

Elite Royal International Career College Inc.

Sexual Misconduct By Employees Policy

32.0.1 (1) In this section,

“Sexual Misconduct” means, in relation to a student enrolled at a career college,

(a) physical sexual relations with the 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 career 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 to be free from a sexual solicitation or advance, or

(iii) the act constitutes sexual misconduct as defined in the career college’s employee sexual misconduct policy or contravenes the policy or any other policy, rule or other requirement of the career college respecting sexual relations between employees and students, or

(b) any conduct by an employee of the career college that infringes the right of the student under clause 7 (3) (b) of the Human Rights Code to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance. (“inconduite sexuelle”) 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Discharge or discipline

(2) If an employee of a career college commits an act of sexual misconduct toward a student enrolled at a career college, the career college may discharge or discipline the employee for that act, and,

(a) the discharge or disciplinary measure is deemed to be for just cause for all purposes;

(b) the employee is not entitled to notice of termination or termination pay or any other compensation or restitution as a result of the discharge or disciplinary measure; and

(c) despite subsection 48 (17) of the Labour Relations Act, 1995, and despite any provision of a collective agreement or employment contract specifying a penalty for the infraction, no arbitrator, arbitration board or other adjudicator shall substitute any other penalty for the discharge or disciplinary measure imposed by the career college. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

No re-employment

(3) If an employee of a career college commits an act of sexual misconduct toward a student enrolled at a career college and the career college discharges the employee for that act or the employee resigns from their employment, the career college shall not subsequently re-employ the employee. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Same

(4) If a career college determines that it has re-employed an individual contrary to subsection (3), the career college shall discharge the employee, and clauses (2) (a) to (c) shall apply to the discharge. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Agreement

(5) Subject to subsection (6), an agreement between a career college and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into on or after the day section 1 of Schedule 2 to the Strengthening Post-secondary Institutions and Students Act, 2022 comes into force, shall not contain any term that, directly or indirectly, prohibits the career college or any person related to the career college from disclosing that an allegation or complaint has been made that an employee of the career college committed an act of sexual misconduct toward a student of the career college, and any such term that is included in an agreement is void. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Exception

- (6) A career college may enter into an agreement that contains a term described in subsection (5) if the student requests that the career college do so, provided that,
- (a) the student has had a reasonable opportunity to receive independent legal advice;
 - (b) there have been no undue attempts to influence the student with respect to the request;
 - (c) the agreement includes an opportunity for the student to decide to waive their own confidentiality in the future and the process for doing so; and
 - (d) the agreement is of a set and limited duration. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Contrary term, rule, etc.

(7) Subsections (2) to (6) apply despite any contrary term in an employment contract or collective agreement, or any contrary rule or principle of common law or equity. 2022, c. 22, Sched. 2, s. 1.

Employee sexual misconduct policy

(8) It is a condition of every registration that a career college have an employee sexual misconduct policy that includes, at a minimum,

(a) the career college's rules with respect to sexual behaviour that involves employees and students enrolled at the career college; and

(b) examples of disciplinary measures that may be imposed on employees who contravene the policy. 2022, c. 22, Sched. 2, s. 1; 2023, c. 9, Sched. 29, s. 4.

Same

(9) The employee sexual misconduct policy referred to in subsection (8) may specify acts that constitute sexual misconduct for the purposes of the definition of "sexual misconduct". 2022, c. 22, Sched. 2, s. 1.

Same

(10) The employee sexual misconduct policy referred to in subsection (8) may be included as part of another policy, including as part of the sexual violence policy required under subsection 32.1 (2). 2022, c. 22, Sched. 2, s. 1.

Section Amendments with date in force (d/m/y)

Sexual violence involving students

Definition

32.1 (1) In this section,

"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. 2016, c. 2, Sched. 5, s. 1.

Sexual violence policy

- (2) It is a condition of every registration that a career college have a sexual violence policy that,
- (a) subject to subsection 32.0.1 (10), specifically and solely addresses sexual violence involving students enrolled at the career college;
 - (b) sets out the process for how the career college will respond to and address incidents and complaints of sexual violence involving students enrolled at the career college, and includes the elements specified in the regulations relating to the process;
 - (c) addresses any other topics and includes any other elements required by the regulations; and
 - (d) otherwise complies with the requirements set out in the regulations. 2016, c. 2, Sched. 5, s. 1; 2022, c. 22, Sched. 2, s. 2; 2023, c. 9, Sched. 29, s. 5 (2), 10 (1).

Complaint procedure

- (3) A career college shall respond to and address incidents and complaints of sexual violence under the process set out in its sexual violence policy, and not under the student complaint procedure established under section 31. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Inclusion in contracts

- (4) Every career college shall include its sexual violence policy in every contract made between the career college and a student. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Student input

- (5) Every career college shall ensure that student input is considered, in accordance with any regulations, in the development of its sexual violence policy and every time the policy is reviewed or amended. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Review

- (6) Every career college shall review its sexual violence policy at least once every three years and amend it as appropriate. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Implementation of policy and other measures

(7) Every career college shall,

(a) implement its sexual violence policy in accordance with the regulations; and

(b) implement any other measure or do any other thing it is required to do under the regulations relating to sexual violence involving students enrolled at the career college. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Information for Superintendent

(8) Every career college shall collect from its students and other persons, and provide to the Superintendent, such data and other information relating to the following as may be requested by the Superintendent, in the manner and form directed by the Superintendent:

1. The number of times supports, services and accommodation relating to sexual violence are requested and obtained by students enrolled at the career college, and information about the supports, services and accommodation.

