

# GESTALT INSTITUTE OF TORONTO SEXUAL VIOLENCE, SEXUAL HARASSMENT AND SEXUAL MISCONDUCT POLICY

All members of the Gestalt Institute of Toronto (GIT) community have a right to work and study in an environment that is free from any form of sexual violence, harassment and misconduct. This policy outlines the way in which the GIT will address sexual violence, sexual harassment and sexual misconduct. It ensures that those affected by sexual violence, harassment and misconduct are treated with respect and appropriately accommodated and ensures that the GIT has a process of investigation that protects the rights of individuals. This policy also ensures that individuals who have committed sexual violence, harassment and misconduct are held accountable.

## SCOPE

This Policy applies to all members of the GIT community including students, faculty and office employees, board members, contractors, and suppliers of services, individuals who are directly connected to any GIT initiatives, volunteers, and visitors.

## DEFINITIONS

The following definitions are used in the context of this policy:

- **SEXUAL VIOLENCE:** Refers to any sexual act or targeting a person's sex, sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.
- **SEXUAL HARASSMENT:** Refers to engaging in a course of vexatious comment or conduct based on sex, sexual orientation, gender identity or gender expression, that is known or ought 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 deny a benefit or advancement and the person knows or ought to reasonably know that the solicitation or advance is unwelcome.
- **SEXUAL MISCONDUCT:** Physical sexual relations with a student enrolled in GIT, touching of a sexual nature of the student enrolled in GIT, or behaviour or remarks of a sexual nature toward the student enrolled in GIT by an employee of the institution where:
  - (i) the act constitutes an offence under the Criminal Code (Canada),
  - (ii) the act infringes the right of the student under section 7 (3) (a) of the *Human Rights Code* to be free from a sexual solicitation or advance,
  - (iii) the act constitutes Sexual Harassment, Sexual Violence, or Sexual Assault, or
  - (iv) the act constitutes a reprisal contrary to section 7(3)(b) of the *Human Rights Code*.

- **CONSENT:** Refers to the ongoing, voluntary and explicit agreement to engage in the sexual activity in question. This means that there must be an exchange of affirmative words, which indicates a willingness to participate in mutually agreed upon sexual activity. Silence or non-communication must never be interpreted as consent and a person in a state of diminished judgment cannot consent.

## POLICY

Sexual Violence, Sexual Harassment, and Sexual Misconduct are unacceptable and will not be tolerated by the GIT. We are committed to reducing and preventing Sexual Violence, Sexual Harassment, and Sexual Misconduct, and creating a safe space for anyone in our GIT community who has been affected by Sexual Violence, Sexual Harassment, or Sexual Misconduct. The GIT is expected to be a safe, respectful and positive space where members of the GIT community feel able to work, learn and express themselves in an environment free from Sexual Violence, Sexual Harassment, and Sexual Misconduct.

With respect to Sexual Misconduct, the integrity of the institution-student relationship is the foundation of the GIT educational mission. This relationship vests considerable trust in employees of GIT, who, in some instances, bear authority and accountability as a mentor, educator, and evaluator. The unequal institutional power inherent in this relationship can potentially heighten the vulnerability of the student. Students may have difficulty communicating freely that they do not want to be in a romantic or sexual relationship, or that they want the relationship to end, because of concern over the impact such a communication may have on their academic progress. GIT is committed to protecting the relationship of trust between its employees and students. For these reasons, GIT does not permit employees including faculty or administrative staff who are teaching, advising, supervising, mentoring, overseeing the allocation of resources to and/or coaching students from commencing or continuing any consensual romantic or sexual relationships with a student. Consensual or non-consensual romantic or sexual relationships between GIT employees including faculty or administrative staff and students are considered Sexual Misconduct, which is strictly prohibited and a violation of this policy.

All reported incidents of Sexual Violence, Sexual Harassment, and Sexual Misconduct will be investigated to the best of the administration's ability and in a manner that ensures due process.

GIT will endeavor to make individuals feel comfortable about making a report in good faith about Sexual Violence, Sexual Harassment, and Sexual Misconduct that they have experienced, witnessed or has been reported to them. Individuals will not be asked or required to provide information about their sexual history or sexual expression when making a report.

We recognize that Sexual Violence, Sexual Harassment, and Sexual Misconduct can occur between individuals regardless of sexual orientation, sex, gender, gender expression, gender identity or relationship status. We also recognize that individuals who have experienced Sexual Violence, Sexual Harassment, and Sexual Misconduct may experience emotional, academic or other difficulties.

