

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

Office of Accountability:	Office of Learner Well-Being and Success
Office of Administrative Responsibility:	Office of Learner Well-Being and Success
Approver:	Senior Executive Committee
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Definitions

Bullying	Repeated, unreasonable, habitual and unwelcome behaviour directed to a person or a group e.g. sabotaging work equipment, interfering with someone’s ability to perform their duties, exclusionary practices, cyber bullying etc.
Bystander	A member of the Faculty of Medicine (FoM) who is not the subject of mistreatment but who has witnessed or is otherwise aware of an incident(s) of Learner Mistreatment. A bystander can report but cannot be a Complainant in the procedure process.
Complaint	Written statement outlining Mistreatment by a Complainant seeking recourse in accordance with this Policy.
Complainant	A Learner(s) who considers themselves to have been subjected to any/all forms of Mistreatment and who has chosen to bring forward a Concern or Complaint against a member of the FoM in accordance with this policy.
Concern	<ul style="list-style-type: none"> • A situation which is of Concern to a Complainant regarding Mistreatment that requires consultation and is normally resolved informally in accordance with this Policy.

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

	<ul style="list-style-type: none"> A situation which is of Concern to a Bystander regarding Mistreatment that they wish to report to the Office of Learner Well-Being and Success.
Coordinator, Learner Well-Being and Success	Staff position within the Office of Learner Well-Being and Success that is responsible for overseeing the operations of the office.
Day	A day other than a Saturday, Sunday, statutory holiday, or other holidays as declared by the University for all administrative, technical and technical support staff. For the purpose of this policy a day does not include the Christmas break being December 25 – January 2.
Director, Learner Well-Being and Success	Faculty position within the Office of Learner Well-Being and Success that oversees activities that assist undergraduate and postgraduate medical learners in the areas of mentorship, career advising and well-being.
Faculty	An individual with a Faculty appointment with the FoM.
Frivolous	Devoid of merit.
Learner(s)	Individual currently or previously enrolled within the last 30 days within the undergraduate or post graduate medical education program at Memorial University (Memorial) Faculty of Medicine (FoM). This also includes a learner(s) from another medical school completing a clinical elective at Memorial.
Mistreatment (as modified from the definition of “Harassment” as outlined in the Memorial Respectful Workplace policy).	Comments or conduct that involve objectionable behaviours which are abusive, offensive, demeaning or vexatious that are known or ought reasonably to be known to be unwelcome which may be intended or unintended. Mistreatment includes Personal Harassment and Harassment based on Prohibited Grounds of Discrimination which includes race, colour, nationality, ethnic origin, social origin, religious creed, religion,

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

	<p>age, disability, disfigurement, marital status, family status, source of income and political opinion.</p> <p>Examples of Mistreatment include, but are not limited to:</p> <ul style="list-style-type: none"> • Verbal abuse, yelling, and/or making threats; • Making degrading or offensive comments, gestures, or jokes; • Belittlement/humiliation; • Spreading malicious gossip or rumours; • Inappropriate communication through social media, e-mail, or instant messaging; • Actual or threatened physical contact or assault; • Bullying or intimidation; • Pressuring Learners to exceed established restrictions on work or duty hours; • Threats made or implied about a recommendation, the Learner’s grade, or the Learner’s career. <p>Mistreatment may occur during a single serious incident or a series of single incidents. Whether or not a single incident constitutes Mistreatment will depend on the nature and type of incident(s). Mistreatment, for example, does not include:</p> <ol style="list-style-type: none"> a. Interpersonal conflict or disagreement, which is expressed in a respectful manner; b. Performance feedback, which is expressed in a respectful and appropriate manner; or c. Discipline or remediation conducted in a respectful and appropriate manner.
<p>Member of the Faculty of Medicine</p>	<p>All Learners, as well as faculty and staff employed in the FoM at Memorial University. This includes individuals who conduct research and former learners, faculty and staff while they were</p>

