6.5.10 Sexual Misconduct, Violence & Harassment

Policy Name:	Sexual Misconduct, Violence & Harassment
Category:	Programs and Services
Approved by:	Executive Director
Approved:	2017, 2023 (with student input), 2025, 2026
To be Reviewed/Revised:	As needed
Scope:	Mothercraft Students

PURPOSE

The Policy applies to complaints of sexual misconduct, violence and harassment that have occurred on the Mothercraft College of Early Childhood Education campus, including on site and/or online campus platform, or at events, and involve students. All students have a right to study in an environment free of sexual misconduct, violence and harassment. This document sets out Mothercraft's policy, defines prohibited behaviours, and outlines investigative processes for sexual misconduct, violence and harassment, as required under the *Ontario Career Colleges Act, 2005* (OCC Act).

POLICY

Mothercraft College of Early Childhood Education strives to create environments that are welcoming, safe and inclusive and in which all are treated with respect and dignity. Mothercraft College of Early Childhood Education is committed to ensuring that all students receive the best possible adult education experience free from sexual misconduct, violence and harassment.

Mothercraft College of Early Childhood Education will not condone, permit or tolerate sexual misconduct, violence or harassment of students in any form and will investigate all incidents and complaints in a fair and timely manner. Should a student experience sexual misconduct, violence and/or harassment and not wish to report or file a complaint, Mothercraft College of Early Childhood Education will provide, at no cost to the student, appropriate accommodations and supports both onsite and through community agencies.

DEFINITIONS

<u>Sexual Misconduct</u>

The OCC Act, 2005, in relation to a student enrolled at a career college, defines 'sexual misconduct" as:

(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 career 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 the career college's employee sexual misconduct policy or contravenes the policy or any other policy, rule or other requirement of the career college respecting sexual relations between employees and students, or

(b) any conduct by an employee of the career 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.

Sexual Violence

The OCC Act, 2005 defines sexual violence as “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.”

Sexual Harassment

Sexual harassment is a form of discrimination and is prohibited under both federal and provincial human rights codes. Sexual harassment means:

a. engaging in a course of vexatious comment or conduct against an individual because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the individual and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual harassment may consist of a single incident of unwelcome behaviour or multiple incidents over time. Sexual harassment can include, but is not limited to physical, verbal, written and environmental forms. It also includes threats and demands such as the following:

- asking for sexual favours in exchange for a passing grade or assignment completion (from an Instructor/faculty member).
- repeatedly asking someone for dates or sexual favours even after they have said no.
- threatening someone (e.g. with violence, refusing to cooperate with group assignments) if they refuse to comply with sexual advances.
- threats of retaliation or reprisal if the victim makes a complaint under this Policy.

PROCEDURE

Students are not required to report an incident of, or make a complaint about, sexual misconduct or violence to obtain supports, services, or accommodation. Students may contact the Admissions and Registration Manager to request supports, services or accommodations which may include alternate arrangements for completing education and training programs and referrals to community resources.

Students who choose to file a complaint should do so with the Admissions & Registration Manager. The Manager will inform the Director of Education & Training who will inform the Executive Director. If Mothercraft College of Early Childhood Education receives a complaint about a staff person towards a student, Human Resources will be informed and provide consultation. If the complaint involves a student towards another student, Mothercraft College of Early Childhood Education will follow its Student Code of Conduct and Withdrawal/Expulsion policy. If the complaint involves a student towards a staff person, the latter procedures are followed in addition to consulting Human Resources.

Students who, in good faith, report an incident of, or make a complaint about, sexual violence will not be subject to discipline or sanctions for violations of Mothercraft College of Early Childhood Education's policies relating to drug or alcohol use at the time the alleged sexual violence occurred.

Management will investigate and deal with all complaints or incidents in a fair, respectful and

timely manner. Faculty and staff of Mothercraft College of Early Childhood Education will take all reasonable steps to prevent sexual misconduct, violence or harassment involving students on a Mothercraft campus or at community events. In the event that a student has been subject to, witness, or has knowledge of sexual misconduct, violence or harassment they are encouraged to report it to the Manager of Admissions and Registration.

