student.

## **9. Reprisal**

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

## **10. Review**

This policy will be reviewed 3 years after it is first implemented.

## **Appendix 1**

### **Community Resources available include:**

Toronto Oasis Centre des Femmes Telephone 416-591-6565: or Toronto Rape Crisis Centre: Multicultural Women Against Rape Crisis: 416-597-8808 Office

Canadian Association of Sexual Assault Centers Ontario Provincial English

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Assaulted Women's Helpline Toll Free: 1-866-863-0511 #SAFE (#7233) on Bell, Rogers, Fido or Telus mobile  
TTY: 416-364-8762 Telephone toll-free: 1-877-336-2433 ATS: 1 866 860-7082

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

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