

Policy: Sexual Assault, Harassment and Sexual Violence Policy

Policy Holder: Controller /Human resources

Review Date: October 15,2020

Sexual Harassment Policy

Policy Intent

Maurice Fiorio Beauty Academy is committed to the elimination of sexual assault and sexual violence to all members of the diverse Maurice Fiorio Beauty Academy community. In particular, Maurice Fiorio Beauty Academy is committed to supporting those affected by sexual assault and sexual violence.

- Provides general definitions for sexual harassment and related retaliation;
- Bans and prohibits sexual harassment and related retaliation; and
- Sets forth procedures for employees to follow when they feel a policy violation has occurred.

All members of the Maurice Fiorio Beauty Academy community have a right to study, work and live in an environment that is free from any form of sexual assault and sexual violence. This policy and related procedures set out the manner in which the Maurice Fiorio Beauty Academy addresses sexual assault and sexual violence. The Maurice Fiorio Beauty Academy has a process of investigation that protects the rights of both the complainant and the respondent/s.

It is also a violation Maurice Fiorio Beauty Academy Sexual Harassment Policy for anyone to knowingly make a false complaint of sexual harassment or to provide false information about a complaint. Individuals who violate this Policy are subject to disciplinary and/or corrective action.

Scope:

This Policy applies to all members of the Maurice Fiorio Beauty Academy community including: all students, employees, governors, contractors, suppliers of services, individuals who are connected to any Maurice Fiorio Beauty Academy initiatives, volunteers, and visitors.

Whereas, anyone can be the target or perpetrator of sexual assault and sexual violence, Maurice Fiorio Beauty Academy recognizes that:

1. Women and girls, including Trans women and girls, indigenous women, racialized women, women with disabilities, young and senior women are much more likely to be the targets and survivors of sexual assault and sexual violence;
2. The impact of sexual assault and sexual violence is experienced differently by different survivors based on their identities and lived experiences; and
3. Males are also targets and survivors of sexual violence.

Definitions

1. **Appropriate Authority** – Any delegated employee who has the authority to make final decisions regarding employees, harassment claims, and resulting actions. At Fiorio, the Appropriate Authority is **Loredana Litoiu**.

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. Sexual violence is about power and control, not about sexual desire.

Anyone, regardless of race, age, disability, gender identity, gender expression, or sexual orientation can experience and be affected by sexual violence. Sexual violence impacts the well-being of individuals and communities.

Sexual assault: Sexual assault is a form of sexual violence and is 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 person that it is done to and involves a range of behaviours from any unwanted touching to penetration.

Sexual harassment: Sexual Harassment is a form of sexual violence prohibited by the *Ontario Human Rights Code* (Code). Sexual harassment is defined as a course of vexatious comment or conduct based on an individual's sex and/or gender that is known or ought to be known as unwelcome. Under *Ontario's Occupational Health and Safety Act* (OHS), workplace harassment has been expanded to include sexual harassment:

- Engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity (including transgender) or gender expression, where the course of comments or conduct is known or ought reasonably to be known to be unwelcome, or
- 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 worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Gender-based harassment is a subset of sexual harassment and prohibited by the Code. It refers to behaviours that regulate and reinforce traditional heterosexual gender norms.

Sexual harassment includes, but is not limited to the following:

- Any deliberate and unsolicited sexual comment, the use of overt sexual language, suggestion or physical contact that creates an uncomfortable learning/working environment for the recipient and is made by a person who knows or ought reasonably to know that such action is unwelcome;
- A sexual advance or solicitation made by a person to another, where the person making the advance or solicitation knows or ought reasonably to know that it is unwelcome;

- A reprisal or threat of reprisal for the rejection of a sexual solicitation or advance where the reprisal or threat is made by a person in a position to confer, grant or deny a benefit or advancement to the other person;
- Unwelcome remarks, jokes, sexual innuendoes or taunting about a person's body, attire, sex, personal or social life;
- Practical jokes of a sexual nature which cause awkwardness or embarrassment;
- Display and/or distribution of pornographic pictures or other offensive material of a sexual nature, including audio or visual images of an individual through technological devices, equipment and services provided by Maurice Fiorio Beauty Academy or other service providers;
- Unwanted and unnecessary physical contact such as touching, patting or pinching;
- Expressions of gender bias which may include remarks that are discriminatory, degrading or derogatory and create a poisoned work environment;
- Requests for sexual favours; and/or
- Sexual assault.

