

## **Policy HR 06: Conflict of Interest and Sexual Misconduct in Employee-Student Relationships**

### **1.0 Preamble**

SKG is committed to fostering and maintaining a learning environment that provides equitable conditions and treatment to all students. It is important to SKG that fair methods of evaluation are applied to all students and to remove any perception of bias that may stem from faculty/instructor-student relationships.

SKG is committed to maintaining an environment free of sexual and gender-based harassment and discrimination in accordance with the Ontario Human Rights Code and recognizes that education providers have a legal obligation to provide students with a learning environment that is free from such harassment and discrimination.

### **2.0 Purpose**

This policy sets out the obligations placed on faculty members, instructors and other employees with respect to their relationship with students, and sets policies concerning how to address any potential perceived or actual conflict of interest and/or bias.

This policy sets out SKG's policies concerning sexual misconduct of employees involving students. This policy meets the requirements that the Ontario government has set for universities concerning sexual misconduct of employees involving students.

### **3.0 Definitions**

"Director of Human Resources" means the senior executive in SKG responsible for human resources policies and oversight of human resources operations (regardless of the title of that position).

"Employee" means a person who performs work for wages in any capacity for SKG.

"Instructor" means an employee of SKG who is responsible for teaching, evaluation, academic supervision, and/or related activities for credit and non-credit courses, and/or responsible for evaluation of students in any other activity that is part of SKG's academic mission. It includes all such employees, whether faculty members or contract employees.

"SKG" means Shingwauk Kinooamaage Gamig.

"Student" means an individual registered in a course or program of study at SKG, whether full-time or part-time.

### **4.0 Conflict of Interest in Instructor-Student Relationships**

An instructor shall disclose any close personal relationship they have with a student as required by the procedure associated with this policy.

- This requirement of disclosure is intended to ensure the continuing integrity of academic standards, to promote a teaching/learning environment free from harassment, and to avoid the potential for perceived or actual conflicts of interest and/or bias.
- Instructors shall disclose to SKG any close personal relationship they have with a student as soon as it exists. Disclosure shall be made before a situation arises that may give rise to a conflict of interest and/or bias or a perceived conflict of interest and/or bias as identified in this policy.

An instructor shall avoid any supervisory, advisory, or evaluative responsibility for a student with whom they have a close personal relationship, unless granted prior written approval from SKG.

- This requirement is intended to address conflict of interest or bias and the perception of conflict of interest or bias.

#### **4.1 Scope**

This section of the policy applies to employees of SKG who are instructors and to all students of SKG.

- “Instructors” for the purpose of this policy includes all faculty members or contract employees who are responsible for teaching, evaluation, academic supervision, and/or related activities for credit and non-credit courses, and/or responsible for evaluation of students in any other activity that is part of SKG’s academic mission.

#### **4.2 Close personal relationships**

Close personal relationships include:

- Close family relationships of the instructor, which include:
  - A spouse;
  - A parent, child, stepchild, ward, grandchild, or sibling of the instructor;
  - A parent, child, stepchild, ward, grandchild, or sibling of the spouse of the instructor;
  - A grandparent, aunt, uncle, niece, or nephew.
- Sexual or intimate relationships, which currently exist or previously existed.

#### **4.3 Conflict of interest and/or bias**

Conflict of interest and/or bias exists when a current or former relationship with a student could improperly influence an instructor’s judgment, and/or could reasonably create a perception of bias.

Situations where conflict of interest and/or bias could arise include, but are not limited to:

- The decision to admit a student to a course or program;
- The provision of instruction, supervision, or advice;

- The evaluation of a student;
- The awarding of scholarships, awards, financial assistance and/or other benefits;
- The awarding of teaching or research assistantships or other remunerative employment, either within SKG or using funds administered by SKG.

An instructor shall avoid involvement in any of these decisions or activities concerning a student with whom they have a close personal relationship, or any other activities giving rise to a conflict of interest or perception of a conflict of interest, unless granted prior written approval by SKG.

#### 4.4 Consequences of failing to meet requirements concerning conflict of interest

An instructor’s failure to disclose a close personal relationship with a student, or failure to avoid involvement in decisions or activities concerning a conflict of interest or perceived conflict as prescribed by this policy, shall result in discipline of the instructor. Consequences of a finding that this policy has been breached could result in discipline up to and including termination.

