

<b>Policy Title:</b>	<b>SEXUAL VIOLENCE PREVENTION AND REPORTING POLICY</b>	<b>Area of Responsibility:</b> <b>VICE PRESIDENT, HUMAN RESOURCES, SAFETY, SECURITY &amp; FACILITIES MANAGEMENT</b>
<b>Policy Section:</b>	<b>EMERGENCY RESPONSE AND HEALTH &amp; SAFETY</b>	<b>Policy No: 3.34</b>
<b>Effective Date:</b>	<b>2023 06 22</b>	<b>Page: 1 of 16</b>
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<b>Mandatory Review Date:</b>	<b>2028 06 20</b>	

### 3.34 Policy and Procedure

#### 1. Purpose

St. Clair College is committed to preventing and addressing all forms of Sexual Violence. All members of the St. Clair College community have a right to work and study in an environment that is free from any form of Sexual Violence.

The primary purpose of this policy and procedure is to ensure that those affected by Sexual Violence are supported and accommodated and to set out the way in which the College responds to and addresses Sexual Violence. It also ensures that the College has a process of investigation that protects the rights of individuals and holds individuals who have committed an act of Sexual Violence accountable.

#### 2. Policy Statement

St. Clair College is committed to challenging and preventing Sexual Violence and creating a safe space for anyone in our College community who has been affected by Sexual Violence. The College is expected to be a safe and positive space where members of the College community feel able to work, learn and express themselves in an environment free from Sexual Violence. All formal reports of Sexual Violence will be investigated to the best of the administration's ability and in a manner that ensures due process. It is this policy's intention to make individuals feel comfortable about making a report in good faith about Sexual Violence that they have experienced or witnessed. We recognize that Sexual Violence can occur between individuals regardless of sexual orientation, gender, and 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 or other difficulties.

We are committed to:

- **Support:** inclusive trauma-informed and culturally inclusive response and support from trained counselors, therapist, and SVP team; assisting those who have been affected by Sexual Violence by providing choices, including detailed information and support, such as provision of and/or referral to counselling and medical care, information about legal options, and appropriate academic and other accommodation.
- **Listen:** ensuring that those who disclose that they have been subject to Sexual Violence are supported, and that their right to dignity and respect is protected throughout the process of disclosure, investigation and institutional response.
- **Compassion:** treating individuals who disclose Sexual Violence with compassion recognizing that they are the final decision-makers about their own best interests.
- **Safety:** the College will take every reasonable step to protect the safety and security of all parties who have been affected by Sexual Violence.
- **Response:** ensuring that supports and resources are readily available to those impacted by Sexual Violence, that procedures are in place for both informal and formal reporting of Sexual Violence incidents, and that appropriate procedures for investigation and adjudication of a complaint are in place, which are in accordance with College policies, standards, and applicable collective agreements, and that ensure fairness and due process.
- **Education and Training:** addressing harmful attitudes and behaviours (e.g. adhering to myths of Sexual Violence that reinforce that the person who experienced Sexual Violence is somehow to blame for what happened); ensuring coordination and communication among the various departments who are most likely to be involved in the response to Sexual Violence on campus; engaging in public education and prevention activities; providing information to the College community about our Sexual Violence Prevention and Reporting Policy; providing appropriate education and training to the College community about responding to the disclosure of Sexual Violence.
- **Culture:** contributing to the creation of a campus atmosphere in which Sexual Violence is not tolerated.
- **Continuous Improvement:** monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

### **3. Application and Scope**

This policy applies to all members of the St. Clair College Community who have experienced, been affected by, witnessed, been made aware of, or are alleged to have committed an act of Sexual Violence. It also applies to external organizations that lease College space, operate on College property, or are directly connected to any College initiatives.

This policy does **not** apply to students who have experienced, been affected by, witnessed or been made aware of an act of Sexual Misconduct, as defined in the **Sexual Misconduct Policy**, where such act has been committed by an employee of the College. For clarity, a student who has experienced Sexual Misconduct by an employee of the College, shall proceed in accordance with the 5.27 Sexual Misconduct Policy.