The GIT is committed to:

- Assisting those who have been affected by Sexual Violence, Sexual Harassment, and Sexual Misconduct by providing appropriate accommodations;
- Ensuring that those who disclose that they have been experienced Sexual Violence, Sexual Harassment, or Sexual Misconduct are treated with dignity and respect and are supported throughout the process of disclosure, investigation and institutional response;
- Engaging in appropriate procedures for investigation and adjudication of a complaint which ensure fairness and due process;
- Providing information to the GIT community about our Sexual Violence, Sexual Harassment, and Sexual Misconduct policies and protocols;
- Providing appropriate education and training to the GIT community about responding to the disclosure of sexual violence and the requirements of this Policy;
- Contributing to the creation of an environment in which Sexual Violence, Sexual Harassment, and Sexual Misconduct is not tolerated; and,
- Monitoring and updating our policies and protocols to ensure that they remain effective and in line with other existing policies and best practices.

## THE COMPLAINT PROCESS

A complaint of sexual assault or any other kind of Sexual Violence, Sexual Harassment and Sexual Misconduct can be filed under this policy by any member of the GIT community. Please note that the survivor is not required to report an incident or file a complaint to obtain supports, service or appropriate accommodation from the GIT.

A complainant has the right to withdraw a complaint at any stage of the process. However, the GIT 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.

If you have experienced or have been affected by Sexual Violence, Sexual Harassment and Sexual Misconduct at the GIT and you want to report or disclose it, and/or if you require support and accommodation, please contact the Executive Director or the Director of Training.

In all circumstances, if you feel threatened, immediately go to a safe place, seek out help and when possible seek out medical attention as soon as possible.

To file a formal complaint, the Executive Director of the GIT or designate can assist you. If the alleged respondent is another member of the GIT community, you may file a complaint under this policy.

Individuals who have been affected by Sexual Violence, Sexual Harassment and Sexual Misconduct may also wish to press charges under the Criminal Code with the local police.

Please note you are not required to report an incident or file a complaint to obtain supports, services or appropriate accommodation from the GIT and you may speak to the Executive Director or Director of Training about services available at the GIT and in the community. You may choose not to request an investigation by GIT, and you have the right not to participate in

any investigation that may occur. You may still receive support and accommodation from GIT in the event you do not report an incident or file a complaint.

If you have witnessed Sexual Violence, Sexual Harassment and Sexual Misconduct at the GIT, call and/or report to a GIT staff member immediately. Faculty, staff, other employees and contractors have a duty to immediately report all incidents and suspected incidents of Sexual Violence, Sexual Harassment and Sexual Misconduct.

If disclosure is made to you about Sexual Violence, Sexual Harassment and Sexual Misconduct at the GIT, you should refer the student to the Director of Training to ensure that the student receives support and accommodations. If an employee of the GIT becomes aware of an allegation of Sexual Violence, Sexual Harassment and Sexual Misconduct against another member of the GIT community, the employee is required to report the alleged incident to the Executive Director and/or designate immediately.

Any individual who manages or directs the affairs of students or employees at GIT must inform the Executive Director (for employees) upon becoming aware of an incident of complaint of Sexual Violence, Sexual Harassment and Sexual Misconduct.

## **GIT Response to a Report of Sexual Violence, Sexual Harassment and Sexual Misconduct**

Where a member of the GIT community has filed a Formal Complaint, the GIT will investigate all matters of Sexual Violence, Sexual Harassment and Sexual Misconduct presented to them, as appropriate in the circumstances. Where an incident of Sexual Violence, Sexual Harassment and Sexual Misconduct has been disclosed to GIT, but a formal complaint has not been initiated, GIT will determine whether or not it has sufficient information that the Policy has been breached to permit it to investigate the alleged incident.

The Executive Director and/or the Director of Training, or their designate, will be involved in the investigation and the decision-making process, however, the GIT reserves the right to enlist employees and/or external experts, investigators or other advisors, as appropriate, to assist in or conduct any investigation. The GIT shall ensure that all reasonable efforts are made to protect the confidentiality of the complainant.

The GIT will respect the rights of both the complainant and the respondent where a complaint of Sexual Violence, Sexual Harassment or Sexual Misconduct has been reported. A person who has experienced Sexual Violence, Sexual Harassment or Sexual Misconduct may choose not to request an investigation and has the right to participate or refuse to participate in any investigation that may occur. However, the GIT may be required to initiate an internal evaluation and/or inform the police of the need for a criminal investigation, even without the person's consent, if the GIT believes that the safety of other members of the GIT community is at risk. The confidentiality and anonymity of the person(s) affected will be protected in these circumstances.

A report of Sexual Violence, Sexual Harassment or Sexual Misconduct 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 GIT community or in circumstances where the GIT is unable to initiate an internal investigation under this Policy.

Subjects of the investigation will generally be informed of the allegations at the outset of the investigation and will have an opportunity to respond to the complainant or concern.

All members of the GIT community who have witnessed Sexual Violence, Sexual Harassment or Sexual Misconduct have a duty to cooperate with a GIT investigation.