Please note that the behaviours and actions described above are not an exhaustive list of examples of sexual harassment.

Consent: Consent is the voluntary agreement of an individual 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 individual;
2. the individual is incapable of consenting to the activity;
3. the accused induces the individual to engage in the activity by abusing a position of trust, power or authority;
4. the individual expresses, by words or conduct, a lack of agreement to engage in the activity; or
5. the individual, having consented to engage in sexual activity, expresses, by words or conduct, a lack of agreement to continue to engage in the activity.

Considerations related to consent:

- should never be assumed or implied
- is not silence or the absence of "no"
- cannot be given when someone is incapable of consenting (by virtue of intoxication, being asleep or being unconscious, for example)
- can never be obtained through threats or coercion
- can be withdrawn at any time
- cannot be given if the perpetrator abuses a position of trust, power or authority
- cannot be given by anyone other than the person participating in the sexual activity.

Acquaintance sexual assault: Acquaintance sexual assault is a form of sexual violence that includes forced, manipulated, or coerced sexual contact by a friend or acquaintance.

Intimate partner sexual violence: Intimate partner sexual violence is a form of sexual violence that includes sexual assault within an intimate relationship. It includes not only marital rape, but all other forms of sexual assault that take place within a current or former intimate relationship, whether the partners are married or not.

Age of consent for sexual activity: Age of consent for sexual activity in Canada indicates that a person can legally consent to sexual activity at the age of 16 years. Children under 12 can never legally consent to sexual acts. There are variations on the age of consent for adolescents who are close in age between the ages of 12 and 16. Children between 12 and 13 years of age can consent to non-exploitative sex with other youth who are less than 2 years older than themselves. Youth who are 14 and 15 years old may consent to non-exploitative sexual activity that is mutual with a person, who is less than 5 years older than them. Youths 16 and 17 years old may legally consent to sexual acts with someone who is not in a position of trust or authority.

Note: Non-exploitative activity is defined as sexual activity that does not involve prostitution, trafficking or pornography, and where there is no relationship of power, authority or dependency between the persons involved.

Coercion: Coercion is the use of emotional manipulation, pressure, blackmail, or threats, or the promise of rewards or special treatment, to persuade someone to engage in sexual acts.

Rape: This policy uses the term sexual assault to align with the current language used in the *Criminal Code*. The term "sexual assault" provides a much broader definition and criminalizes unwanted behaviours, such as touching and kissing, as well as, unwanted oral sex and vaginal and anal intercourse. Although the term rape no longer has legal meaning in Canada, it is still commonly used.

Stalking: Stalking is a form of sexual violence prohibited by the *Criminal Code* of Canada. It involves behaviours that occur on more than one occasion and which collectively instill fear or threaten one's safety or mental health. Stalking can also include threats of harm to an individual's friends and/or family. These behaviours include non-consensual communications (face to face, phone, email, social media); threatening or obscene gestures or language; surveillance; sending unsolicited gifts; cyber-stalking; and uttering threats.

Survivor: Some persons who have experienced sexual assault and sexual violence may choose to identify as a survivor. Individuals may be more familiar with the term "victim". Maurice Fiorio Beauty Academy uses 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.

Policy:

1. Policy Statement

All forms of sexual violence are unacceptable and will not be tolerated at Maurice Fiorio Beauty Academy. Maurice Fiorio Beauty Academy is committed to challenging and preventing sexual assault and sexual violence. The Maurice Fiorio Beauty Academy is committed to creating a safe learning, working and living environment for everyone in the Maurice Fiorio Beauty Academy community.

This policy aims to encourage individuals who have been affected by or witnessed incidents of sexual assault and sexual violence to make a report to the Maurice Fiorio Beauty Academy. All reported incidents of sexual assault and sexual violence will be investigated in a manner that ensures due process.

Maurice Fiorio Beauty Academy recognizes that sexual assault and sexual violence can occur between individuals regardless of sex, sexual orientation, gender, and gender identity or relationship status as defined in the *Ontario Human Rights Code (Code)[1]* and the *Ontario Occupational Health and Safety Act (OHSA)*. The Maurice Fiorio Beauty Academy also recognizes that individuals who are affected by sexual assault and sexual violence may experience emotional, academic, employment and/or other difficulties.