The College will respond to all incidents of Sexual Violence involving members of the College Community, which includes any member of the College Board of Governors, students,

administrators, faculty members, support staff, contract workers and agents. This includes behaviour that occurs on or off College property, and behaviour observed or carried out through an electronic, online or social media platform, or by using text, audio, video or images. Persons who feel they have been in contact with someone whose intention was or may have been to sexually exploit them can obtain counselling support and use this policy as a resource for addressing what has happened to them. Typically, grooming someone for sexual exploitation begins with activities that may have started as consensual, but eventually the victim finds themselves in a situation that is threatening or otherwise difficult to get out of. Someone who has been groomed and/or exploited should not hesitate to come forward because they feel they are to blame. Similarly, they should not conclude that they have nothing to report if they were able to evade complete entrapment.

Persons who have experienced acts of Sexual Violence prior to becoming a part of the St. Clair College community are able to access all supports including counseling, accommodations, safety planning, etc. The policy and procedure described here, however, may not be relevant in such circumstances.

#### **4. Definitions**

**“Appellant”** is the term used in this policy to describe a student who appeals a decision made under this policy.

**“Complainant”** is the term used in this policy to refer to an individual who has experienced Sexual Violence. The individual may choose to identify or be more familiar with the term “victim” or “survivor”. The term “Complainant” will be used throughout this policy.

**“Respondent(s)”** is the term used in this policy to describe any person(s) alleged to have committed an act of Sexual Violence.

**“Sexual Misconduct”** is governed by the Sexual Misconduct Policy and relates to conduct that an employee directs toward a student. (Clarity note: Where the conduct pertains to a student toward an employee, it falls under the scope of the Code of Student Rights and Responsibilities and/or the Respectful Work and Educational Place Policy.) Sexual Misconduct is defined as follows:

- Physical sexual relations with a 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*, or
- Any conduct by an employee of the institution that infringes the right of the student under clause 7(3)(b) of the *Human Rights Code* to be free from reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

**“Sexual Violence”** is any type of unwanted sexual act done by one person to another that violates the sexual integrity of the victim, but does not include Sexual Misconduct. It includes:

- Intentionally applying force, directly or indirectly, to another person without that person’s consent.
- Attempting or threatening by an act or gesture, to apply force to another person.
- Exercising control over another person without that person’s consent such that the person feels uncomfortable, distressed, frightened or threatened or is carried out in circumstances in which the person has not freely consented or is incapable of consenting to sexual activity.
- Targeting a person’s sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, which is committed, threatened or attempted against a person without the person’s consent and includes applying force of a sexual nature, stalking, indecent exposure, voyeurism and sexual exploitation.
- Unreasonable and persistent pressure for sexual activity including 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.
- Behaviour that instills fear in another person or threatens the person’s safety or mental health. This may also include a threat of harm to the 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.

**“Consent”** is the voluntary agreement of an individual to engage in the particular sexual activity in question and is subject to the following:

- Consent can be communicated by words, conduct or a combination of both.
- The definition of consent does not vary based on a person’s sex, sexual orientation, gender identity or gender expression.
- Consent cannot be expressed by the words or actions of anyone other than the person participating in the sexual activity.
- Consent can be withdrawn at any time during sexual activity.
- Consent does not exist when a person is incapable of consenting to the activity, or is persuaded to engage in sexual activity by an individual abusing a position of trust, power or authority.
- It is the responsibility of the initiator of sexual activity to ensure clear and affirmative responses are communicated by words or conduct, at all stages of sexual engagement.
- It is the initiator’s responsibility to know if the person they are engaging with sexually has reached the age of consent for sexual activity.
- Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.
- A person who is asleep, unconscious, or otherwise unable to communicate, impaired by alcohol and/or drugs, or incapable of fully understanding the sexual acts cannot give consent.
- A person who engages in sexual activity due to emotional manipulation, threats, blackmail, or other forms of pressure is not giving consent.
- Consent to sexual activity cannot be assumed on the basis of consent given in the past to a sexual activity or relationship.

**“Honest and Reasonable but Mistaken Belief”** is consistent with the legal doctrine that a person will not be found to have committed an act of misconduct that required the consent of the Complainant, if that person can establish on the balance of probabilities, that there was an honest and reasonable but mistaken belief by the Respondent that the Complainant was consenting to the activity in question. A person cannot rely on a mistaken belief the Complainant was consenting if:

- That belief is based on the Respondent’s own intoxication; or
- The Respondent was reckless about whether the Complainant was consenting; or
- The Respondent chose to ignore things that would indicate a lack of consent; or
- The Respondent failed to take proper steps to check if there was consent.

