

CGA's Sexual Misconduct By Employees In Relation To A Student

Sexual misconduct will be defined as:

- Physical sexual relations with a student, including touching of a sexual nature or behaviour or remarks of a sexual nature toward a student
- Reprisals or threat of reprisal for rejection of sexual solicitation and advances.

The definition of sexual misconduct also encompasses acts that constitute an offence under the Criminal Code, acts that infringe the right to be free from a sexual solicitation or advance under the Human Rights Code, and acts that contravene an institution's sexual abuse and misconduct policies.

1. Where a report of sexual misconduct is made and upon further investigation and a claim is proven to be by the Canadian Gemmological Association (CGA), disciplinary measures shall be imposed, which include but are not limited to the following:
 - Termination of employment for just cause
 - Being placed on a leave of absence with or without pay
 - Receiving a disciplinary letter
 - Any other disciplinary measure to which the CGA deems to be appropriate
2. Where an employee has been discharged for violation of this policy, the employee shall not be entitled to notice of termination, termination pay, or any other compensation or restitution as a result of the discharge or disciplinary measure, in accordance with [the Strengthening Postsecondary Institutions and Students Act, 2022](#).
3. Where an employee of the CGA commits an act of sexual misconduct towards a student and is either discharged or the employee resigns, the employee shall not be re-employed in any other position by the CGA.
4. Where any penalty is imposed for violation of this policy, the penalty shall not be substituted for any other penalty pursuant to [the Strengthening Postsecondary Institutions and Students Act, 2022](#), despite subsection 14 (17) of the Labour Relations Act, 1995 and subsection 14 (17) of [the Colleges Collective Bargaining Act, 2008](#), and despite any provision of the collective agreement or employment contract specifying a penalty for the infraction.

5. No arbitrator, arbitration board or other adjudicator shall substitute any other penalty for the discharge or disciplinary measure imposed or violation of this policy.
6. As per section 5, an agreement between the CGA and any person, including a collective agreement or an agreement settling existing or contemplated litigation, that is entered into shall not contain any term that, directly or indirectly, prohibits the CGA or any person related to the institution from disclosing that a that an allegation or complaint has been made or that a CGA employee, committed an act of sexual misconduct toward a CGA student, and any such term that is included in an agreement is void.
7. The CGA may enter into an agreement if the student requests that the CGA do 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

