

Sexual Assault and Sexual Violence Policy and Protocol

Statement from the Director

The Canadian Centre for Language and Cultural Studies, Inc. (CCLCS) values respect for all individuals, civility, diversity, dignity, equality, and freedom. CCLCS is committed to maintaining a healthy and safe learning, living, social, recreational and working environment. We are committed to maintaining three sites free of discrimination and harassment, and strive to foster an atmosphere of healthy attitudes and behaviours towards sexuality, sex and gender roles.

CCLCS will not tolerate behaviour that contributes to a hostile and inequitable learning and working environment. We take seriously our commitment to supporting those who experience sexual violence, and we work diligently with community partners on programs, policies and resources to ensure that our sites remain free from sexual violence.

I urge all members of the CCLCS community to review the Policy and Protocol to learn about options and resources available to those who require support or who wish to support others.

Please help to ensure that CCLCS remains a safe and positive space where members of the CCLCS community feel able to work, learn and express themselves in a safe environment that upholds human equality.

Dawn Michael
Director

Sexual Assault and Sexual Violence Policy and Protocol

CCLCS SEXUAL ASSAULT AND SEXUAL VIOLENCE POLICY

Effective Date: January 1, 2017

Revised: January 14, 2020

Review Schedule: This policy will be reviewed annually.

This Policy applies to: All members of the CCLCS community including: all employees, board members, students, contractors, suppliers of services, volunteers, visitors, and individuals who are directly connected to any CCLCS initiatives.

1. Definitions

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 it 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 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 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:

- Communication must never be interpreted as consent, and a person in a state of diminished judgment cannot consent.
- A person cannot consent if they are asleep, unconscious, or otherwise unable to consent.
- 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 is usually unable to give consent when under the influence of alcohol and/or drugs.
- A person may be unable to give consent when they have a mental disability preventing them from being able to consent.
- 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, an instructor 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.

Note: 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:

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.*

2. 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 year-olds can consent to have sex with other youth who are less than 2 years older than themselves. Youths 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 particular 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.

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.

3. 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 CCLCS community who has experienced sexual violence. CCLCS is expected to be a safe and positive space where members of the CCLCS 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.

We are committed to:

- assisting those who have 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 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 violence) that reinforce that the person who are affected by 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.
- ensuring that on-site (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 CCLCS policies, standards, and that ensure fairness and due process.
- ensuring co-ordination and communication among the various departments who are most likely to be involved in the response to sexual violence on site.
- engaging in public education and prevention activities.
- providing information to the CCLCS community about our sexual violence policies and protocols.
- providing appropriate education and training to the CCLCS community about responding to the disclosure of sexual violence.
- Contributing to the creation of a sites-wide atmosphere in which sexual violence is not tolerated.
- Monitoring and updating our policies and protocols to ensure that they remain effective and in-line with other existing policies and best practices.

4. Reporting and Responding to Sexual Violence

Anyone engaged in such conduct may be subject to sanctions and/or discipline.

Principles Governing This Policy

- Members of the CCLCS community should immediately report sexual and gender-based 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 been affected by sexual violence are encouraged to come forward to report as soon as they are able to do so to their Coordinator (LINC or TESL)
- Managers, decision makers, supervisors and those who have significant responsibility for guiding students and employees, shall take immediate action to respond to or to prevent sexual violence from occurring
- Where CCLCS becomes aware of, or should be reasonably aware, of incidents of sexual violence by a member of the CCLCS community or against a member of the CCLCS community, which occur on or off of CCLCS property and that pose a risk to the safety of members of the CCLCS community, CCLCS shall take all reasonable steps to ensure the safety of the CCLCS Community.

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 CCLCS community.

CCLCS 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.

Right to Withdraw a Complaint

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

Not reporting an Incident

A complainant is not required to report an incident, or make a complaint in order to obtain the supports, services and accommodations referred to in this policy.

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.
- Having been associated with someone who has pursued rights under this Policy or the Ontario Human Rights Code.
- CCLCS takes reasonable steps to protect persons from reprisals, retaliation and threats. This may entail, for example, advising individuals in writing of their duty to refrain from committing a reprisal and sanctioning individuals for a breach of this duty. The College may also address the potential for reprisals by providing an accommodation appropriate in the circumstances.

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 and no record of it will be placed in the complainant's or respondent's file.