Maurice Fiorio Beauty Academy is committed to:

1.1 assisting those who have been affected by sexual assault and 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, employment and other accommodation;

1.2 ensuring those who disclose that they have been sexually assaulted is treated with dignity and respect and is supported throughout the process of disclosure, investigation and institutional response;

1.3 addressing harmful attitudes and behaviours that blame the person who has experienced and/or is affected by sexual assault and sexual violence;

1.4 treating individuals who disclose sexual assault and sexual violence with compassion, recognizing that their sense of control over their physical and sexual integrity is compromised through no fault of their own;

1.5 ensuring that on-campus internal investigation procedures are available in the case of sexual assault and sexual violence;

1.6 engaging in appropriate procedures for investigation and adjudication of a complaint that are in accordance with Maurice Fiorio Beauty Academy policies, standards and applicable collective agreements to ensure fairness and due process;

1.7 ensuring coordination and confidential communication among the various departments who are most likely to be involved in the response to sexual assault and sexual violence on campus;

1.8 engaging in education and prevention activities in the Maurice Fiorio Beauty Academy community including on how to respond to the disclosure of sexual assault and sexual violence;

1.9 providing information to the Maurice Fiorio Beauty Academy community about Maurice Fiorio Beauty Academy's sexual assault and sexual violence policies and protocol;

1.10 enabling the creation of a campus environment in which sexual assault and sexual violence is not tolerated; and

1.11 monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies

2. Disclosures and Incident Reporting of Sexual Assault and Sexual Violence

2.1 Responses to disclosures of sexual assault and sexual violence will be non-judgemental, supportive, empathetic and with unconditional regard and respect.

2.2 Individuals who have experienced or have been affected by sexual assault and sexual violence are encouraged to come forward to report as soon as they are able to do so and to the avenue that they feel most comfortable to report.

Students can report incidents of sexual assault and sexual violence to the Academy enrolment officer at 416-968-9996, and /or to the school administrator 416-964-5764

Employees and other members of the Maurice Fiorio Beauty Academy community can report incidents of sexual assault and sexual violence to the Human Resources officer.

2.3 Members of the Maurice Fiorio Beauty Academy community who are school, employees and contractors have a duty to immediately report all incidents and suspected incidents of sexual assault and sexual violence.

2.4 Students are strongly encouraged to report incidents of sexual assault and sexual violence, but do not need to report such incidents to obtain supports, services or accommodation from the Maurice Fiorio Beauty Academy. It is not necessary to file a report or complaint in order to access the services provided by the Maurice Fiorio Beauty Academy Equally, accessing these services does not constitute filing a report or complaint to the Maurice Fiorio Beauty Academy.

2.5 Persons in a position of authority, including persons directing the activities of others, shall take immediate action to respond to or to prevent sexual assault and sexual violence from occurring.

The Maurice Fiorio Beauty Academy takes seriously the failure to report and/or to take action when it affects the safety of people.

Where the Maurice Fiorio Beauty Academy becomes aware of incidents of sexual assault and sexual violence by a member of the Maurice Fiorio Beauty Academy community or

against a member of the Maurice Fiorio Beauty Academy community, that occur on or off Maurice Fiorio Beauty Academy property and pose a risk to the safety of members of the Maurice Fiorio Beauty Academy community, the Maurice Fiorio Beauty Academy shall take all reasonable steps to ensure the safety of the Maurice Fiorio Beauty Academy community.

3. Complaint Process and Investigations

3.1 Complaint Investigation

A complaint of sexual assault and sexual violence can be filed under this Policy by any member of the Maurice Fiorio Beauty Academy.

The Maurice Fiorio Beauty Academy has established procedures related to investigating and making decisions about formal complaints.

Where a complaint of sexual assault or sexual violence has been reported to the Maurice Fiorio Beauty Academy, the Maurice Fiorio Beauty Academy will exercise care to protect and respect the rights of both the complainant and the respondent. Except as otherwise stated in this Policy or the relevant Procedure, the Maurice Fiorio Beauty Academy provides those whose rights, privileges or interests may be affected by a decision with notice of the decision to be made, disclosure of facts relevant to the decision and an opportunity to be heard. The Maurice Fiorio Beauty Academy may decide how it meets these obligations in different circumstances, and will do so with a view to providing a fair process, making a sound decision and preserving the dignity of survivors. The Maurice Fiorio Beauty Academy has the right to withhold disclosure early on in its process to obtain a person's independent recollection of events.

