

POLICY:  <b>Sexual Violence Policy</b>		POLICY NUMBER: <b>AM-031-A2</b>
		PREVIOUS/REPLACES: <b>Student Manual</b>
APPROVED BY: <b>Executive Committee</b>	EFFECTIVE DATE AS OF: <b>August 1, 2022</b>	PRIOR VERSIONS: <b>August 2020</b>

## 1. Policy Statement

Herzing college is committed to providing its students with an educational environment free from sexual violence, treating its students who report incidents of sexual violence with dignity and respect, and appropriately accommodating the needs of students who are affected by sexual violence.

Herzing College has adopted this sexual violence policy which defines sexual violence and outlines the colleges reporting, investigation, training, and disciplinary responses to complaints of sexual violence made by students that have occurred on campus or at a Herzing College hosted event.

The person accused of engaging in sexual violence will be referred to as the “Respondent” and the person making the allegation as the “Complainant”.

## 2. Scope

This policy applies to all members of the Herzing College community including but not limited to:

1. All Herzing College employees including full-time, part-time, casual and contract.
2. All Herzing College students including full-time and part-time post-secondary programs.
3. All Herzing College Governing Board Members.
4. Volunteers and visitors to Herzing College.
5. All other persons who provide goods, services, or facilities on behalf of Herzing College.

The policy also applies to risks, threats and incidents of violence involving a member of the Herzing College community that occurs off Herzing College property, where there is a real and substantial link to the College. This may include other work and study sites under Herzing College’s jurisdiction, while on travel representing Herzing College, or during the course of a Herzing College sponsored event in which members of the Herzing College community are participants.

## 3. Policy Content

1. **Training, Reporting and Responding to Sexual Violence**

- a. Herzing College shall include a copy of the Sexual Violence Policy in every contract made between it and its students, and provide a copy of the Sexual Violence Policy to career college management (corporate directors, controlling shareholders, owners, partners, other persons who manage or direct the career college's affairs, and their agents), instructors, staff, other employees and contractors and train them about the policy and its processes of reporting, investigating and responding to complaints of sexual violence involving its students.
- b. The Sexual Violence Policy shall be published on Herzing College's website.
- c. Herzing College management, instructors, staff, other employees, and contractors will report incidents or complaints of sexual violence to the Chief Operating Officer upon becoming aware of them.
- d. Students who have been affected by sexual violence or who need information about support services must contact the Academic Dean.
- e. Herzing College will attempt to keep all personal information of persons involved in the investigation confidential except in those circumstances where the college believes an individual is at imminent risk of self-harm, of harming another, or there are reasonable grounds to believe that others on its campus or the broader community are at risk. This will be done by:
  - i. ensuring that all complaints/reports and information gathered as a result of the complaint/reports will be only available to those who need to know for purposes of investigation, implementing safety measures and other circumstances that arise from any given case; and
  - ii. ensuring that the documentation is kept in a separate file from that of the Complainant/student or the Respondent.
- f. Herzing College recognizes the right of the Complainant not to report an incident of or make a complaint about sexual violence or not request an investigation and not to participate in any investigation that may occur.
  - i. In certain circumstances, Herzing College may be required by law or its internal policies to initiate an internal investigation and/or inform police without the complainant's consent if it believes the safety of members of its campus or the broader community is at risk.
- g. In all cases, including elements above, Herzing College will appropriately accommodate the needs of its students who are affected by sexual violence. Students seeking accommodation should contact their Academic Dean.
- h. In this regard, Herzing College will assist students who have experienced sexual violence in obtaining counselling and medical care and provide them with information about sexual violence supports and services available in the community. Students are not required to file a formal complaint in order to access supports and services.

## **2. Investigating Reports of Sexual Violence**

- a. Under this Sexual Violence Policy, any student of Herzing College may file a report of an incident or a complaint to the Chief Operating Officer in writing. The other officials, offices or departments that will be involved in the investigation are:
  - i. Campus President<sup>1</sup>
- b. In such cases or where civil proceedings are commenced in respect of allegations of sexual violence, Herzing College may conduct its own independent investigation and make its own determination in accordance with its own policies and procedures; and determine what interim measures ought to be put in place pending the investigation process such as removal of the Respondent or seeking alternate methods of providing necessary course studies.