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

	still members of the FoM if reported incidents of mistreatment occurred within the time limits set out in this Policy.
Respondent	Member(s) of the FoM whose reported conduct or comments are the subject of a Concern or Complaint.
Retaliation	Any threat of reprisal or any attempt to intimidate and/or any adverse behaviour or action, taken against anyone who participates in a process under this Policy in response to the initial Complaint including the following: <ul style="list-style-type: none"> a. Having invoked this policy; b. Having participated or cooperated in any investigation under this policy; or c. Having been associated with an individual who has invoked this Policy or participated in these procedures.
Sexual Harassment (as per the Memorial Sexual Harassment and Sexual Assault Policy)	Comments or conduct of a sexual nature and/or abusive conduct based on gender, gender identity, sex (including pregnancy and breast feeding) or sexual orientation directed at an individual or group of individuals by a person or persons of the same or opposite sex, who knows or ought reasonably to know that such comments or conduct is unwelcome and/or unwanted.
Staff	An employee or internal or external contractor of the FoM who is not Faculty.
Support Person	An individual to provide support to a Complainant or Respondent. This individual must not be a witness to the complaint and must not be in a conflict of interest position by virtue of involvement. The support person is not permitted to answer questions for the Complainant or Respondent or inhibit or interfere with the proceedings in any way.
Vexatious	To intentionally annoy, embarrass, harass or harm.

Overview

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

The Faculty of Medicine (FoM) at Memorial University of Newfoundland (Memorial) is committed to providing a learning and work environment that is free from all forms of Mistreatment, including intimidation, discrimination, bullying, harassment and racism. Learners of the FoM have the right to an environment that is optimal for teaching, learning, research, and the delivery of patient care.

Purpose

To protect members of the FoM by outlining provisions which aim to:

- prevent Learner Mistreatment;
- educate on Learner Mistreatment;
- address Learner Mistreatment when it occurs;
- identify methods for the resolution of Concerns and Complaints; and
- mitigate the effects of Learner Mistreatment.

Scope

Learners who have personally experienced, or Bystanders who have witnessed or are aware of, behaviour that is considered Learner Mistreatment in the learning and work environment by a member of the FoM.

All matters that meet the definition of sexual harassment as per the sexual harassment policy and sexual assault shall first be addressed by the Memorial Sexual Harassment Office in accordance with the Memorial [Sexual Harassment and Sexual Assault policy](#) and the [University-Wide Procedures for Sexual Harassment and Sexual Assault Concerns and Complaints](#). For more information, please visit the Sexual Harassment Office [website](#), or call the Sexual Harassment Advisor at 864-2015.

Concerns or Complaints of Mistreatment by a Learner(s) regarding a graduate learner(s) who is/are registered in a graduate program in the School of Graduate Studies shall be addressed by the [Student Code of Conduct](#).

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

Concerns or complaints of Mistreatment by a Learner(s) regarding another Learner(s) who is/are registered in an undergraduate, graduate or postgraduate program in the Faculty of Medicine shall be addressed by the Student Code of Conduct.

Complaints of harassment by Memorial employees against other Memorial employees should be addressed in accordance with Memorial's [Respectful Workplace Policy](#).

Concerns or Complaints of Mistreatment by a Learner(s) regarding an employee of a Regional Health Authority (RHA) who does not have an appointment with the FoM should be addressed by the applicable policy of the RHA (e.g. Eastern Health Prevention and Resolution of Harassment in the Work Environment Policy) or other applicable organizational policies.

In situations where a Learner(s) believes their personal safety or the safety of others is an issue, the Learner(s) is/are to report the situation immediately to appropriate campus security officials on campus or the police.

Policy

1.0 General

- 1.1 The FoM is committed to creating and sustaining a learning and work environment where Learners, Faculty, and Staff commit themselves to professional and respectful conduct while engaging in all university-related activities, both on and off campus and in online environments.
- 1.2 Mistreatment by any Member of the FoM is prohibited. The FoM takes steps to prevent where possible, or otherwise minimize, Mistreatment and to deal expeditiously with behaviour that violates this Policy.
- 1.3 Prevention of Mistreatment is a shared responsibility of all members of the FoM.

2.0 Responsibilities and Duties

- 2.1 Members of the FoM have a responsibility to:
 - 2.1.1 model respectful behaviour and refuse to engage in, or condone, behaviour contrary to this Policy;

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

- 2.1.2 encourage an environment which is free of Mistreatment;
 - 2.1.3 familiarize themselves and comply with this Policy and its related procedures;
 - 2.1.4 where and when appropriate, advise other Members of the FoM of this Policy and its related procedures;
 - 2.1.5 consult with, and refer other Learners to, the Office of Learner Well-Being and Success, to obtain advice and guidance regarding possible situations of Mistreatment towards learners.
- 2.2. Members of the FoM with academic or administrative authority bear the responsibility to maintain work and learning environments for Learners that are free from Mistreatment by initiating measures and taking action should Mistreatment occur.