Appropriate actions may be taken by the Maurice Fiorio Beauty Academy to ensure the safety of the individuals involved in the complaint. No disciplinary action will be taken against a person or group without their knowledge where there is an alleged breach of this Policy.

A report of sexual assault and sexual violence may also be referred to the police, or to other community resources at the complainant's request, where the persons involved are not members of the Maurice Fiorio Beauty Academy community or otherwise where appropriate.

In any case, the Maurice Fiorio Beauty Academy may decide to use an external investigator when appropriate in the circumstances.

3.2 Right to Withdraw a Complaint

A complainant has the right to withdraw a complaint at any stage of the process. The Maurice Fiorio Beauty Academy understands that individuals who have experienced or been affected by sexual assault and sexual violence may wish to control if and how their experience will be dealt with by the police and/or the Maurice Fiorio Beauty Academy. In most circumstances, the person will retain this control. A person who has experienced sexual assault and sexual violence may choose not to request an investigation and has the right not to participate in any investigation that may occur. In certain circumstances

however, if the Maurice Fiorio Beauty Academy believes that the safety of other members of the Maurice Fiorio Beauty Academy community is at risk, the Maurice Fiorio Beauty Academy may be required to initiate or continue an internal investigation and/or inform the police of the need for a criminal investigation, even when the survivor has exercised their right to withdraw a complaint. The confidentiality and anonymity of the person(s) affected will be prioritized in these circumstances.

3.3 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(s) for:

- having pursued rights under this Policy, the *Ontario Human Rights Code*; the *Occupational Health and Safety Act*; and/or under the *Criminal Code of Canada*;
- having participated or co-operated in an investigation under this Policy or the *Ontario Human Rights Code*; and/or the *Occupational Health and Safety Act*; and/or
- having been associated with someone who has pursued rights under this Policy; the *Ontario Human Rights Code*; and/or the *Occupational Health and Safety Act*.

Anyone engaged in such conduct may be subject to sanctions and/or discipline.

3.4 Vexatious Complaints

Following an investigation, complaints that are found to be frivolous, vexatious or made in bad faith may result in sanctions and/or discipline against the complainant.

4. Confidentiality

Confidentiality is important to those who have disclosed sexual assault and sexual violence. The confidentiality of all persons involved in a report of sexual assault and sexual violence will be strictly observed, and the Maurice Fiorio Beauty Academy will restrict routine access to information to individuals with a need for such access and will respect the confidentiality of all persons, including the complainant, respondent, and witnesses.

However, confidentiality cannot be assured in the following circumstances:

- an individual is at imminent risk of self-harm;
- an individual is at imminent risk of harming another; and/or
- there are reasonable grounds to believe that others in the Maurice Fiorio Beauty Academy or wider community may be at risk of harm.

In such circumstances, information would only be shared with necessary service areas/departments to prevent harm, and the name of the survivor would not be released to the public.

The nature of complaint investigation precludes anonymity; hence confidentiality has limitations in the investigation processes. However, due diligence shall be exercised to protect the rights of the complainant, respondents and witnesses.

Where the Maurice Fiorio Beauty Academy becomes aware of an allegation of sexual assault and sexual violence by a member of the Maurice Fiorio Beauty Academy community against another member of the Maurice Fiorio Beauty Academy community, the Maurice Fiorio Beauty Academy may also be obliged to take steps to ensure that the matter is dealt with in order to comply with the Maurice Fiorio Beauty Academy's legal obligation and/or its policies to investigate such allegations. In such cases, specific Maurice Fiorio Beauty Academy 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.

All information collected as a result of a report made under the policy and procedure will be managed in accordance with the *Freedom of Information and Protection of Privacy Act* and *Personal Health Information Protection Act* as applicable.

5. Support and Representation

Complainants and respondents may attend meetings with a single (non-participating) support person. The Maurice Fiorio Beauty Academy considers requests to attend meetings with additional support persons and with legal or other representation on a case-by-case basis, with a view to promoting a fair and expeditious process. The Maurice Fiorio Beauty Academy may still question and expect direct answers from an individual who is represented.

6. Interim Measures

The rights and privileges of a respondent may be restricted by the Maurice Fiorio Beauty Academy before it makes a final determination about the alleged misconduct. For example, a respondent may be moved from a complainant's residence, restricted from entering certain parts of campus and restricted from attending class.

