

**The CREATE Policy on Sexual and Workplace Harassment for staff/faculty, administration, board members and volunteers**

**A. Purpose**

The CREATE Institute is committed to providing a safe, respectful, and professional learning and working environment free from **employee sexual misconduct, sexual violence, workplace harassment, and workplace sexual harassment.**

This policy fulfills the requirements of:

- The **Ontario Career Colleges Act, 2005 (OCCA)** and **Policy Directive: Sexual Violence**, including mandatory provisions regarding **employee sexual misconduct**
- The **Occupational Health and Safety Act (OHSA)**
- The **Ontario Human Rights Code (OHRC)**

All members of the CREATE community; including employees, faculty, staff, administrators, contractors, volunteers, board members, and students have the right to learn and work in an environment characterized by dignity and respect.

This policy does not limit any person's right to pursue external remedies under the OHSA, OHRC, OCCA, or criminal law.

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**B. Definitions**

***Workplace Harassment (OHSA)***

- Engaging in a course of vexatious comment or conduct against a worker in a workplace that is known or ought reasonably to be known to be unwelcome.
- This can include verbal, written, social, electronic, psychological, or physical behaviour that offends, humiliates, demeans, or isolates a person.

***Workplace Sexual Harassment (OHSA)***

- Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity, or gender expression, where the behaviour is known or ought reasonably to be known to be unwelcome; or
- Making a sexual solicitation or advance where the person making it is in a position to confer, grant, or deny a benefit or advancement and knows or ought reasonably to know the solicitation or advance is unwelcome.

***Sexual Violence (OCCA, O. Reg. 415/06)***

- Any physical or psychological act or attempt of a sexual nature directed against any person, without the person's consent. This includes, but is not limited to:
  - Sexual assault;
  - Sexual harassment;

- Stalking;
- Indecent exposure;
- Voyeurism;
- Sexual exploitation;
- Distribution of sexually explicit images without consent.

### ***Employee Sexual Misconduct (OCCA – Mandatory Definition)***

Employee sexual misconduct means, in relation to a student enrolled at CREATE:

a) Physical sexual relations with the student, touching of a sexual nature of the student, or behaviour or remarks of a sexual nature toward the student by an employee where:

- The conduct constitutes an offence under the Criminal Code (Canada); or
- The conduct infringes the student's right under clause 7(3)(a) of the Ontario Human Rights Code to be free from a sexual solicitation or advance; or
- The conduct constitutes sexual misconduct under this policy or contravenes any CREATE policy, rule, or requirement respecting sexual relations between employees and students;

**or**

b) Any conduct by an employee that infringes the student's right under clause 7(3)(b) of the Ontario Human Rights Code to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

Employee sexual misconduct is prohibited **regardless of consent** and applies to all CREATE employees, faculty, administrators, contractors, volunteers, and board members.

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## **C. Examples of Prohibited Conduct**

### ***Examples of Workplace Harassment***

- Derogatory comments, insults, or intimidation
- Circulating humiliating or demeaning images
- Verbal or electronic bullying, repeated hostile communication

### ***Examples of Workplace Sexual Harassment***

- Sexual jokes, comments, or intrusive questions
- Unwelcome touching or suggestive gestures
- Displaying sexually explicit materials
- Requests for sexual favours

### ***Examples of Employee Sexual Misconduct***

- Flirtation, romantic or sexual overtures toward a student
  - Sexual touching or sexual relations with a student when prohibited by OCCA
  - Giving gifts, special treatment, or academic advantages in exchange for sexual attention
  - Pressuring a student to meet privately for non-academic reasons
  - Any behaviour where a student reasonably feels their grades, standing, or access to services could be affected
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### **D. Frequency, Severity, and Criminal Conduct**

- Harassment may occur through a **single serious incident** or repeated behaviours.
  - Sexual violence and employee sexual misconduct may constitute criminal offences; CREATE will assist individuals in contacting the police where appropriate.
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### **E. Reporting and Support**

Any staff, faculty member, or student who believes they have experienced or witnessed harassment, sexual harassment, or sexual violence or employee sexual misconduct may report the matter promptly to:

- The **Director**, or
- The **Chair of the Board**, if the Director is involved or if there is a conflict of interest.
- A member of faculty or administration (who must forward the information through the required reporting pathway)

Reports will be reviewed confidentially and objectively. The Director or Chair will assist the individual in determining whether the behaviour meets the definition of harassment or sexual violence and will explain next steps.

Students will not be required to repeat their disclosure more than necessary and will never be penalized for making a good-faith report.

#### ***Mandatory Reporting***

Any employee who becomes aware of **employee sexual misconduct must immediately report it** to the Director or Board Chair.

Employees are not permitted to attempt private resolution of employee sexual misconduct.