## Procedural Fairness

Except as otherwise stated in this Policy, the GIT 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 GIT may decide how it meets these obligations in different circumstances and will do so with a view to providing a fair process and preserving the dignity of survivors. The GIT has the right to withhold disclosure early on in its process to obtain a person's independent recollection of events.

Complainants and respondents may attend meetings with a single (non-participating) support person. The GIT will consider 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.

Complainants who disclose their experience of sexual violence through reporting an incident of, making a complaint about, or accessing supports and services for sexual violence, will not be asked irrelevant questions during the investigation process by staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history. If students in good faith report an incident of or make a complaint about sexual violence, they will not be subject to discipline or sanctions for violations of GIT policies relating to drug or alcohol use at the time the alleged sexual violence occurred.

The rights and privileges of a respondent may be restricted by the GIT before it makes a final determination about the alleged misconduct. For example, a respondent may be restricted from entering the building 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 Violence, Sexual Harassment and Sexual Misconduct. The GIT 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.

## Confidentiality

The confidentiality of all persons involved in an investigation into sexual violence must be strictly observed. The GIT will respect the confidentiality of all persons, including the complainant, the accused, and witnesses by restricting routine access to information to individuals with a need for such access. However, the nature of the complaint investigation precludes anonymity, hence confidentiality has limitations during the investigation processes. Due diligence will be exercised to protect the rights of the complainant, respondent and witnesses.

Confidentiality cannot be assured where 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 GIT or wider community may be at risk of harm. In such circumstances, information would only be shared with necessary services to prevent harm.

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

At no time the GIT will require students to enter into an agreement that contains a term that, directly or indirectly, prohibits the GIT or any person related to the GIT from disclosing that an allegation or complaint has been made that an employee of the GIT committed an act of Sexual Misconduct towards a student of the GIT. However, if the student freely requests such a term or agreement related to disclosure after having reasonable opportunity to receive independent legal advice, the GIT may agree to do so if the term or agreement provides the student with the right to waive their own confidentiality in the future and there is a set and limited duration.

## Outcomes

The GIT will determine, based on its investigation, whether the allegations are substantiated and constitute Sexual Violence, Sexual Harassment or Sexual Misconduct or another form of conduct pursuant to the policy. If the GIT finds that there has been a violation of this policy, the GIT will take appropriate action at its sole discretion including disciplinary measures. By way of example, students may face discipline, up to and including expulsion.

Employees may face discipline, up to and including discharge. Employees who have committed Sexual Misconduct may be discharged for just cause and, regardless of the manner of termination (including resignation), the GIT shall not subsequently re-employ such employees.

Contractors, suppliers, volunteers and visitors may face penalties, cancellation of contracts and other sanctions.

## Written Decision

The GIT will inform the complainant and respondent of the results of its investigation in writing. The written decision summary will include whether corrective action has been taken or will be taken as a result of its investigation.

## Appeal

Should either party not agree with the written decision, they may appeal the decision within ten (10) business days. A written notice of the intent to appeal must be sent to the President of the Board of Directors, Sean Uppal ([sean.uppal@gmail.com](mailto:sean.uppal@gmail.com)).

## Unsubstantiated or Vexatious Complaints

If a person, in good faith, discloses or files a Sexual Violence, Sexual Harassment or Sexual Misconduct complaint that is not supported by evidence gathered during an investigation, that complaint will be dismissed. GIT will manage all records of the process in accordance with GIT policy and privacy legislation.

Disclosures or complaints that are found following investigation to be vexatious or in bad faith may result in sanctions and/or discipline against the complainant as per the GIT Code of Conduct.

## 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 having pursued rights under this Policy or having participated or cooperated in an investigation under this Policy. The GIT will take reasonable steps to protect persons from reprisals, retaliation and threats. GIT will consider sanctions and/or discipline against individuals who are found to have reprised, retaliated against or threatened someone, in contravention of this policy.

## Support Services

Members of the GIT community who have been subject to Sexual Violence, Sexual Harassment

or Sexual Misconduct have access to the following support services

- meeting with faculty re: in-class support
- meeting with Community Liaison Officer
- referral to graduate therapists

To access services and supports, please contact the Executive Director or the Director of Training.

Members of the GIT community who have been subject to Sexual Violence, Sexual Harassment or Sexual Misconduct may also seek services and support from the Sexual Assault/Domestic Violence Care Centre at Women's College Hospital, Assaulted Women's Help Line or the Ontario Coalition of Rape Crisis Centres.

## Annual Reporting to the Board of Directors

Each year the GIT shall provide the Board of Directors with an annual report setting out the following information:

- Requested student accommodation relating to sexual violence
- Reported numbers of incidents and complaints of sexual violence reported by students
- Established initiatives and programs by the GIT to promote awareness of the supports and services available to the students
- Implementation and effectiveness of this policy

## Amendments

The GIT reserves the right to amend this policy at its sole direction, as appropriate, and will review it at least every three years.

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