**"Informal Report"** is the act of sharing information in order to receive support and services and/or to learn about options for formally reporting an incident of sexual misconduct. An individual who has been affected may disclose information about the incident(s) to a trusted member of the College Community who can help them access supports and services. Alternatively, they can reach out to the Sexual Violence Lead (SV Lead - see Resources), to discuss options on reporting and supports.

College employees who receive disclosures are obligated to report the incident to the SV Lead or College Resolution Officer, however, will not identify the Complainant without consent. This reporting is required to assess risk and to enable the College to comply with Section 7.4 of Ontario Regulation 131/16, Sexual Violence at Colleges and Universities, under the *Ministry of Training, Colleges and Universities Act*, which requires reporting to the Minister of "The number of incidents and complaints of sexual violence *reported by students, and information about such incidents and complaints.*" Names and personal information are NOT included in these reports. The Vice President, Human Resources, Safety, Security and Facilities Management, shall be responsible for reporting to the Ministry as indicated in accordance with the timelines and requirements as directed by the said Ministry.

If the Sexual Violence Prevention (SVP) Lead and College Resolution Officer (or designate) believes there to be a risk to the safety of the Complainant and/or the College Community, the College will request a formal investigation and, where appropriate, notify the police. The Complainant has the right to choose not to participate in any investigation arising from an Informal Report. The SVP Lead and College Resolution Officer will use the following conditions as a guide to determine the risk:

1. An individual is at imminent risk of self-harm;
2. An individual is at imminent risk of harming another person; or
3. There are reasonable grounds to believe that others in the College or wider community may be at risk of harm (i.e., more than one report identifying the same individual)

It is important to note that unless the Complainant moves to a formal report or the College deems there to be a risk to the safety of the Complainant or College Community, the College will not investigate the informal report. Supports and services, however, will always be offered.

**"Formal College Report"** is a written allegation of a violation of this policy made by a Complainant and is provided to the Associate Vice President, Safety, Security and Facilities Management, or to the College Resolution Officer, in order to initiate an investigation. A formal report must be completed for the College to initiate an investigation into the allegation. This type of report may not be made anonymously, although the College has discretion to investigate any allegation brought to their attention. The College is obligated to inform Respondents of allegations made against them. Making a Formal College Report does not prevent the Complainant from also reporting the incident to police. A Formal College Report shall be on the form prescribed by this policy and shall include the items listed below. The Complainant can write the report themselves or request for the assistance of a scribe to take notes as they verbally outline the incident. The Complainant is required to sign the Complaint form (and the scribe's notes where a scribe is utilized) to indicate that the contents of the Complaint form and the scribe's notes have been reviewed by the Complainant and are an accurate statement of the facts of the incident. The Complaint form must include the following:

- Chronological statement of facts by the Complainant;
- Contact information of the Complainant and witnesses; and
- Any available documentary evidence, including but not limited to, emails, text messages, pictures, notes, and social media posts.

**"Formal Police Report"** refers to the process of reporting a crime (e.g., sexual assault, criminal harassment) to the police who will conduct an investigation that may result in criminal charges. This type of report cannot be made anonymously. Security Services cannot report to police on behalf of the Complainant, but will offer to assist the individual in doing so.

**"Third Party Report"** is the act of sharing information regarding an incident of Sexual Violence, whether it was something witnessed, shared or disclosed to them, with any member of the College Community. Those making Third Party reports will not identify the Complainant without consent. Members of the College Community who wish to make a Third Party Report can do so in person, by phone, or by emailing Security Services, the SVP Lead or the College Resolution Officer.

**"Interim Measures"** are restrictions placed on an individual's rights and privileges in order to ensure the safety of the College Community and provide time for the College to determine its response and/or conduct an investigation. The College may impose interim measures immediately, prior to a full investigation. Examples of such measures include, but are not limited to:

- Restricting access to certain parts of campus and/or restricting class attendance,
- Communication ban issued to both parties,
- Developing and supporting a Safety Plan,
- Changing of program sections,
- Temporary Removal from Residence,
- Interim Suspension for the Respondent (maximum of 2 school days to separate parties and put supportive measures in place)

**"Procedural Fairness"** is achieved by informing Respondents of all allegations and evidence against them, and by giving them reasonable notice of the time, place and nature of the meeting where they can respond to the allegations. It also involves providing Complainants and Respondents with information about the College's investigation and decision-making processes and ensuring that outcomes are determined by an impartial decision maker.

