

SEXUAL VIOLENCE POLICY

Effective Date: January 1, 2017

Review Date: December 12, 2016

1. Purpose

- 1.1 Herzing college is committed to providing its students with an educational environment free from sexual violence, treating its students who report incidents of sexual violence with dignity and respect and appropriately accommodating the needs of students who are affected by sexual violence.
- 1.2 Herzing College has adopted this sexual violence policy which defines sexual violence and outlines the colleges reporting, investigation, training and disciplinary responses to complaints of sexual violence made by students that have occurred on campus or at a Herzing College hosted event.
- 1.3 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. Definitions

- 2.1 **Sexual Violence** - Sexual violence means 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.
- 2.2 **Consent**- The Criminal Code of Canada defines consent as the voluntary agreement of the complainant to engage in the sexual activity in question. The code also outlines that no consent is obtained if; the agreement is expressed by the words or conduct of a person other than the complainant, the complainant is incapable of consenting to the activity, the accused counsels or incites the complainant to engage in the activity by abusing a position of trust, power or authority, the complainant expresses by words or conduct, a lack of agreement to engage in the activity, or the complainant, having consented to the activity previously, expresses by words or conduct, a lack of agreement to continue to engage. It is important to know that these are not the only ways where no consent is obtained, and there may be other circumstances
- 2.3 **Sexual Assault**- is any assault of sexual nature that violates a person’s sexual integrity
- 2.4 **Sexual Harassment**- is a form of discrimination that involves unwanted behavior that intimidates or causes another person offence or humiliation. It is vexatious comment or conduct that is known or ought to be known to be unwelcome. Sexual Harassment can take on a variety of forms including cyber-harassment
- 2.5 **Stalking**- is defined as criminal harassment under the Criminal Code of Canada. It can consist of repeatedly following from place to place the person or anyone known to them, repeatedly communicating with, directly or indirectly, the person or anyone known to them, besetting or watching the dwelling house, or place where the person or anyone known to

them, resides, works, carries on business or happens to be, or engaging in threatening conduct directed at the other person or any member of their family.

- 2.6 **Voyeurism-** The Criminal Code of Canada defines voyeurism as anyone who surreptitiously observes –including by mechanical or electronic means- or makes visual recordings of person who is in circumstances that give rise to a reasonable expectation of privacy
- 2.7 **Sexual Exploitation-** any person who commits an offence who is in a position of trust or authority towards a young person who for a sexual purpose touches, directly or indirectly, with a part of the bod or with an object, any part of the body of the young person, or for sexual purposes, invites, counsels, or incites a young person to touch, directly or indirectly, with a part of the body or object, the body of any person including the body of the person who invites counsels or incites.

3. Training, Reporting and Responding to Sexual Violence

- 3.1 Herzing College 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, controlling shareholders, 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.
- 3.2 The Sexual Violence Policy shall be published on Herzing College’s website
- 3.3 Herzing College management, instructors, staff, other employees and contractors will report incidents or complaints of sexual violence to Robin Day (Herzing College Sexual Violence Designate, rday@wpg.herzing.ca) upon becoming aware of them
- 3.4 Students who have been affected by sexual violence or who need information about support services should contact Robin Day (rday@wpg.herzing.ca).
- 3.5 Subject to section 4 below, Herzing College 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:
 - (i) 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
 - (ii) ensuring that the documentation is kept in a separate file from that of the Complainant/student or the Respondent.
- 3.6 Herzing College recognizes 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.
- 3.7 Notwithstanding 3.6, in certain circumstances, Herzing College 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.

- 3.8 In all cases, including 3.6 above, Herzing College will appropriately accommodate the needs of its students who are affected by sexual violence. Students seeking accommodation should contact Robin Day (rday@wpg.herzing.ca)

In this regard, Herzing College will assist students who have experienced sexual violence in obtaining counselling and medical care, and provide them with information about sexual violence supports and services available in the community as set out in **Appendix A** attached hereto. Students are not required to file a formal complaint in order to access supports and services.

4. Investigating Reports of Sexual Violence

- 4.1 Under this Sexual Violence Policy, any student of Herzing College may file a report of an incident or a complaint to Robin Day (rday@wpg.herzing.ca) in writing. The other officials, offices or departments that will be involved in the investigation are:

George Hood, Campus President
Frank Cianciaruso, Vice President Operations

*In the event that the complaint is being made against the Campus President or the Vice President, the Campus President and/or Vice President will not be involved in the investigative process as an investigator

- 4.2 Upon receipt of a report of an incident or a complaint of alleged sexual violence being made, Robin Day will notify the Campus President and the Vice President, and promptly:

- 4.2.1 determine whether an investigation should proceed and if the Complainant wishes to participate in an investigation;
- 4.2.2 determine who should conduct the investigation having regard to the seriousness of the allegation and the parties involved;
- 4.2.3 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, Herzing College may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures; and

- 4.2.4 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.

- 4.3 Once an investigation is initiated, the following will occur:

- 4.3.1 the Complainant and the Respondent will be advised that they may ask another person to be present throughout the investigation;
- 4.3.2 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;
- 4.3.3 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;
- 4.3.4 interviewing any person involved or who has, or may have, knowledge of the incident and any identified witnesses;
- 4.3.5 providing reasonable updates to the Complainant and the Respondent about the status of the investigation; and
- 4.3.6 following the investigation, the Herzing College Designate will:
 - 4.3.6.1 review all of the evidence collected during the investigation;
 - 4.3.6.2 determine whether sexual violence occurred; and if so
 - 4.3.6.3 determine what disciplinary action, if any, should be taken as set out in Section 5 below.