Mothercraft College of Early Childhood Education will keep all information disclosed confidential except in those circumstances where there is concern that an individual is at imminent risk or disclosure is required by law. Only the parties concerned with the results of the findings will be advised.

Mothercraft College of Early Childhood Education encourages students, if they feel safe and comfortable, to:

- attempt to resolve their concerns by direct communication with the person(s) engaging in the unwelcome conduct, and/or
- to report any incident of sexual misconduct, violence or harassment they have observed or experienced, and
- to keep a written record of the date, time, details of the conduct and witnesses, if any.

Students who are not comfortable with direct communication and who believe they are victims of sexual misconduct, violence or harassment, or become aware of situations where such conduct may be occurring, are encouraged to report these matters to the Mothercraft College of Early Childhood Education's Admissions and Registration Manager. Complaints need not be in writing and should include as much detail as possible, including the name(s) of the individual(s) involved and a description of the incident(s), including actions and/or comments made, place(s), date(s) and time(s) and witness(es).

The possibility of informal resolution may be explored and reached with the consent of all parties. If consent for informal resolution is not provided or no sufficient conclusion is reached, a formal investigation will be undertaken, with support and consultation from Human Resources.

Threats, attempts or actual incidents of physical or sexual assault may be criminal offences and may be reported to the appropriate external authority.

Regardless of the outcome of a complaint made in good faith, Mothercraft College of Early Childhood Education prohibits reprisals against someone who makes a complaint and/or who provides information regarding a complaint. Individuals are not to be penalized or disciplined for reporting an incident or for participating in an investigation involving sexual misconduct, violence or harassment. If a student needs further assistance, he or she may contact the Admissions and Registration Manager. Alleged reprisals will be addressed.

Mothercraft College of Early Childhood Education recognizes the right of the complainant to determine how their complaint will be dealt with. However, in certain circumstances, Mothercraft College of Early Childhood Education may be required by law and/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.

Students can contact the Admissions and Registration Manager to access onsite accommodation and support. A list of community supports can be found in Appendix 1.

Mothercraft College of Early Childhood Education will provide a copy of the policy to all students, and educate them and management, employees and contractors about this Policy

through online resources, including how to identify situations that involve, or could progress into sexual misconduct, violence or harassment against Mothercraft students.

Where a complaint has been made, under this Policy, Mothercraft College of Early Childhood Education, will take all reasonable steps to follow-up, including:
(a) providing on-campus investigation procedures to students for sexual misconduct, violence or harassment complaints.
(b) responding promptly to any complaint and providing reasonable updates to the complainant and the respondent about the status of the investigation.
(c) assisting students who have experienced sexual misconduct, violence and harassment in obtaining counselling and medical care.
(d) providing students who have experienced sexual misconduct, violence and harassment with appropriate academic and other accommodation; and
(e) providing students who have experienced sexual misconduct, violence and harassment with information about reporting options as set out below.

INVESTIGATION & ACCOUNTABILITY

Mothercraft College of Early Childhood Education will investigate if it becomes aware of an incident of sexual misconduct, violence or harassment or receives a complaint. A complainant may ask another person to be present during the investigation. The Director of Education & Training, in consultation with Human Resources, will determine whether the investigation requires an internal or external investigator.

The investigation will include:
(a) interviewing the complainant, any person involved in the incident and any identified witnesses;
(b) determining whether the incident should be referred immediately to police;
(c) determining what interim measures, if any, need to be taken during the investigation;
(d) documenting the specifics of the incident (i.e. 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);
(e) not asking irrelevant questions during the investigation process, including irrelevant questions relating to the complainant's sexual expression or past sexual history.
(f) interviewing any other person who may have knowledge of incidents related to the complaint;
(g) informing the individual accused (respondent) in the complaint, providing details of the allegation(s) and providing an opportunity to respond to those allegations;
(h) providing reasonable updates to the complainant and the respondent about the status of the investigation; and
(i) determining what action, including disciplinary, should be taken.