## **3. Disciplinary Measures**

- a. If it is determined by Herzing College that the respondent did engage in sexual violence, immediate disciplinary or corrective action will be taken. This may include, but is not limited to:
  - i. Disciplinary action up to and including termination of employment of instructors or staff; or
  - ii. Expulsion of a student; and/or
  - iii. The placement of certain restrictions on the Respondents ability to access certain premises or facilities; and/or
  - iv. Any other actions that may be appropriate in the circumstances

## **4. Appeal**

- a. If the Complainant or the Respondent is not satisfied with the decision, they may appeal the decision to an appeals board.
- b. Any such appeal must be made within thirty (30) days. A request to be heard before the Appeal Board must be in writing to the College System President and it must set forth in significant detail the basis for the appeal.
- c. After following the above procedures, any unresolved dispute or claim (including physical or personal injury, mental anguish, etc., of any kind) by or between a student and Herzing College (or any of the College Employees, officers, directors, or staff) arising from, or pertaining to, enrolment in, and/or participating in, any education program offered by Herzing College shall be resolved by binding arbitration by a single arbitrator mutually appointed by the student and the college.

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<sup>1</sup> In the event that the complaint is being made against the Campus President or the Vice President, the Campus President and/or Vice President will not be involved in the investigative process as an investigator.

In the event the parties cannot agree on the selection of an arbitrator, one will be selected by the Canadian Arbitration Association. The arbitrator selected will make a final determination binding upon both parties.

#### **5. Making False Statements**

- a. It is a violation of this Sexual Violence Policy for anyone to knowingly make a false complaint of sexual violence or to provide false information about a complaint.
- b. Individuals who violate this Sexual Violence Policy are subject to disciplinary and/or corrective action up to and including termination of employment of instructors or staff or expulsion of a student.

#### **6. Reprisal**

- a. It is a violation of this Sexual Violence Policy to retaliate or threaten to retaliate against a complainant who has brought forward a complaint of sexual violence, provided information related to a complaint, or otherwise been involved in the complaint investigation process.
- b. Individuals who violate the Sexual Violence Policy are subject to disciplinary and/or corrective action, up to and including termination of employment of instructors or staff or expulsion of a student.

#### **7. Review**

- a. Herzing College Shall ensure that student input is taken into consideration when developing, reviewing, and amending the Sexual Violence Policy.
- b. Herzing College shall review its Sexual Violence Policy three years after the initial implementation and amend where appropriate.

#### **8. Collection of Student Data**

- a. Herzing College shall collect and be prepared to provide upon request by the provincial government such data and information as required by the relevant provincial legislation.

## **4. Administration**

The Campus President will oversee the administration and enforcement of this policy.

## **5. Review**

This policy will be reviewed as required by Executive Committee in 2025.

## **6. Reference**

- O. Reg. 131/16: Sexual Violence at Colleges and Universities - <https://www.ontario.ca/laws/regulation/160131> (Ontario)

- Manitoba Post-Secondary Sexual Violence Policy Guide - [https://www.edu.gov.mb.ca/docs/sexual\\_violence/guide.pdf](https://www.edu.gov.mb.ca/docs/sexual_violence/guide.pdf) (Manitoba)
- Act to Prevent and Fight Sexual Violence In Higher Education Institutions - <https://www.legisquebec.gouv.qc.ca/en/document/cs/P-22.1> (Quebec)

## 7. Definitions

**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.

**Consent** - The Criminal Code of Canada defines consent as the voluntary agreement of the complainant to engage in the sexual activity in question. The code also outlines that no consent is obtained if; the agreement is expressed by the words or conduct of a person other than the complainant, the complainant is incapable of consenting to the activity, the accused counsels or incites the complainant to engage in the activity by abusing a position of trust, power or authority, the complainant expresses by words or conduct, a lack of agreement to engage in the activity, or the complainant, having consented to the activity previously, expresses by words or conduct, a lack of agreement to continue to engage. It is important to know that these are not the only ways where no consent is obtained, and there may be other circumstances

**Sexual Assault** - is any assault of sexual nature that violates a person's sexual integrity

**Sexual Harassment** - is a form of discrimination that involves unwanted behavior that intimidates or causes another person offence or humiliation. It is vexatious comment or conduct that is known or ought to be known to be unwelcome. Sexual Harassment can take on a variety of forms including cyber-harassment

**Stalking** - is defined as criminal harassment under the Criminal Code of Canada. It can consist of repeatedly following from place to place the person or anyone known to them, repeatedly communicating with, directly or indirectly, the person or anyone known to them, besetting, or watching the dwelling house, or place where the person or anyone known to them, resides, works, carries on business or happens to be, or engaging in threatening conduct directed at the other person or any member of their family.

**Voyeurism** - The Criminal Code of Canada defines voyeurism as anyone who surreptitiously observes –including by mechanical or electronic means- or makes visual recordings of person who is in circumstances that give rise to a reasonable expectation of privacy

**Sexual Exploitation** - any person who commits an offence who is in a position of trust or authority towards a young person who for a sexual purpose touches, directly or indirectly, with a part of the body or with an object, any part of the body of the young person, or for sexual purposes, invites, counsels, or incites a young person to touch, directly or indirectly, with a part of the body or object, the body of any person including the body of the person who invites counsels or incites.