Such "interim measures" will be imposed only as necessary to meet the needs of complainants and persons who report incidents of sexual assault and sexual violence. The Maurice Fiorio Beauty Academy will also take steps to minimize the impact of interim measures on respondents. Interim measures are not punishment and do not represent a finding of misconduct. The Maurice Fiorio Beauty Academy may impose interim measures immediately, without a hearing. Respondents may ask the Maurice Fiorio Beauty Academy to review a decision to impose interim measures, but only to address the impact of the imposed measure and the preference for other alternatives.

7. Outcomes

The Maurice Fiorio Beauty Academy will determine, based on its investigation and hearing as appropriate, what happened and whether it constitutes sexual assault and sexual violence. If the Maurice Fiorio Beauty Academy finds there has been misconduct, it will determine the appropriate penalty. Students may face discipline, up to and

including expulsion. Employees may face penalties, cancellation of contracts and other sanctions. The Maurice Fiorio Beauty Academy may also impose non-punitive measures.

The Maurice Fiorio Beauty Academy will inform the complainant and respondent of the results of its investigation as per the applicable procedure.

8. Collection and Reporting of Sexual Assault and Sexual Violence Statistics

In accordance with Bill 132, *Sexual Violence and Harassment Action Plan Act*, 2016, Post-secondary institutions in Ontario are required to report aggregate data to the Ministry of Advanced Education and Skills Development on student disclosures of sexual assault and sexual violence.

Policy Review

This Sexual Assault and Sexual Violence policy shall be reviewed annually in consultation with the Maurice Fiorio Beauty Academy community including Maurice Fiorio Beauty Academy's Joint Occupational Health and Safety Committee.

Feedback on the Sexual Assault and Sexual Violence Policy and Procedures may be sent to the Enrolment officer and Fiorio Controller:

Norlan Chavez - Student enrolment at academydirector@fiorio.com 416.968.1574

Loredana Litoiu, Controller at finance@fiorio.com 416-964-5764

Supports and Services Available in the Community

There are various supports and services available external to the York community.

Toronto Rape Crisis Centre/Multicultural Women Against Rape (TRCC/ MWAR)

416- 597-8808 (24/7 Crisis Line)

crisis@trccmwar.ca

<http://trccmwar.ca/>

Assaulted Women's Helpline

416-863-0511 (24/7), TTY: 416-364-8762

Toll-Free: 1-866-863-0511, TTY: 1-866-863-7868

Fem'aide

1-877-336-2433

info@femaide.ca

<http://www.femaide.ca>

Good2Talk

1-866-925-5454

info@good2talk.ca

<http://www.good2talk.ca/>

Hassle Free Clinic

416-922-0566, Fax: 416-922-2018

66 Gerrard Street East, 2nd Floor, Toronto, ON

<http://hasslefreeclinic.org/>

Lesbian Gay Bi Trans Youth Line

1-800-268-9688, Text: 647-694-4275

<http://www.youthline.ca/>

Women's College Hospital Sexual Assault/Domestic Violence Care Centre (SA/DVCC)

416-323-6040, Fax: 416-323-6489

76 Grenville Street, Main floor, Toronto, ON

The Women's College Hospital SA/DV centre is located in the Acute Ambulatory Care Unit (AACU) on the 1st floor in Room 1305.

<http://www.womenscollegehospital.ca/programs-and-services/sexual-assault-domestic-violence-care-centre/>

Sunnybrook Hospital Bayview Campus

416-480-6100

2075 Bayview Avenue, Toronto, ON

York Central Hospital Domestic Abuse and Sexual Assault Care Centre (DASA)

905-883-1212

905-832-1406 – DASA ext. 2 (Information)

955 Major MacKenzie Dr, Richmond Hill, Ontario

<http://www.yorkcentral.com/main/contact.htm>

Independent Legal Advice for Sexual Assault Survivors Pilot Program

1-855-226-3904

<https://www.attorneygeneral.jus.gov.on.ca/english/ovss/ila.php>

Support Services for Male Survivors of Sexual Abuse Program

1-866-887-0015 – Information 1-888-579-2888

http://www.attorneygeneral.jus.gov.on.ca/english/ovss/male_support_services/

Oasis Centre des femmes (Francophone)

416-591-6565

services@oasisfemmes.org

<http://www.oasisfemmes.org/>

External Resources

Toronto Police Services

416-808-2222

<http://www.torontopolice.on.ca/>

York Region Police Services

1-866-876-5423

<https://www.yrp.ca/en/index.asp>