The investigation will be completed in a timely manner and generally within 90 days or less unless there are extenuating circumstances (e.g. illness, complex investigation) warranting a longer investigation. The investigator will prepare a report setting out findings of fact and conclusion whether sexual misconduct, violence or harassment was found or not.

Within 10 days of the investigation being completed, the complainant and the individual accused will be informed, in writing, of the results and any action taken or that will be taken by Mothercraft College of Early Childhood Education.

In the event that the complainant is dissatisfied with the investigative process and/or outcome of the investigation, they may contact the Career Colleges branch of the Ministry of Colleges and Universities at the following email address: PCC@ontario.ca.

DISCIPLINARY MEASURES

For a Student
Acts of sexual misconduct, violence and harassment will not be tolerated and will be responded to with appropriate action as outlined in the Mothercraft College of Early Childhood Education's Withdrawal/Expulsion Policy – which may include, verbal or written reprimand, suspension and/or expulsion from the program. Mothercraft College of Early Childhood Education will also take corrective action if anyone makes false complaints, which could include academic monitoring/probationary review and or withdrawal from the program.

For Staff
Acts of sexual misconduct, violence and harassment will not be tolerated and will be responded to with appropriate action as outlined in Mothercraft's Progressive Disciplinary Policy which includes, verbal or written reprimand, suspension and/or termination.

As per the OCC Act [Sec. 32.0.1 (5)], no agreement between Mothercraft College of Early Childhood Education and the terminated employee can contain any term that, directly or indirectly, prohibits Mothercraft or any person related to Mothercraft College of Early Childhood Education, from disclosing that an allegation or complaint has been made.

As per the OCC Act [Sec. 32.0.1 (6)], the exception is when the student requests such an agreement, provided that:

(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.

Mothercraft will take corrective action in the event of false complaints, which could include disciplinary action up to and including termination of employment.

RECORD KEEPING

Information will be collected as part of an investigation. All information will be kept confidential and shall be securely stored.

No record of the complaint will be maintained in the file of the complainant. If there is a finding of improper conduct that results in disciplinary action, it will be reflected only in the file of the person who engaged in such conduct.

To file an incident or complaint, please contact:

Karen Li, Director
Mothercraft College of Early Childhood Education
Tel: (416) 483-0644 ext. 305 Fax: 416-483-0119
Email: karen.li@mothercraft.org

CROSS REFERENCE:

- *Ontario Career Colleges Act, 2005*
- *Workplace Harassment and Violence* Policy
- *Progressive Disciplinary Process* Policy
- *Duty to Warn* Policy

APPENDIX 1: STUDENT RESOURCES

- Call Good2Talk

Free, confidential helpline with professional counselling, information and referrals for mental health, addictions and well-being, 24/7/365. 1-866-925-5454

- Family Service of Toronto

Counselling, community development, advocacy and public education programs, including services for male survivors of sexual abuse. 416-595-9618

- Schlifer Clinic

The Barbra Schlifer Clinic offers legal representation, professional counselling and multilingual interpretation to women who have experienced abuse. 416-323-9149

- Ontario Victim Support Line

24-hour telephone and TTY crisis line for women who have experienced abuse with service in over 200 languages spoken. 416-314-2447

- Assaulted Women's Helpline

Toll Free: 1-866-863-0511 / #SAFE (#7233) on Bell, Rogers, Fido or Telus mobile / TTY: 416-364-8762 www.awhl.org

- Fem'aide, Telephone toll-free: 1-877-336-2433 / ATS: 1 866 860-7082 www.femaide.ca.

- To locate the Sexual Assault/Domestic Violence Treatment Centre nearest you, follow this link: www.trccmwar.ca Toronto Rape Crisis Centre: Multicultural Women Against Rape. Crisis: 416-597-8808/ Office: 416-597-1171 info@trccmwar.ca / crisis@trccmwar.ca/

- Oasis Centre des Femmes, Téléphone: 416-591-6565 / Courriel: services@oasisfemmes.org http://oasisfemmes.org/