Disclosures or complaints that are found following an investigation to be frivolous, vexatious or bad faith complaints, that is, are made to purposely annoy, embarrass or harm the respondent, are considered frivolous, vexatious, or bad faith complaints and may result in sanctions and/or discipline against the complainant.

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

SEXUAL ASSAULT AND SEXUAL VIOLENCE PROTOCOL

1. If You Have Experienced Sexual Violence

If you have experienced sexual violence, please call the appropriate person below. Or, if you want to speak to someone directly, please go to their office.

Downtown Site:

TESL Students/ Staff: Cheryl Fretz 416-588-3900

LINC Students / Staff: Dawn Michael 416-588-3900

North York Site

All Students/Staff: Tim Cloutis 416-223-6613

Scarborough Site

All Students/Staff: Tim Cloutis 416-755-0406

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. A number of other resources are available to you, including:

The Toronto Rape Crisis Centre/ Multicultural Women Against Rape 416-597-8800.

The Sexual Assault/ Domestic Violence Care Centre Women's College Hospital- 416-323-6040.

Toronto Police Services: Non-Emergency 416-808-2222 - Emergency 9-1-1

Anyone who has experienced sexual violence has the right to:

- be treated with dignity and respect,
- be believed,
- be informed about on- and off-site services, and decide whether or not to access available services and to choose those services they feel will be most beneficial,
- decide whether to report to local police,

- have an on site 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

Individuals who have experienced sexual violence may also wish to press charges under the Criminal Code. Dawn Michael, Tim Cloutis, or Cheryl Fretz can also assist you with contacting the local Police.

CCLCS' Formal Complaint Procedure

If a student wishes to lodge an official complaint, they may do so in accordance with the *Private Career Colleges Act, 2005* as follows:

I. A student who is currently in the program and has a concern relating to his/her program of study that has not been resolved through an informal process must provide the TESL Coordinator with a written statement regarding the concern. (For complaints concerning the TESL Coordinator, see below.) The submission must be made within 20 working days from the time the student first brought it to the attention of the TESL Coordinator. Complaints must be addressed to:

Cheryl Fretz
 TESL Coordinator, CCLCS
 635 Markham St.
 Toronto, ON M6G 2M1

Phone: 416 588-3900
 Email: cfretz@cclcs.ca

The TESL Coordinator will respond in writing within 10 working days of receipt of the written statement.

During this time, the student will have the opportunity to make an oral submission with or without another person present, or alternatively have an oral submission made on his/her behalf. Any meetings and discussions will be noted, recorded, and filed in written form to support the Coordinator's decision.

II. In the case where the student is not satisfied with the response from the TESL Coordinator, or if the complaint concerns the TESL Coordinator, the student should submit a written statement of their complaint (along with the Coordinator's written response, if applicable) to:

Dawn Michael
 Director , CCLCS
 635 Markham St.
 Toronto, ON M6G 2M1

Phone: 416 588-3900
 Email: dmichael@cclcs.ca

This submission must be provided to the Director within 20 working days after receiving the Coordinator's written response. The Director will respond in writing within 10 working days of receipt of the written statement.

During this time, the student will have the opportunity to make an oral submission with or without another person present, or alternatively have an oral submission made on his/her behalf. Any meetings and discussions will be noted, recorded and filed in written form to support the Director's decision.

If the student is not satisfied, the complaint can be referred to the superintendent of Private Career Colleges at the following address:

Superintendent of Private Career Colleges
Private Career Colleges Branch
Ministry of Advanced Education and Skills Development
77 Wellesley Street West, Box 977
Toronto, Ontario M7A 1N3

All written materials pertaining to the complaint copies will be made available to the complainant, will be kept confidential, and will be kept on file for three years from the date of the decision.

Expulsion Policy

Incidents of sexual violence will be investigated and appropriate measures will be taken, up to and including the perpetrator's expulsion from the program. The TESL Coordinator and/or Director will investigate any report of harassment.

3. What to Do if You Witnessed Sexual Violence or if Someone Discloses Allegations of Sexual Violence

If a student, staff member, or instructor of CCLCS becomes aware of an allegation of sexual violence against another member of the CCLCS community, the faculty or staff is required to report the alleged incident to either the TESL Coordinator or LINC Coordinator immediately. All members of the CCLCS community have a duty to cooperate with CCLCS' investigations.

Responding to Disclosure

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 emergency medical care and counselling; or off site services, including

- respecting the individual's right to choose the
- 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 experience; and
- making every effort to respect confidentiality and anonymity.