**"Confidentiality"** is the term used in this policy to refer to the College's responsibility and obligation to ensure that any private and personal information provided in a disclosure, report and/or investigation of Sexual Violence is collected, used, maintained and secured appropriately. The College will make every effort to maintain confidentiality of all persons involved in a disclosure or report of Sexual Violence, including the Complainant, Respondent and witnesses. All persons participating in the process are required to maintain confidentiality with respect to information provided in the course of the disclosure, reporting, assessment and/or investigation of an incident of Sexual Violence.

**"Accommodation"** is the provision of individualized support or alternative means of fulfilling academic or employment responsibilities for all parties involved in the Complaint. The arrangement of accommodations recognizes the experience of the parties and how that may affect participation in academics or workplace duties. Students who are impacted will work with a Student Services counsellor to create a formal accommodation plan. Staff who are impacted, will work with an appropriate Administrator and Human Resources to create an accommodation plan.

**"Terms of Reference"** refers to the purpose and structure of the initial investigative process or appeal process, and includes but is not limited to, the objectives of the process, the role of all participants, how those objectives are to be achieved, the structure, and schedule of the process. In recognition of the uniqueness of each incident that may be the subject of this policy, the Terms of Reference for each investigation or appeal shall be flexible and unique and will be customized accordingly.

## **5.0 Reporting and Responding to Sexual Violence**

All members of the College Community who have been affected by Sexual Violence are encouraged to disclose their experience to a trusted member of the College Community, the SVP Lead or the College Resolution Officer as soon as they are able to do so. Individuals are not required to complete a formal complaint report in order to receive supports, services or accommodations.

**Amnesty from College Sanctions:** The College recognizes that some individuals may be hesitant to disclose or report Sexual Violence that occurred in situations where they were drinking while underage or using illegal drugs. A Complainant or other members of the College Community who discloses or reports Sexual Violence will not be subject to College sanctions for violations of College policies related to their use of alcohol and/or illegal drugs at the time of the incident.

**Anonymous Reports:** Individuals who experience Sexual Violence may choose to disclose to College staff anonymously (i.e., without providing their name or personal information). The College will provide individuals who make anonymous disclosures with information on supports, services, accommodations, interim safety measures, and other available options.

### **5.1 Obligation to Report:**

College employees, governors, volunteers, appointees, suppliers, contractors, etc. who witness or have knowledge of Sexual Violence have an obligation to make a Third-Party Report immediately. All members of the College Community can make these reports in person, by phone, or by emailing Security Services, the SVP Lead or the College Resolution Officer.

### **5.2 Overall Safety:**

Where the College becomes aware of an incident of Sexual Violence by a member of the College community or against a member of the College community, which occurs on or off College property and that pose a risk to the safety of members of the College community, the College shall take all reasonable steps to ensure the ongoing and future safety of the College community.

### **5.3 Right to Withdraw a Report**

A complainant has the right to withdraw a complaint at any stage of the process. However, the College 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 and to ensure ongoing and future safety of the College community.

### **5.4 Protection from Reprisals, Retaliation or Threats**

It is a violation of this Policy for anyone to retaliate, engage in reprisals or threaten to retaliate against a complainant or other individual for:

- Having pursued rights under this Policy;
- Having participated or co-operated in an investigation under this Policy; or
- Having been associated with someone who has pursued rights under this Policy.

The College will take all 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 breach of this duty. The College may also address the potential for reprisals by providing an accommodation appropriate in the circumstances.

### **5.5 Unsubstantiated Complaints**

If a person, in good faith, discloses or files a Sexual Violence complaint that is not supported by evidence gathered during an investigation, the complaint will be dismissed. Records associated with the investigation and the results of the investigation will be kept on file as appropriate. Parties involved may still access and/or inquire further about support services.



## **5.6 Frivolous, Vexatious or Bad Faith Reports**

Reports that are found to be frivolous, vexatious, or bad faith complaints, that are made purposely to annoy, embarrass or harm the Respondent, may result in sanctions and/or discipline against the Complainant.

## **5.7 Limits of Confidentiality**

The College will restrict access to all information provided in the disclosure and processes related to a report and investigation of an incident of Sexual Violence to individuals with a legitimate need for such access and will provide education and training to those who are regularly involved in receiving disclosures and the administration of reports.