### 5.0 Sexual misconduct

#### 5.1 Scope

This section of the policy applies to all employees of SKG.

- Employees include instructors and all other employees.

For clarity concerning the application of this policy, this table explains the application of different SKG policies concerning sexual misconduct.

Complainant Respondent	Student	Employee, volunteer, or other member of SKG community
Student	ACAD 07 Sexual Harassment and Violence Involving Students	HR 05 Prevention of Harassment and Discrimination
Employee	<b>HR 06 Conflict of Interest and Sexual Misconduct in Employee-Student Relations</b>	HR 05 Prevention of Harassment and Discrimination

#### 5.2 Definitions concerning sexual misconduct

The following definitions apply for the purposes of this policy.

Sexual misconduct in relation to a student means:

- 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,

And where that conduct:

- Constitutes an offence under the Criminal Code (Canada), or
- Infringes the right of the student under the Ontario Human Rights Code to be free from sexual harassment or a sexual solicitation or advance.

Sexual misconduct also means:

- Any conduct by an employee that infringes the right of the student under the Human Rights Code to be free from a reprisal or threat of reprisal for the rejection of a sexual solicitation or advance.

Sexual harassment of a student means:

- Engaging in a course of vexatious comment or conduct against a student because of sex, sexual orientation, gender identity, or gender expression, where the course of comment or conduct is known or ought reasonably 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 confer, grant or deny a benefit or advancement to the student and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual solicitation or advance is an implied or expressed promise of reward for complying with a sexually oriented request made by a person in a position to confer, grant or deny a benefit or advancement.

### **5.3 Reporting of sexual misconduct**

All employees shall report incidents of sexual misconduct of employees involving students that are experienced or witnessed.

Students are encouraged to report incidents of sexual misconduct of employees involving students that are experienced or witnessed.

### **5.4 Response to sexual misconduct**

The Director of Human Resources shall initiate an investigation and ensure a response to all complaints or incidents of sexual misconduct of employees involving students as appropriate, in a fair, respectful, and timely manner.

The Director of Human Resources shall establish a procedure associated with this policy concerning investigation of and response to complaints or allegations of sexual misconduct of employees involving students.

Information provided about a complaint or incident will not be disclosed except to the extent necessary to protect employees or students, to investigate the complaint or incident, to take corrective action or as otherwise required by law.

All persons involved in allegations of workplace harassment are to be treated fairly and impartially and maintain the rights, privileges and protections afforded to them under legislation.

Complainants and respondents are entitled to seek representation of their choice, including legal counsel, during any stage of the complaint resolution process, at their own expense.

It is a breach of this policy for any person to take reprisal against any individual because they have participated in a process under this policy. A written allegation of reprisal will be treated as a complaint under this policy. Retaliation or threat of retaliation or reprisal may result in disciplinary action under this or other SKG policies.

### **5.5 Consequences of a finding of sexual misconduct**

If the policy has been violated, the Director of Human Resources shall determine the appropriate consequences for the person(s) who violated the policy. These may include:

- An apology,
- Counselling,
- Education and training,
- Verbal or written reprimand,
- Suspension with pay,
- Suspension without pay, and
- Termination of employment.

If an employee is discharged from SKG's employment as a result of a finding of sexual misconduct, SKG shall meet the applicable requirements of the Ministry of Training, Colleges, and Universities Act. These requirements include but are not limited to:

- The discharge is for just cause.
- The employee is not entitled to termination notice or termination compensation.
- An agreement between the employee and SKG shall not contain any term that, directly or indirectly, prohibits SKG or any person related to SKG from disclosing that an allegation or complaint has been made that the employee committed an act of sexual misconduct toward a student of SKG, with the following exception.

SKG may enter into an agreement that contains a non-disclosure provision as described immediately above if the student requests that SKG does so, provided that:

- The student has had a reasonable opportunity to receive independent legal advice;
- There have been no undue attempts to influence the student with respect to the request;
- 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

- The agreement is of a set and limited duration.

## **6.0 Related Policies, Procedures & Documents**

HR 06 Procedure for Conflict of Interest and Sexual Misconduct in Employee-Student Relationships

SKG's policies and procedures may be found [here](#).

## **7.0 Responsible Officer**

Director of Human Resources

## **8.0 Version history**

Approved by:	Board
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SKG gratefully acknowledges that parts of this policy are patterned on that of OCAD University.