2. Any initiatives and programs established by the career college to promote awareness of the supports and services available to students.

3. The number of incidents and complaints of sexual violence reported by students, and information about such incidents and complaints.

4. The implementation and effectiveness of the policy. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Personal information

(9) A career college shall take reasonable steps to ensure that information provided to the Superintendent pursuant to subsection (8) does not disclose personal information within the meaning of section 38 of the Freedom of Information and Protection of Privacy Act. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Survey

(10) The Superintendent may conduct, or may direct a career college to conduct or participate in, a survey of students and other persons as identified by the Superintendent, relating to the effectiveness of the career college's sexual violence policy, to the incidence of sexual violence at the career college

and to any other matter mentioned in paragraphs 1 to 4 of subsection (8). 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Same

(11) A career college that is directed by the Superintendent to conduct a survey described in subsection (10) shall disclose the results of the survey to the Superintendent. 2016, c. 2, Sched. 5, s. 1; 2023, c. 9, Sched. 29, s. 10 (1).

Section Amendments with date in force (d/m/y)

General Advertising

33 A career college shall not advertise the college or any vocational programs offered or provided by the college or permit such an advertisement unless the advertisement complies with such standards as may be prescribed. 2005, c. 28, Sched. L, s. 33; 2023, c. 9, Sched. 29, s. 10 (1).

Section Amendments with date in force (d/m/y)

Notice of change

34 (1) Every career college shall, within five days after the event, notify the Superintendent in writing of,

(a) any change in,

(i) if the registrant for the college is a corporation, the officers or directors of the corporation,

(ii) if the registrant for the college is a partnership, the membership of the partnership; and

(b) any other prescribed change. 2005, c. 28, Sched. L, s. 34 (1); 2023, c. 9, Sched. 29, s. 10 (1).

Same

(2) Every career college shall, at least 10 days before the event, notify the Superintendent in writing of,

(a) any proposed change in its address for service or in its legal or operating name; and

(b) any other proposed prescribed change. 2005, c. 28, Sched. L, s. 34 (2); 2023, c. 9, Sched. 29, s. 10 (1).

Section Amendments with date in force (d/m/y)

Sale of students' goods and services

35 (1) A career college shall not sell or permit the sale of the goods or services of a student of the college except as provided in subsections (2) and (3). 2005, c. 28, Sched. L, s. 35 (1); 2023, c. 9, Sched. 29, s. 10 (1).

Same

(2) A career college may sell any goods produced or created by a student in the course of a vocational program provided by the college and may provide a student's services to the public or arrange for the provision of such services to the public if the goods are produced or created or the services are provided in order to satisfy the occupational training and experience requirements of a vocational program. 2005, c. 28, Sched. L, s. 35 (2); 2023, c. 9, Sched. 29, s. 10 (1). No profit

(3) The amount for which a student's goods or services may be sold shall not exceed the amount of the following costs incurred by the career college, as may be applicable:

1. The costs of any materials or facilities provided by the college and used by the student in producing, creating or selling the goods.
2. The costs of providing or arranging for the provision of the services to the public. 2005, c. 28, Sched. L, s. 35 (3); 2023, c. 9, Sched. 29, s. 10 (1).

Section Amendments with date in force (d/m/y)

Rescission of contract

36 (1) Any person who enters into a written contract with a career college to receive instruction in a vocational program may rescind the contract by delivering a written notice of rescission to the career college within two days after the person receives a copy of the contract as required by subsection 28 (2). 2005, c. 28, Sched. L, s. 36 (1); 2023, c. 9, Sched. 29, s. 10 (1).

Address of career college

(2) A notice of rescission shall be delivered to the career college at the address shown in the contract. 2005, c. 28, Sched. L, s. 36 (2); 2023, c. 9, Sched. 29, s. 10 (1).

Return of goods and money

(3) A person who delivers a notice of rescission shall immediately return any goods received under the contract and the career college shall return any money received under the contract. 2005, c. 28, Sched. L, s. 36 (3); 2023, c. 9, Sched. 29, s. 10 (1).

Section Amendments with date in force (d/m/y)

Meetings with students

37 (1) The Superintendent or his or her designate may at any time hold a meeting with the students and prospective students of a career college to advise the students and prospective students of any issues affecting the college and of their rights under this Act. 2005, c. 28, Sched. L, s. 37 (1); 2023, c. 9, Sched. 29, s. 10 (1).

Same

(2) A meeting under subsection (1) may be held at any location specified by the Superintendent or his or her designate, including at the career college and, in that case, the career college shall permit the meeting to be held at the college. 2005, c. 28, Sched. L, s. 37 (2); 2023, c. 9, Sched. 29, s. 10 (1).

Section Amendments with date in force (d/m/y)