

PROCEDURE FOR HR 06: Conflict of Interest and Sexual Misconduct in Employee-Student Relationships

1.0 Preamble

This procedure sets out how the policies in SKG's Policy HR 06 Conflict of Interest and Sexual Misconduct in Employee-Student Relationships shall be put into effect.

2.0 Definitions

"Director of Academics" means the senior executive in SKG responsible for administration of academic policies, programs, services, and supports (regardless of the title of that position).

"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.

3.0 Scope

This policy and procedure apply to employees and students of SKG.

The provisions of this procedure in no way affect the right of any person to exercise their rights under the Ontario Human Rights Code, within the time limits specified by that legislation.

4.0 Ensuring a learning and working environment free of conflict of interest in employee-student relationships

The definition of conflict of interest in employee-student relationships for the purposes of this procedure are set out in the associated SKG policy HR 06 Conflict of Interest and Sexual Misconduct in Employee-Student Relationships.

4.1 Responsibilities of instructors

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

The definition of “close personal relationship” is defined by the policy associated with this procedure.

The requirement of disclosure applies to any current or past close personal relationship with a student of SKG.

An instructor who has a close personal relationship must disclose this relationship to the Director of Academics.

- Instructors shall disclose to the Director of Academics 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 the 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 the Director of Academics.

4.2 Responsibilities of the Director of Academics

The Director of Academics shall:

- Evaluate the potential for conflict of interest, or perception of conflict of interest, when an instructor discloses a close personal relationship;
- Determine measures to be taken to avoid or mitigate the conflict of interest or perception of conflict of interest; and
- Monitor the implementation of these measures to ensure that the conflict is avoided or mitigated.

In determining measures to be taken to avoid or mitigate the conflict or perceived conflict, the Director of Academics shall consult with the Director of Human Resources.

5.0 Reporting of and response to sexual misconduct in employee-student relationships

The definition of sexual misconduct for the purposes of this procedure is set out in the associated SKG policy HR 06 Conflict of Interest and Sexual Misconduct in Employee-Student Relationships.

5.1 Reporting of sexual misconduct in employee-student relationships

All employees shall report incidents of sexual misconduct of employees involving students, or suspected incidents, that they witness.

Students are encouraged to report incidents of sexual misconduct that they experience or witness.

The Director of Human Resources shall ensure that appropriate processes are in place to:

- Inform employees about SKG's policies and their obligations concerning sexual misconduct of employees involving students,
- Encourage employees to report concerns about sexual misconduct of employees involving students and inform them of the process for reporting,
- Ensure that students are informed about SKG's policies concerning sexual misconduct of employees involving students and its processes to respond to reports or complaints about sexual misconduct of employees involving students, and
- Investigate and respond to reports or complaints about sexual misconduct of employees involving students in a timely and effective manner.

Every student who believes that they experienced sexual misconduct of an employee involving them, as well as every employee who has been notified of a complaint against them, is advised to create and keep written notes about the events at issue, and to maintain any relevant written documentation.

5.2 Response to sexual misconduct in employee-student relationships

SKG shall investigate any complaint raised by an employee or student concerning sexual misconduct of employees involving students.

Every person who believes he or she has experienced sexual misconduct of an employee, as well as every employee who has been notified of a complaint against them, is advised to create and keep written notes about the events at issue, and to maintain any relevant written documentation.

5.2.1 Resolution to a complaint based on restorative justice

After a preliminary stage of investigation, the Director of Human Resources may seek resolution to a complaint based on principles of restorative justice through :

- Engaging an independent and qualified third party to pursue a response to a complaint, or
- Engaging an Elder Advisor under SKG's HR 07 Conflict Resolution policy and its associated procedure to determine a response.

The Director of Human Resources may initiate a resolution based on principles of restorative justice only if the following conditions have been met:

- Such a process would be appropriate given the nature or impact of the alleged sexual misconduct that is the subject of a complaint;
- The terms of the restorative justice process clearly address whether and under what conditions the complainant, respondent, or SKG may cease the process and move to an investigation; and
- Both the complainant and the respondent (person alleged to have committed the sexual misconduct) have given free and informed consent to this approach.

