

EMPLOYEE SEXUAL MISCONDUCT POLICY

Authorizer: Vice President Academic / Student Affairs & Human
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POLICY STATEMENT:

It is the policy of Conestoga College (the “College”) that all of our students have a right to an academic environment that is free from sexual remarks or touching by or from college employees, including but not exclusive to college faculty, which would be considered sexual solicitation or sexual advance.

SCOPE:

The Policy applies to all employees of the college, as defined by the *Employment Standards Act, 2000* (“ESA”).

This Policy does not apply to consensual sexual or romantic relationships that do not meet the criteria of a Prohibited Relationship set out below.

DEFINITIONS:

Sexual Misconduct - means, in relation to a student of the College,

- (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 of the College where,
- I. the act constitutes an offence under the *Criminal Code* (Canada),
 - II. the act infringes the right of the student under clause 7 (3) (a) of the *Human Rights Code* to be free from a sexual solicitation or advance, or
 - III. the act constitutes sexual misconduct as defined in this Policy, or contravenes the Policy or any other policy, rule or other requirement of the College respecting sexual relations between employees and students, or
- (b) any conduct by an employee of the College that infringes the right of the student under clause 7 (3) (b) of the *Human Rights Code* to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

Student – means a person currently enrolled in studies at Conestoga College, whether in a full-time, part-time or continuing education capacity.

POLICY ELABORATION:

Reporting - The procedures provided for reporting a complaint under the College's Discrimination and Harassment Prevention Policy, Complaints Against Employees, Formal Complaint, shall be used to report complaints under this policy.

Complainants should also reference the Conestoga College Sexual Assault & Sexual Violence Policy and Procedure for guidance and support as appropriate.

Disciplinary Measures – Where an employee is deemed to have committed an act of Sexual Misconduct toward a student, the College may impose disciplinary measures, up to and including termination of employment.

The discharge or discipline would be deemed to be for just cause for all purposes, and the employee would 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.

Reemployment – If an employee commits an act of Sexual Misconduct against a student and the employee is discharged for that act or the employee resigns from their employment, the College shall not subsequently re-employ the employee.

Disclosure – the College will not enter into an agreement which prohibits disclosure that an allegation or complaint has been made that an employee of the College committed an act of Sexual Misconduct toward a student unless such request is made by the student and,
(a) the student has had a reasonable opportunity to receive independent legal advice
(b) there have been no undue attempts to influence the student with respect to the request
(c) 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
(d) the agreement is of a set and limited duration

References:

Criminal Code (Canada)

Ontario Human Rights Code

Discrimination & Harassment Complaint Procedure Employees

Conestoga College Sexual Assault & Sexual Violence Policy and Procedure Investigation Protocol