Confidentiality cannot be assured in circumstances where:

- The College determines that a risk to an individual or the College Community exists;
- A Formal Report has been made under this policy and the Respondent must be informed of the details of the Report as part of the investigation and in keeping with procedural fairness; and/or
- Reporting is required by law.

In such circumstances, only such information as is necessary will be released.

Where the College becomes aware of an allegation of Sexual Violence by a member of the College Community against another member of the College community, the College may also have an obligation to take steps to ensure that the matter is dealt with in order to comply with the College's legal obligation and/or its policies to investigate such allegations. In such cases, certain College 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.

## **5.8 English as a Second Language**

Any person involved in this process as party or witness, for whom English is a second language, may communicate in their native language for any purpose provided for in this policy, including providing written evidence, argument or in person interviews. In the case of written submissions, the College shall have all documentation submitted officially translated into English at the College's expense. In the case of verbal communications, the College shall retain an official translator, at the College's expense, to translate the conversation from the person's native language to English and from English to the person's native language.

Where the Complainant or Respondent has elected to communicate in their native language, the written decision following the initial investigation or any decision on appeal, shall be officially translated by the College into the party's native language, at the College's expense, prior to forwarding the decision to the respective party.

### **5.9 Formal Complaint Process, Investigation and Adjudication**

Once a Formal College Report, as defined by this policy, is filed by the Complainant, it shall be forwarded forthwith to the Vice President, Human Resources, Safety, Security and Facilities Management who shall review the Report, and within five (5) business days, retain an external Investigator with expertise in investigating cases of Sexual Violence to investigate the Report. Where the Complainant and Respondent are both employees of the College, the Report will be processed in accordance with the Respectful Workplace and Educational Place Policy.

The Respondent will be notified in writing of the investigation by the Vice President, Human Resources, Safety, Security and Facilities Management and will be given a reasonable period of time to submit a written response to the Report. The notification to the Respondent will include:

- A copy of the Report, which may be redacted as needed, and copies of any relevant documents submitted with the Report, which also may be redacted as needed;
- An outline of any interim measures implemented;
- An indication that the Respondent has the right to remain silent and not participate in the investigation; however, the investigation of the allegations in the Report will proceed in the absence of the Respondent's participation or response, and a decision will be made based on the information and evidence gathered by the Investigator conducting the investigation; and
- Information regarding available support services.

The Investigator will conduct an investigation, which will generally include the following:

- Receipt and review of the Report and the written response from the Respondent;
- Interviews of the Complainant, the Respondent and any witnesses;
- Preparation of a written summary of information obtained through interviews;
- Receipt and review of any additional documentation determined to be relevant to the investigation;
- Preparation of a written investigation report to be submitted to the College Resolution Officer setting out the Investigator's factual findings and a determination of whether the allegations of Sexual Violence set out in the Report have been established, based on a balance of probabilities.

The Investigator will have regard to the following general principles and guidelines in conducting the Investigation:

- The investigation shall be completed in a confidential manner and will adhere to the principles of procedural fairness.
- Within five (5) business days of receiving the Formal College Report, the College Resolution Officer and/or Investigator shall notify the Complainant and Respondent that the Investigator has been appointed to investigate the Report and will outline the general investigative steps of the investigation.
- The Complainant and the Respondent may have legal counsel (at their cost) or a support person present during their interview.

- The Investigator conducting the interview may provide a copy of their interview notes to the Complainant and the Respondent (separately) for their review to ensure the accuracy of the information obtained during the interview.
- The onus shall be on the Complainant to prove the allegations of misconduct on the balance of probabilities.
- The Investigator shall complete the investigation and issue an investigation report to the College Resolution Officer no later than thirty-five (35) business days from receiving the Formal College Report. In extenuating circumstances, this time period can be extended. In such circumstances, the Investigator shall advise the Vice President, Human Resources, Safety, Security and Facilities Management of the reason for the extension.

**Upon Receipt of Investigative Report:**

The College Resolution Officer shall provide the Vice President, Human Resources, Safety, Security and Facilities Management with a copy of the investigative report. The Vice President, Human Resources, Safety, Security and Facilities Management shall then:

- (a) Determine that there has been no finding(s) of Sexual Violence; or
- (b) Determine that there is insufficient or a lack of credible evidence to substantiate that the Sexual Violence occurred; or
- (c) Determine that there has been a finding(s) of Sexual Violence.