5. Disciplinary Measures

- 5.1 If it is determined by Herzing College that the respondent did engage in sexual violence, immediate disciplinary or corrective action will be taken. This may include, but is not limited to:
 - 5.1.1 Disciplinary action up to and including termination of employment of instructors or staff; or
 - 5.1.2 Expulsion of a student; and/or
 - 5.1.3 The placement of certain restrictions on the Respondents ability to access certain premises or facilities; and/or
 - 5.1.4 Any other actions that may be appropriate in the circumstances

6. Appeal

- 6.1 If the Complainant or the Respondent is not satisfied with the decision, he or she may appeal the decision to an appeals board composed of three staff members (3), none of whom are an instructor of the student, two of whom will be appointed by the Campus President, and one selected by the Complainant or Respondent. If the complaint involves

the Campus President, two of the appeal board members will be selected by the Vice President

- 6.2 Any such appeal must be made within thirty (30) days. A request to be heard before the Appeal Board must be in writing to the College President and it must set forth in significant detail the basis for the appeal. An Appeal Board hearing will be held within two weeks from the day the appeal board request was received by the college. The one making the appeal is permitted to have the assistance of a representative in front of the Appeal Board and provide additional evidence to support his/her case. A written decision of the Appeal Board will be provided within seven days from the day of the Appeal Board Hearing or any adjournment thereof.
- 6.3 If not satisfied with the decision of the appeal board, a written appeal may be sent to the Home Office, attention Vice President of Canadian Operations, Frank Cianciaruso (frankc@wpg.herzing.ca) or the College President, Henry Herzing (hherzing@herzing.edu) and the respective officer in the Home Office will attempt to render a decision within seven days issued in writing with reasons for the decision. However any appeal to the Home Office regarding a decision of an Appeals Board may only be based upon an allegation or allegations of improper procedure or prejudice by the Appeal Board and not as to an interpretation and decision relative to the facts of the case.
- 6.4 After following the above procedures, any unresolved dispute or claim (including physical or personal injury, mental anguish, etc., of any kind) by or between a student and Herzing College (or any of the College Employees, officers, directors, or staff) arising from, or pertaining to, enrolment in, and/or participating in, any education program offered by Herzing College shall be resolved by binding arbitration by a single arbitrator mutually appointed by the student and the college. In the event the parties cannot agree on the selection of an arbitrator, one will be selected by the Canadian Arbitration Association. The arbitrator selected will make a final determination binding upon both parties. In the event the student brings the claim for arbitration the student shall pay 50% of the arbitrator's fees unless otherwise determined by the arbitrator.

7. Making False Statements

- 7.1 It is a violation of this Sexual Violence Policy for anyone to knowingly make a false complaint of sexual violence or to provide false information about a complaint.
- 7.2 Individuals who violate this Sexual Violence 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.

8. Reprisal

- 8.1 It is a violation of this Sexual Violence 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.
- 8.2 Individuals who violate the Sexual Violence 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. Review

- 9.1 Herzing College Shall ensure that student input is taken into consideration when developing reviewing and amending the Sexual Violence Policy
- 9.2 Herzing College shall review its Sexual Violence Policy three years after the initial

implementation and amend where appropriate

10. Collection of Student Data

- 10.1 Herzing College shall collect and be prepared to provide upon request by the Superintendent of Private Career Colleges such data and information as required according to Subsections 32.3 (8), (9) and (10) of Schedule 5 of the Private Career Colleges Act, 2005 as amended.

Appendix A:

[Distress Centers of Toronto](#)

When you need to talk or when you need help, we're always here. Providing telephone support, crisis intervention, suicide prevention, and more
Toronto, ON, M5C 2J4
416-408-4357
www.torontodistresscentre.com

[Toronto Rape Crisis Centre/Multicultural Women Against Rape](#)

TRCC/MWAR is a grassroots, women-run collective working towards a violence-free world by providing anti-oppressive, feminist peer support to survivors
Toronto, ON, M5T 2T2
416-597-1171
www.trccmwar.ca

[Assaulted Women's Helpline](#)

The Assaulted Women's Helpline provides a 24-hour crisis line for women. It allows women to reach out for help, assured of their anonymity
Toronto, ON, M5T 2W2
416-863-0511
www.awhl.org

[Scarborough Hospital. Birchmount Campus. Sexual Assault and Domestic Violence Program](#)

3030 Birchmount Rd, Toronto, ON M1W 3W3
416-495-2555
<http://www.tsh.to/areas-of-care/emergency/sexual-assault-and-domestic-violence/>

[Working Women Community Centre - North York East Centre](#)

5 Fairview Mall Drive, Suite 478
Toronto, Ontario
M2J 2Z1
www.workingwomencc.org

[Catholic Family Services of Toronto - North Toronto Office - Phoenix Program, Violence Against Women Services](#)

Newtonbrook Plaza, 5799 Yonge St, Ste 300, Toronto, ON, M2M 3V3
www.cfstoronto.com

[Women's College Hospital](#)

76 Grenville St, Toronto, ON M5S 1B2
Switchboard 416-323-6400 * Patient Inquiry 416-323-6100