The Director of Human Resources may halt a response based on a restorative justice approach and initiate an investigation at any time, if warranted by new information concerning the nature or impact of the alleged sexual misconduct.

5.2.2 Investigation

Depending on the nature or impact of the alleged sexual misconduct that is the subject of a complaint, SKG's Director of Human Resources may conduct an internal investigation or may request an independent and qualified third party to investigate.

Interim measures may be put in place during the investigation process.

The person(s) conducting the investigation will gather all relevant information from the appropriate parties (complainant, respondent, witnesses) and prepare and submit a written report summarizing the facts and findings and conclude whether there is sufficient evidence to substantiate a finding of a violation of policy or law. As appropriate, the report may also include recommendations on actions or sanctions relating to the issues in the complaint or on more general issues of workplace conflict or climate.

The respondent (person alleged to have committed sexual misconduct) shall be given the opportunity to respond to the specific allegations raised by the student.

Information obtained about a complaint or incident of sexual misconduct of an employee involving a student, including identifying information about any individuals involved, shall not be disclosed unless (1) disclosure is necessary to protect the student, investigate, take corrective action, or otherwise as required by law, or (2) the parties provide free and informed consent to disclosure.

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.

5.2.3 Outcomes of a complaint resolution

Based on the findings of the resolution based on principles of restorative justice or investigation, the Director of Human Resources will decide whether the policy has been violated.

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

If the matter has been addressed through SKG's policy HR 07 Conflict Resolution or another resolution process based on principles of restorative justice, consequences may include steps to be taken in restoration through that process.

If the matter has been addressed through investigation, consequences may include:

- An apology
- Counselling
- Education and training
- Verbal or written reprimand

- Suspension with pay
- Suspension without pay
- Termination of employment

In determining the appropriate consequences, the Director of Human Resources shall take into account the nature of the violation of the policy, its severity, and whether the individual has previously violated the policy.

Where a violation of the policy is found, the Director of Human Resources shall also take practicable steps to prevent any further recurrences of sexual misconduct of employees involving students within SKG.

The student who allegedly experienced the sexual misconduct and the respondent will be informed in writing of the results of an investigation and any corrective action taken or that will be taken by SKG.

While a complainant will be advised of the outcome of an investigation, they will not generally be advised of the details of any sanction and/or remedial action against any other party.

5.2.4 Records relating to complaints, investigation, and resolution

The Director of Human Resources shall ensure that documentation related to complaints, investigations, and resolution is collected and preserved.

Documentation to be preserved includes witness interviews, notes of meetings, evidence gathered, any investigation report, and documentation on the outcome of the investigation.

This documentation shall be securely kept apart from other personnel records.

The Director of Human Resources shall safeguard these documents at least until the conclusion of any human rights proceedings or of limitation periods related to human rights proceedings.

5.2.5 Where a complaint relates to the Director of Human Resources

If a complainant makes a complaint relating to the conduct of the Director of Human Resources, the responsibilities given to the Director of Human Resources under this policy shall be carried out by the chair of the board.

6.0 Responsibilities of the Director of Human Resources

The Director of Human Resources shall ensure that SKG:

- Complies with requirements set out in the Ontario Human Rights Code and other applicable legislation.
- Establishes and maintains an internal responsibility system to ensure that employees, students are in a learning and working environment free of conflict of interest and sexual misconduct in employee-student relationships.

- Responds with appropriate consequences if an instructor fails to disclose a conflict of interest or potential conflict of interest or fails to implement measures determined by the Director of Academics to avoid or mitigate the conflict.
- Carries out an appropriate response to a complaint raised by an employee or student concerning sexual misconduct of employees involving students.

7.0 Related Policies, Procedures & Documents

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

HR 05 Prevention of Harassment and Discrimination and its associated procedure

HR 04 Safe and Healthy Workplace

Supervisor Handbook

Employee Handbook

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

8.0 Responsible Officer

Director of Human Resources

9.0 Version history

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