

Sexual Violence & Harassment Policy

Sexual Assault and Sexual Violence

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 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 giving consent.

Sexual violence: 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.

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 a mutually agreed upon sexual activity. It is also imperative that everyone understands the following:

1. silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent;
2. a person is incapable of giving consent if they are asleep, unconscious, or otherwise unable to communicate;
3. 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;
4. a person who is drugged is unable to consent;
5. a person is unable to give consent when under the influence of alcohol and/or drugs;
6. a person may be unable to give consent if they have a mental disability preventing them from fully understanding the sexual acts;
7. 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;
8. a person can withdraw consent at any time during the course of a sexual encounter;
9. a person is incapable of giving consent to a person in a position of trust, power or authority, such as a faculty member initiating a relationship with a student who they teach, an administrator in a relationship with anyone who reports to that position;
10. consent cannot be given on behalf of another person.

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: **Consent:** The voluntary agreement to engage in the sexual activity in question. No consent is obtained where:

1. the agreement is expressed by the words or conduct of a person other than the complainant;
2. the complainant is incapable of consenting to the activity;
3. the accused induces the complainant to engage in the activity by abusing a position of trust, power or authority;
4. the complainant expresses, by words or conduct, a lack of agreement to engage in the activity; or
5. 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.

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. Youth 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.

Indecent exposure: The exposure of the private or intimate parts of the body in a lewd manner, when the perpetrator may be readily observed.

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/target or threaten the victim/target's safety or mental health. Stalking can also include threats of harm to the victim/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.

Sexual harassment: Engaging in a course of conduct of a gender-related or sexual nature that is known or might reasonably be known to be unwelcome/unwanted, offensive, intimidating, hostile, or inappropriate. Depending on its severity, one action may constitute sexual harassment.

This may include, but is not limited to: demeaning gestures, remarks and jokes; slurs, taunting, innuendo based on gender or sexual orientation; unwanted physical contact; leering; inappropriate comments about clothing, physical characteristics or activities; unwanted questions or comments about one's private life, sexual orientation, marital or family status; the display of sexually offensive material; solicitation; unwanted attention; implied or expressed promise of reward or benefit in return for sexual favours; implied or expressed threat or act of reprisal if sexual favours are not given; or sexual assault (Criminal Code offense).

Sexual Exploitation: Occurs when a perpetrator takes non-consensual or abusive sexual advantage of another for their own advantage or benefit, or to benefit or advantage anyone other than the one being exploited.

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.

Voyeurism: Observing a person, including by mechanical or electronic means, or making a visual recording of a person who is in circumstances that give rise to a reasonable expectation of privacy.

2. Purpose and Intent of the Policy

All members of the The Rockcliffe Flying Club (1961) Community have a right to work and study in an environment that is free from any form of sexual violence. This Policy and its related Protocol sets out the way in which we address sexual violence. It ensures that those who are affected by sexual violence are believed and appropriately accommodated and ensures that the Rockcliffe Flying Club (1961) has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of sexual violence accountable.

3. Policy Statement

The Rockcliffe Flying Club (1961) is committed to being a safe and positive space where members of the Seneca community feel able to work, learn, and express themselves in an environment free from sexual violence. We endeavor to reduce sexual violence in our community and create a safe space for survivors and those who are affected by sexual violence.

All reported incidents of sexual violence will be investigated and in a manner that ensures due process. It is the intention of the Rockcliffe Flying Club (1961) that individuals feel comfortable about making a report in good faith about sexual violence that they have experienced or witnessed.

The Rockcliff Club (1961) recognizes that sexual violence can occur between individuals regardless of sexual orientation, gender, 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, financial, or other challenges.

The Rockcliffe Flying Club (1961) is committed to:

1. participating with internal and external stakeholders in the creation of a campus atmosphere in which sexual violence is not tolerated;
2. treating individuals who disclose sexual violence with compassion and recognizing them as a decision maker regarding their interests;
3. assisting those who have been affected by sexual violence by providing choices, including detailed information and support, which may include a provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic, work, and other accommodations;
4. ensuring that those who disclose that they have been sexually assaulted have their experiences validated, and that their right to dignity and respect is protected throughout the process of disclosure, investigation, and institutional response;
5. engaging in appropriate procedures for investigation and adjudication of a complaint that ensures fairness and due process;

6. ensuring coordination and communication among the various departments who are most likely to be involved in the response to sexual violence on campus;
7. engaging in public education and prevention activities, which would include appropriate training of the Rockcliffe Flying Club (1961) community about responding to the disclosure of sexual violence; and
8. providing information that may affect the Rockcliffe Flying Club (1961) community about sexual violence on club property.

4. Reporting and Responding to Sexual Violence

1. Any member of the Rockcliffe Flying Club (1961) community who has been subject to sexual violence is encouraged to immediately report such an incident, as set out in Rockcliffe Flying Club (1961) Sexual Assault and Sexual Violence Protocol.
2. Any member of the Rockcliffe Flying Club (1961) community who has witnessed, or who has knowledge of, an incident of sexual violence perpetrated against another member of the Rockcliffe Flying Club (1961) community is encouraged to immediately report such an incident, as set out in Rockcliffe Flying Club (1961) Sexual Assault and Sexual Violence Protocol.
3. Persons in a position of authority at Rockcliffe Flying Club (1961), including but not limited to, all those who supervise others, shall take immediate action to respond to or to prevent sexual violence from occurring.
4. Where Rockcliffe Flying Club (1961) has become aware of an incident of sexual violence, or a threat of sexual violence, Rockcliffe Flying Club (1961) will take all reasonable steps to ensure the safety of the Rockcliffe Flying Club (1961) community. Where an incident of sexual violence or a threat of sexual violence poses a risk to the safety of a member or members of the Rockcliffe Flying Club (1961) community, precautions may include the provision or disclosure of relevant information to an employee, to employees, and/or to others at risk.

5. 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 Rockcliffe Flying Club (1961) community. Rockcliffe Flying Club (1961) 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.

5.1 Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. However, Rockcliffe Flying Club (1961) 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. Rockcliffe Flying Club (1961) may also continue to act when there is a threat to the safety of the Rockcliffe Flying Club (1961) community.

5.2 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:

1. having pursued rights under this Policy or the Ontario Human Rights Code;

2. having participated or co-operated in an investigation under this Policy or the Ontario Human Rights Code; or
3. having been associated with someone who has pursued rights under this Policy or the Ontario Human Rights Code.

Rockcliffe Flying Club (1961) 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 Rockcliffe Flying Club (1961) may also address the potential for reprisals by providing an accommodation appropriate in the circumstances.

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

6. 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 Rockcliffe Flying Club (1961) does its best to respect the confidentiality of all persons, including the complainant, respondent, and witnesses by restricting routine access to information to individuals with a need for such access providing education and training to those who are regularly involved in the administration of reports and complaints.

However, confidentiality cannot be assured in the following circumstances:

1. an individual is at imminent risk of self-harm;
2. an individual is at imminent risk of harming another; and/or
3. there are reasonable grounds to believe that others in the Rockcliffe Flying Club (1961) 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 Rockcliffe Flying Club (1961) becomes aware of an allegation of sexual violence by a member of the Rockcliffe Flying Club (1961) community against another member of the Rockcliffe Flying Club (1961) community, Rockcliffe Flying Club (1961) may also have an obligation to take steps to ensure that the matter is dealt with in order to comply with Rockcliffe Flying Club (1961) legal obligation and/or its policies to investigate such allegations. In such cases, certain Rockcliffe Flying Club (1961) 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.