This analysis shall be assessed on a balance of probabilities (i.e. it is more likely than not that Sexual Violence occurred) and shall be completed within five (5) business days. The Vice President, Human Resources, Safety, Security and Facilities Management shall then direct the College Resolution Officer to provide the parties with the findings of the investigation in writing within forthwith.

**Sexual Violence Sanctions:**

Upon finding that the Respondent has engaged in Sexual Violence, the College Resolution Officer may impose one or more of the following sanctions:

- Behavioural Contract
- Probation
- Exclusion
- Suspension
- Full Suspension
- Dismissal

Before imposing a sanction, the College Resolution Officer may provide the Complainant and the Respondent an opportunity to provide written submissions regarding an appropriate sanction.

The College Resolution Officer shall consider the following when imposing a sanction:

- The Complainant's and the Respondent's submissions, if provided;
- The nature and severity of the Sexual Violence;

- Any relevant aggravating or mitigating facts identified by the Investigator;
- The Respondent's disciplinary record, if any, and the principle of progressive discipline;
- Any prior cases involving Sexual Violence and any sanctions imposed.

## **5.10 Appeal**

### **Requesting Permission to Appeal**

Where the Complainant or the Respondent is a student, they may request an appeal of any finding made by the Investigator and/or any sanction imposed, by requesting permission in writing, addressed to the Vice President, Human Resources, Safety, Security and Facilities Management, within five (5) business days of receiving the written notice of the investigative findings.

The Vice President, Human Resources, Safety, Security and Facilities Management shall grant permission to appeal if the Appellant can establish, on the balance of probabilities, at least one of the following grounds:

- There is new information that is likely to change the outcome; or
- There is evidence of a procedural error or bias in the process; or
- The sanction imposed is not consistent with the finding of misconduct.

If the request for permission is denied by the Vice President, Human Resources, Safety, Security and Facilities Management, there is no further right of appeal and the matter shall be considered as concluded.

### **Appeal Panel**

If the request for permission is approved by the Vice President, Human Resources, Safety, Security and Facilities Management, the matter, including the entire record of the evidence and the report of the external agency or person, shall be forwarded to an Appeal Panel, for the purposes of conducting an appeal of the original decision.

The Appeal Panel shall consist of three (3) College Administrators appointed by the President. The President may appoint herself/himself to the Appeal Panel. The Appeal Panel shall select one person to act as the Chair of the Appeal Panel. The Appeal Panel may, in its discretion, retain external legal counsel for the purpose of providing legal counsel and assistance to the Appeal Panel.

In recognition of the potential uniqueness of each situation, the Appeal Panel shall have full discretion to establish an appeal process and timeline for each appeal. Appeal proceedings shall be conducted in accordance with the principles of procedural fairness. The Respondent to the appeal will be provided an opportunity to provide a written response to the appeal.

Appeal hearings will generally be conducted in writing. An oral hearing will proceed only in exceptional circumstances, and after the Appeal Panel has conducted a preliminary assessment of the written materials and has determined that an oral hearing is appropriate. If the Appeal Panel proceeds with an oral hearing, both the Appellant and the Respondent shall have the right to

appear before the Appeal Panel to make oral submissions and call relevant evidence, as the Appeal Panel may consider appropriate. The Appeal Panel may utilize alternative methods of conducting an appeal hearing to avoid traumatization of any party. Appeal Panel hearings shall be closed and not open to the public due to the confidential nature of the issues and the impact on the participants.

The Appeal Panel will determine if, on the balance of probabilities, the original decision should be revised based on the following considerations:

- Was the original investigation fair and unbiased?
- Were material mistakes made in the investigation that require correction?
- Were findings made by the Investigator reasonable and supported by the evidence?
- Was College policy correctly applied to the findings that were made and the sanctions that were imposed?
- Has any new evidence been presented that could impact the outcome of the investigation?

The Appeal Panel will consider all information, documents, evidence and submissions provided in the appeal proceedings.

The Appeal Panel issue a written appeal decision within a reasonable time period. Copies of the appeal decision will be provided to the Complainant and the Respondent.

The decision of the Appeal Panel shall be final and there is no further right of appeal.

