



# Laws Governing Sexual Violence Policies on Campus in Ontario

## Bill 132

All provincially-regulated employees, including those working across Ontario post-secondary campuses, currently fall under specific provincial legislation, including the Employment Standards Act, Ontario Human Rights Code, and Occupational Health and Safety Act.

The Ontario Human Rights Code (OHRC), adopted in 1962, was brought into being to establish equal rights and opportunities for all without discrimination, and to ensure these rights were guaranteed across all areas of provincial life, including workplaces. The OHRC first set out the definition of harassment under Canadian law as: “engaging in a course of vexatious comment or conduct that is known or ought reasonably to be known to be unwelcome.”

Building on the OHRC, in 1979, the Occupational Health and Safety Act (OHSA) came into force, outlining the rights and responsibilities of all parties in the workplace, as well as the procedures and enforcement for resolving workplace hazards, including workplace harassment. Over thirty amendments to OHSA have since been enacted, further strengthening requirements for health and safety standards in Ontario workplaces, as well as reinforced internal reporting and workplace structures, including the establishment of joint health and safety committees.

One of these amendments, later known as Bill 132, was initiated on March 6, 2015 by the Ontario government as part of its strategy to address sexual violence and harassment across the province. It was titled “It’s Never Okay: An Action Plan to Stop Sexual Violence and Harassment”.

This Act came into force on September 8, 2016 under the name “The Sexual Violence and Harassment Action Plan Act, 2016” (or Bill 132). Bill 132 amended OHSA by expanding the definition of workplace harassment to include workplace sexual harassment, as well as introduced additional obligations for employers concerning their workplace harassment prevention and response policies, programs and investigations.

Bill 132 defines sexual violence as “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.”

Bill 132 states that post-secondary institutions (defined as “every college of applied arts and technology and every university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education”) must have both a policy and a process for dealing with sexual violence on campus. The bill lists a number of specific requirements:

### 1. Sexual Violence Policy

Every college or university is expected to have a policy that addresses sexual violence involving their students, follows government regulations, and that lays out the process for responding to incidents and complaints of sexual violence. This policy must be reviewed at least every 3 years.

## 2. Student input

A college or university must ensure that student input is considered when developing and reviewing their sexual violence policy.

## 3. Information for the government

Every college or university is required to collect and submit information pertaining to the number of incidents/complaints reported by students; the number of times supports, services and accommodation relating to sexual violence are requested and obtained by students; and what initiatives and programs have been established by the institution. The information submitted must not contain personal information as per the Freedom of Information and Protection of Privacy Act.

## 4. Investigations involving staff

Bill 132 also requires post-secondary institutions to include additional measures when investigating complaints involving staff members:

- a) Ensure that the procedure for reporting harassment or violence does not include speaking to a supervisor, as the supervisor may be the harasser
- b) Ensure that all relevant details and personal information of the complainant be kept confidential unless otherwise required by law
- c) Ensure that there is a process in which both the complainant and respondent are notified in writing regarding the outcome of the investigation
- d) Review the policy every year

The bill can be accessed [here](#)

# Ontario Regulation 131/16

Regulation 131/16 of the Ministry of Training, Colleges and Universities Act, which came into effect in 2017, requires every university and college in Ontario to create and maintain a sexual violence policy that meets detailed requirements. It applies to every college of applied arts and technology and to every university that receives regular and ongoing operating funds from the government for the purposes of post-secondary education.

In 2021, the government amended Ontario Regulation 131/16, to strengthen protections for students from harassment and sexual violence. These changes have taken effect as of March 1, 2022.

Regulation 131/16 requires the following of the universities and colleges:

- Accommodation re: sexual violence
- Every college or university shall appropriately accommodate the needs of students enrolled at the college or university who are affected by sexual violence
- Content of sexual violence policy

### **(1) Every college or university shall ensure that its sexual violence policy,**

**(a)** provides information about the supports and services available at the college or university for students who are affected by sexual violence, and identifies the specific official, office or department at the college or university that should be contacted to obtain such supports and services;

**(b)** provides information about the supports and services available in the community for students who are affected by sexual violence;

(c) informs students that the college or university will appropriately accommodate the needs of students who are affected by sexual violence, and identifies the specific official, office or department at the college or university that should be contacted to obtain such accommodations;

(d) informs students that they are not required to report an incident of, or make a complaint about, sexual violence in order to obtain the supports and services or accommodations;

(d.1) informs students that if they, 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 the college's or university's policies relating to drug or alcohol use at the time the alleged sexual violence occurred; and

e) includes the information set out in subsection (2).

**(2) A sexual violence policy shall include the following information:**

1. The process to be followed by persons who wish to report an incident of, or make a complaint about, sexual violence including the specific official, office or department to whom the incident should be reported or the complaint should be made.

2. Examples of the measures that may be implemented for the purpose of protecting a person reporting an incident of, or making a complaint about, sexual violence from retaliation and the threat of retaliation.

3. The process for deciding whether an incident or complaint of sexual violence will be investigated by the college or university.

4. The statement that a victim may choose not to request an investigation by the college or university, and has the right not to participate in any investigation that may occur.

5. The investigation and decision-making processes at the college or university that will take place if an incident or complaint of sexual violence is investigated.

6. The specific officials, offices or departments that will be involved in each stage of the investigation and decision-making processes.

7. A description of the elements of procedural fairness that will be part of the investigation and decision-making processes.

8. A description of the rights that participants may have to legal or other representation, or to be accompanied by another person, during the investigation and decision-making processes.

9. Examples of the interim measures that may be implemented while an incident or complaint is being investigated or a decision is being made regarding the incident or complaint.

10. Examples of the decisions that may be made and measures that may be imposed after an incident or complaint is investigated.

11. The measures that will be implemented to protect and keep confidential the personal information of the persons involved in the investigation of an incident or complaint.

12. A description of the appeal processes that may be available related to decisions resulting from the investigation process.

13. The roles and responsibilities of senior administrators, students, faculty, other employees, contractors and witnesses upon becoming aware of incidents or complaints of sexual violence.

14. A statement that students 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 the college's or university's staff or investigators, including irrelevant questions relating to the student's sexual expression or past sexual history.

### **Development and approval of sexual violence policy**

(1) A college or university shall,

(a) establish a process, in consultation with representatives of the college's or university's elected student governing bodies, for the provision and consideration of input from a diverse selection of students regarding the college's or university's sexual violence policy; and

(b) follow the process in the development of its sexual violence policy and every time the sexual violence policy is reviewed or amended.

(2) A college or university shall not adopt or implement a sexual violence policy, or any amendments to it, unless the policy or the amendments have been approved by the college's or university's governing board or council and, as may be applicable, the university's senate or academic council.

(3) A college's or university's governing board or council may authorize a college or university official to update, as required, the following information in the college's or university's sexual violence policy:

1. The supports and services that are available at the college or university or in the community.
2. The identity of the officials, offices and departments at the college or university referred to in previous clauses.

### **Publication**

Every college or university shall publish its sexual violence policy, and a description of the student input process on its website, and shall make a copy of the policy available to anyone who requests it.

### **Training**

(1) Every college or university shall provide or make available training on its sexual violence policy to the following persons:

1. Members of the college's or university's governing board or council, and other senior administrators.
2. Faculty, staff and other employees and contractors of the college or university.
3. Students enrolled at the college or university.

(2) The training shall include training on the college's or university's process for responding to and addressing incidents and complaints of sexual violence.

The regulation can be accessed in its entirety [here](#).