#### ***Student Support and Resources***

CREATE recognizes that students affected by sexual harassment or sexual violence may require support and accommodations. Students may access:

- Confidential counselling or referrals to community-based support services;
- Academic or scheduling accommodations; and
- Assistance from the Director or designated staff member in navigating internal or external complaint processes.

## **F. CREATE's Response and Investigation**

- All reports of workplace harassment, workplace sexual harassment, sexual violence, and employee sexual misconduct will be taken seriously and investigated promptly in a fair, impartial, and trauma-informed manner.
- CREATE will ensure no conflict of interest exists in the investigative process.
- Both complainant and respondent will receive information about the process, timelines, and outcomes within legal limits.
- Retaliation against any individual who reports or participates in an investigation in good faith is strictly prohibited.

### ***Employee Sexual Misconduct – Mandatory Disciplinary Measures***

- If an employee of CREATE commits an act of sexual misconduct toward a student:
  - CREATE may discharge or discipline the employee;
  - Any discharge or disciplinary measure is deemed to be for just cause for all purposes;
  - The employee is not entitled to notice of termination, termination pay, compensation, or restitution; and
  - Despite any employment contract, collective agreement, or the Labour Relations Act, 1995, no arbitrator or adjudicator may substitute any other penalty for the disciplinary measure imposed by CREATE.
- If an employee resigns following an allegation or finding of employee sexual misconduct, CREATE shall not re-employ that individual.
- If CREATE determines that it has re-employed an individual contrary to this requirement, the individual will be immediately discharged and the provisions above shall apply.

### ***No Informal Resolution***

- Employee sexual misconduct shall not be addressed through informal resolution, mediation, or private settlement.

### ***Criminal Conduct***

- Sexual violence and employee sexual misconduct may constitute criminal offences. CREATE will assist individuals in contacting law enforcement where appropriate and at the individual's discretion.

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## **G. Confidentiality**

Information related to a harassment, sexual violence, or employee sexual misconduct complaint will be disclosed only as necessary to:

- Investigate or resolve the complaint
- Ensure safety
- Comply with legal or regulatory requirements

### **Restrictions on Confidentiality Agreements**

CREATE shall not enter into any agreement, including employment agreements, settlement agreements, or collective agreements that directly or indirectly prohibits the disclosure that an allegation or complaint of employee sexual misconduct toward a student has been made.

A confidentiality provision may only be included where:

- The confidentiality is requested by the student;
- The student has had a reasonable opportunity to receive independent legal advice;
- There has been no undue attempt to influence the student;
- The agreement allows the student to waive confidentiality in the future and sets out the process for doing so; and
- The confidentiality provision is of a set and limited duration.

Any term that does not meet these requirements is void.

No complainant, witness, or reporting employee acting in good faith will face reprisal.

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## **H. Training and Awareness**

CREATE will:

- Mandatory training for all employees on sexual violence and employee sexual misconduct
- Annual refresher training as required by the OCCA
- Orientation for all new students on sexual violence protections and reporting
- Clear communication of prohibited employee behaviours and consequences

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## **I. Public Posting and Review**

This policy will be:

- Published on CREATE's website;
  - Made available to all students and staff; and
  - Reviewed at least once every three years, or sooner if required by legislative changes.
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## J. Compliance Statement

This policy complies with:

- The **Ontario Career Colleges Act, 2005**, including the **Policy Directive on Sexual Violence and Employee Sexual Misconduct obligations**
- The **OHSA** and **OHRC**
- All relevant regulations under O. Reg. 415/06

*CREATE affirms that:*

- It is registered under the *Ontario Career Colleges Act, 2005*;
- It maintains a safe and respectful learning environment
- Reports of employee sexual misconduct are handled as required by law
- Students retain the right to pursue remedies through the OHRC, OHSA, OCCA, law enforcement, or civil proceedings

### **External Contacts**

If you have a complaint to make or if you are accused of workplace harassment or sexual harassment, you can also contact

#### **OHRC -Ontario Human Rights Commission**

180 Dundas Street West, 9th Floor  
Toronto, ON M7A 2G5  
Tel: (416) 326-9511  
Toll Free: 1-800-387-9080  
TTY (Local): (416) 326-0603  
TTY (Toll Free) 1-800-308-5561  
info@ohrc.on.ca

#### **OHSA -Occupational Health and Safety Act**

By phone: You can speak to a representative at our Health and Safety Contact Centre at 1-877-202-0008

#### **WSIB**

Workers injured from workplace harassment may have a valid claim under the Workplace Safety and Insurance Act (WSIB) and anyone who experiences suffering from workplace harassment is encouraged to seek medical assistance and contact their primary medical provider.

Reporting a new injury, illness or exposure? Submit online.

Call us about your claim or account from 7:30 a.m. to 5 p.m., Monday to Friday.

Telephone: 416-344-1000

Toll free: 1-800-387-0750

Fax: 416-344-4684 or 1-888-313-7373