## **6.0 Administration**

### **6.1 Information Storage and Security**

The College Resolution Officer will collect, maintain and secure all pertinent information gathered through Informal, Formal and Third Party Reports and subsequent investigations. Information will remain confidential. Aggregate data about the numbers of reports received annually will be shared as per section 6.2 of this policy.

### **6.2 Annual Reports**

The SVP lead, in partnership with the College Resolution Officer, Student Services and Campus Security, will be responsible for collecting and summarizing for the Ontario Government, "such data and information related to the following as may be requested by the Minister, in the manner and form directed by the Minister" and providing an annual report to the College's Board of Governors, as required by Section 17 of the Ministry of Training, Colleges and Universities Act (MTCU Act):

- The number of times supports, services and accommodation relating to Sexual Violence are requested and obtained by students enrolled at [the College], and information about the supports, services and accommodation; and
- The number of incidents and reports of Sexual Violence reported or disclosed to the College, and information about such incidents and reports; and

- The implementation and effectiveness of the Policy. 2016, c. 2, Sched. 3, s. 1."

### **7.0 Resources**

The Sexual Violence Policy, reporting information and internal and external supports shall be posted on the College website, [www.stclaircollege.ca/svp](http://www.stclaircollege.ca/svp) as a resource for students to access information on Sexual Violence.

### **8.0 Resources**

- Ministry of Training, Colleges and Universities Act - Ontario Regulation 131/16
- Policy 3.1 Health and Safety Policy
- Policy 7.1 Code of Student Rights and Responsibilities
- Policy 5.15 Respectful Work and Education Place Policy
- Policy 3.17 Workplace Violence Prevention and Reporting Policy
- Policy 5.27 Sexual Misconduct Policy
- Residence Community Living Standards



**SEXUAL VIOLENCE  
FORMAL COLLEGE  
REPORT**

COMPLAINANT

*(Please check one)*

<input type="checkbox"/>	Student	<input type="checkbox"/>	Administrator	<input type="checkbox"/>	Faculty Member	<input type="checkbox"/>	Support Staff	<input type="checkbox"/>	Other
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Complainant Name:	
Student Number:	
Email Address:	
Phone Number:	

DESCRIPTION OF COMPLAINT

Respondent Name: (if known)	
Program Name: (if known)	
Email Address: (if known)	
Phone Number: (if known)	
Date of Incident:	
Location of Incident:	
Reported to: (if previously reported)	
Date of Report: (if previously reported)	

Respondent is:

*(Please check one)*

<input type="checkbox"/>	Student	<input type="checkbox"/>	Administrator	<input type="checkbox"/>	Faculty Member	<input type="checkbox"/>	Support Staff	<input type="checkbox"/>	Other
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Witnesses to the events of this Complaint:

Witness Name:		Contact Information:	
Witness Name:		Contact Information:	
Witness Name:		Contact Information:	

*Add additional rows if required*

Please attach the following to this document:

1. In your own words please attach a chronological statement of the details of your complaint. Please be as specific as possible. If English is a second language you may provide a statement in your native language.
2. Please attach copies of any documentary evidence you may have, including copies of police reports, security reports, relevant emails, text messages or other social media posts.
3. Please attach any other evidence in your possession that may assist in the investigation.

*This document and any attachments that you provide will be held in confidence by St. Clair College and will be provided to others only in accordance with the terms and conditions set out in Policy 3.34 Sexual Violence Policy, which includes providing them to the Respondent in redacted format, meaning contact information of the Complainant and the names of witnesses and their contact information shall be redacted. Anonymous complaints are not permitted. The Respondent shall be advised of the Complainant's name.*

*Information gathered as a result of this investigation may be required to be disclosed under the Ontario Human Rights Code or other legal proceedings.*

**Your signature confirms that you have been made aware of and give permission for the above use of this information.**

I hereby declare that the information on this form is true, correct and complete to the best of my knowledge.

\_\_\_\_\_

*Complainant Signature*

\_\_\_\_\_

*Date*

This document and attachments should be submitted to either Security Services, or the Associate Vice President, Safety, Security and Facilities Management, or the College Resolution Officer (see contact information at [www.stclaircollege.ca/svp](http://www.stclaircollege.ca/svp)).

**OFFICE USE ONLY:**

Received by: \_\_\_\_\_

Date: \_\_\_\_\_

Copied to: \_\_\_\_\_

Date: \_\_\_\_\_

Name of Investigator: \_\_\_\_\_

Date copied to Investigator: \_\_\_\_\_