

SEXUAL HARASSMENT POLICY

for:

Sprott Shaw Language College
Toronto, Vancouver, Surrey and Victoria

Clarification of Terms

- I. In this Policy, the term “Director” shall include, but is not limited to – the Academic Director/Manager and the Campus Director.
- II. In this Policy, Sprott Shaw Language College (SSLC) shall refer to all names and brands under Sprott Shaw Language College (BC) Corp.

1. Policy Statement

- 1) SSLC does not tolerate sexual harassment of any kind. Indeed, the institution regards sexual harassment as unacceptable behaviour that is subject to a wide range of disciplinary measures, including dismissal or expulsion from SSLC.

All members of the SSLC community have a responsibility to ensure that the school’s working and learning environment is free from sexual harassment. Directors bear the primary responsibility for encouraging and maintaining a working and learning environment free from sexual harassment. They are free to act, and should act, on this responsibility, whether or not they are in receipt of individual complaints. It is the obligation of Directors to be familiar with this policy and, where appropriate, to undertake training, in order to ensure that they are able to fulfill these responsibilities.

2. Purpose

- 2) The purposes of this policy are:
 - a) to be educational, in that its existence will increase awareness of and sensitivity to the negative impact of sexual harassment;
 - b) to prevent sexual harassment by indicating the seriousness with which SSLC views this issue;
 - c) to provide fair procedures for handling complaints when they do occur.

3. Application of the Policy

- 3) This policy prohibits sexual harassment by any member of the SSLC community. Any student or employee may make a complaint of sexual harassment against another student or employee. Students and employees include former students and employees raising allegations of sexual harassment which occurred while they were still members of the SSLC community.
- 4) This policy applies to incidents of sexual harassment that occur in the course of work or study or participation in school-sponsored organizations, activities and programs, whether they occur on-campus or off-campus. Examples of off-campus settings include, but are not limited to, field trips and school-sponsored social functions.
- 5) This policy will not be applied or interpreted in such a way as to detract from the right of those in supervisory roles to manage and discipline employees and students in accordance with normal SSLC practices or from any existing rights or obligations contained within any existing code of student conduct, collective agreement or other approved employee agreement.

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- 6) Notwithstanding the existence of this policy, every person continues to have the right to seek assistance from the British Columbia Human Rights Tribunal or, where a criminal act is involved, the police, even when actions are being taken under this policy.

4. Definition

- 7) Sexual harassment is defined as any sexually-oriented behaviour of a deliberate or negligent nature which adversely affects the working or learning environment. It may involve conduct or comments that are unintentional as well as intentional. It includes, but is not limited to:
- a) sexual solicitation or advance of a repeated, persistent or abusive nature made by a person who knows or ought reasonably to know that such solicitation or advance is unwanted;
 - b) implied or expressed promise of reward for complying with a sexually-oriented suggestion;
 - c) actual reprisal or denial of opportunity or an expressed or implied threat of reprisal or denial of opportunity, for a refusal to comply with a sexually-oriented suggestion;
 - d) sexually-oriented remarks or behaviour by a person who knows or ought reasonably to know that such remarks or behaviour may create a negative psychological or emotional environment for work, study or participation in a college-related activity or program. Such remarks or behaviour may include, but are not limited to, suggestive and/or derogatory comments, sounds or gestures emphasizing sex or sexual orientation; suggestive staring; inappropriate displays or distribution of sexually suggestive pictures, objects, writing or graffiti, including electronic and hard copy forms; persistent unwanted contact after the end of a consensual relationship; unnecessary or unwanted physical contact of a sexual nature such as patting, touching, pinching or brushing against; and sexual assault.
- 8) Sexual harassment can occur between individuals of the same or different status, and both women and men can be the subject of sexual harassment by members of either gender. Sexual harassment can involve individuals or groups; can occur during one incident, if of sufficient severity, or over a series of incidents involving single incidents, which, in isolation, would not necessarily constitute sexual harassment.

5. Procedures for Complaints

- 9) Anyone may anonymously seek the advice and assistance of the Director regarding this Policy.
- 10) Complaints of sexual harassment may be made by any member of the SSLC Community who believes she or he has been sexually harassed. Individuals should bring forward complaints as soon as possible after the incident or incidents giving rise to the complaint in order that the most thorough and fair consideration of the matter may occur. There are time limits on making complaints (see section 42).
- 11) Alleged incidents of sexual harassment can be resolved through:
- a) informal resolution procedure; or
 - b) formal complaint procedure.

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- 12) At any time, complainants may choose to withdraw from the process. Nevertheless, the Director may undertake a review of the work or study environment.

5-A Informal Resolution Procedure

- 13) The purpose of the informal resolution procedure is to resolve complaints between the parties. The informal resolution procedure will not involve a finding that sexual harassment has or has not occurred.
- 14) Unless the parties agree otherwise, all discussions and resolutions reached through the informal procedure will be strictly confidential and carried out on a without prejudice basis.
- 15) No written complaint is required to commence the informal procedure. The options available under the informal procedures are numerous and will vary depending on the nature of the complaint.
- 16) Examples of informal actions may include, but are not limited to:
- a) Communicate concerns directly – advise the other party that his/her behaviour is unwelcome and unwanted, and that the behaviour must stop immediately;
 - b) Communicate concerns in writing to the other party – describe the offending behaviour, the impact of the behaviour, and request that the behaviour stop immediately;
 - c) Contact the Director, as defined in section 27, to address issues;
 - d) Work with the Director to develop strategies to address concerns;
 - e) Informal mediation - pursue, through the Director, the setting up of informal mediation, shuttle mediation, or the use of neutral interveners who will attempt to bring the parties to a mutual resolution of the matter.
- 17) The complainant may, at any time prior to the matter being concluded or closed, choose to pursue the formal complaint procedure under this policy.
- 18) No informal action that adversely affects the academic, employment or professional interests of the respondent shall proceed under the informal procedure without the knowledge and consent of the respondent.
- 19) No record of an informal procedure shall be entered into the academic or employment file of the complainant or the respondent without the knowledge and consent of that person.
- 20) If the Director, after discussion with the complainant, concludes that, in the Director's opinion, the concern raised by the complainant does not fall under this policy, the Director shall advise the complainant of this.
- 21) No person involved in the informal procedure shall give evidence or introduce documents from that process during any other subsequent process under this policy where that evidence or those documents would disclose that any person agreed or refused to participate in the informal procedure, or if informal action occurred, the nature of that action, unless all parties involved in the informal procedure consent to that disclosure.

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5-B Formal Complaint Procedure

- 22)** The Director will ensure that reasonable attempts at informal resolution have been explored prior to commencing the formal complaint procedure. The parties may also resolve the matter at any point during the formal complaint procedure.
- 23)** When the complainant makes a formal complaint, the Director shall inform the respondent of the complaint if he/she is not already aware of the matter.
- 24)** To initiate the formal complaint procedure, the complainant shall provide a written statement of complaint to the Director. The statement of complaint must include the names of the parties, a detailed description of the behaviour or comment that forms the basis of the complaint and a request to initiate the formal complaint procedure.
- 25)** The formal complaint procedure will be initiated following a determination by the Director that the allegations:
 - a)** fall within the Sexual Harassment Policy;
 - b)** could result in a finding of harassment if proven true;
 - c)** are not being heard, or have not already been heard through another college process.
- 26)** Within five working days following a determination to proceed, the Director shall deliver a copy of the statement of complaint and a copy of this policy to the respondent. The respondent shall have ten working days within which to respond in writing to the statement of complaint. The time limits may be extended by the Director in exceptional circumstances.
- 27)** The Director shall appoint a person designated by Sprott Shaw Language College (BC) Corp. as an investigator to investigate the matter.
- 28)** The purpose of the investigation is to provide information to the Director to assist in his or her determination of whether there has been a violation of this Policy.
- 29)** The Investigator shall investigate the complaint, in a timely manner and will make all reasonable efforts to complete his or her work within 30 working days of being appointed to investigate the complaint. The Investigator may consult with the Director regarding procedural issues as required.
- 30)** The Investigator shall submit a report to the Director providing an opinion on the facts of the case and whether there has been a violation of the Sexual Harassment Policy.
- 31)** The Director will determine which portions of the report are appropriate to provide to the complainant and the respondent in accordance with privacy obligations and any health and safety concerns. This will be provided to the complainant and the respondent who will have five working days to provide written submissions on the report.

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- 32) Upon reviewing the report and the submissions of the complainant and respondent, the Director will make a decision as to whether the respondent has violated this policy.
- 33) The Director shall advise the complainant and respondent(s) to the complaint in writing of his/her decision regarding whether the respondent violated this Policy.
- 34) Disciplinary proceedings taken against any person under this policy shall be taken in accordance with applicable disciplinary processes for students or staff, as appropriate.

6. General Provisions

Support and Assistance for Parties

- 35) The complainant and the respondent are, at all times during any stage of these procedures, entitled to support and assistance from the British Columbia Human Rights Tribunal.
- 36) Members of unions and employee associations have all rights to representation that their collective agreements confer.

Confidentiality

- 37) All persons involved in a case are expected to maintain strict confidentiality unless otherwise agreed to by the parties.
- 38) Any communication or information gathered in any case is confidential except to the extent that disclosure is necessary to effectively implement this policy or to undertake any disciplinary or remedial steps arising from a complaint made under this policy.
- 39) Confidentiality may not apply to persons subject to external judicial processes or where disclosure is required by law.

Bad Faith Complaints

- 40) A complaint made in bad faith shall constitute grounds for disciplinary action against the complainant, which shall be commenced in accordance with applicable disciplinary processes. A bad faith complaint is a complaint that is made with a conscious design to mislead or deceive, or with a malicious or fraudulent intent.

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Retaliation

- 41) There shall be no retaliation against any person on account of a complaint or an expressed intention to complain under this policy or on account of evidence or assistance given with respect to a complaint or a proposed complaint under this policy. Such retaliation shall be grounds for a complaint under this policy. SSLC considers retaliation or the threat of retaliation at any stage to be a serious offense because it prevents potential complainants, witnesses and administrators from acting on their concerns. Any person should report threats, acts of retaliation and other safety concerns to the Director.

Limitations

- 42) A complaint must be filed within six months of the last alleged instance of the action or conduct. An additional period of not more than twelve months may be granted in exceptional circumstances by the Director.

Other Proceedings

- 43) This policy does not affect the right of the complainant from pursuing a complaint under any applicable legislation or from accessing other policies or procedures, including but not limited to, filing a grievance in accordance with any right to do so pursuant to a provision of an applicable collective agreement.
- 44) If the Director believes there is an immediate threat to the physical safety of the complainant or any other member of the school community, he or she shall contact the appropriate security or law enforcement agency.

Interim measures

- 45) SSLC may, at any time during the processing of a complaint, take necessary steps to ensure the health, safety and security of any member of the college community.
- 46) Normally, documents created in the course of the procedures under this policy shall be treated as confidential and are retained by the Director in confidential files.
- 47) However, reports and other documents used during the formal procedure under this policy may be used by SSLC for other purposes such as promotion, appointment, reappointment, discipline, or academic advancement in the case of students, where appropriate and where permitted by the procedures governing such processes. In addition, documents might be required by law to be released to third parties.