3.0 Process

- 3.1 The **Procedure for the Resolution of Incidents of Learner Mistreatment in the Faculty of Medicine** is to be followed when a Complainant wishes to bring forward a Concern or Complaint of Mistreatment. A Complainant may choose to proceed through:
- 3.1.1 consultation with the Coordinator, Office of Learner Well-Being and Success or delegate;
 - 3.1.2 the informal resolution process; or,
 - 3.1.3 the formal resolution process.
- 3.2. Bystanders are encouraged to consult with the Coordinator, Office of Learner Well-Being and Success or delegate regarding Concerns of Learner Mistreatment. Bystanders are not to be considered as Complainants and are unable to initiate

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

an informal or formal resolution process. However, they may be interviewed as a witness in the event that there is an investigation into the concerns raised.

- 3.3 The informal resolution process is a primary objective of this policy. All attempts should be made to resolve any Concerns as soon as possible, in a fair and respectful manner without invoking the formal resolution process. Every reasonable effort should be made to resolve the Concern early with open communication and in a responsive manner, which may include mechanisms such as coaching, mediation, and training. Pursuing Informal Resolution does not limit the Complainant or Respondent from invoking other options as appropriate and in accordance with the Procedure. In addition, an Informal Resolution is not a prerequisite to pursuing other options.
- 3.4 A Concern or Complaint should be brought forward in a timely fashion, normally within twelve (12) months of the incident(s) or twelve (12) months of when the Complainant reasonably became aware of the incident(s).
- 3.5 The Dean Has the authority to relieve against any time limits outlined in the Policy and Procedures where an extension is needed in good faith and where it is believed not to substantially prejudice either party.
- 3.6 Conflicts in the learning and work environment involving disturbing, threatening or violent behaviour where a person's personal safety and security may be in danger should be reported immediately to appropriate campus enforcement or security officials on the respective campus or to Legal Authorities, in accordance with Memorial's [Assessment and Care Protocol for Threatening, Disturbing and Violent Behaviour](#).

4.0. Conflict of Interest

- 4.1 Members of the FoM and the University community are subject to and must comply with the University's [Conflict of Interest](#) policy and procedures. See the Conflict of Interest Situations section in the Conflict of Interest policy. Members should also refer to any Conflict of Interest provisions and relevant clauses in the appropriate collective agreement, University [Guide for Non-Bargaining, Management and Professional, and Senior Administrative Management Employees](#) or other applicable documents.

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

5.0 Confidentiality

- 5.1 All matters relating to FoM Mistreatment Policy and procedures shall be handled with confidentiality and in accordance with the [Access to Information and Protection of Privacy Act, 2015](#), other privacy legislation to which the University is subject, and University policies. While nothing in this section shall be construed so as to prevent a Complainant or Respondent from seeking advice and guidance, all persons involved in the complaint (including personal supports) related to this policy are required to maintain confidentiality.
- 5.2 Only persons with a *bona fide* need to know the details of a situation will have access to such information and access is limited to the scope of their responsibilities. A breach of confidentiality by any individual with respect to a Concern or Complaint may be subject to disciplinary sanction or other appropriate action.
- 5.3 Confidentiality may not apply to persons subject to extra-University judicial processes, or where disclosure is permitted or required by law, or where the well-being, safety and security of a person or persons is in question or where disclosure is needed to conduct an investigation or to impose discipline. In such circumstances, information, as appropriate, would only be shared with those with a *bona fide* need to know.
- 5.4 In cases where the Respondent is an employee of the University, the Respondent and Complainant are entitled to have access to all relevant information created or gathered for a Mistreatment investigation. In addition witnesses who participate in an investigation may request information that relates to their statements to the investigator.

6.0 Interim Measures

- 6.1 When deemed appropriate, the Associate Dean, Learner Well-Being and Success or delegate may recommend to the appropriate leadership (e.g. Associate Dean, Undergraduate Medical Education; Associate Dean, Postgraduate Medical Education; Assistant Dean, Faculty Wellness, Equity and Professionalism) that interim measures be implemented, as may be necessary in exceptional

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

circumstances (where and when feasible), to protect the well-being, safety and security of the Complainant, Respondent, or both, or to protect other members of the FoM community while a situation is being resolved, investigated or decided. Such measures will be precautionary, not disciplinary and do not indicate a finding of fact.

- 6.2 Any decision and action by the Associate Dean, Learner Well-Being and Success or delegate to recommend interim measures in response to a request from a Complainant or Respondent shall be made in good faith and in an independent, impartial and fair manner towards the Complainant or the Respondent under these Procedures, and shall not in any way be deemed to be an indication of bias or evidence or finding of fact, on the part of the Associate Dean, Learner Well-Being and Success, or delegate towards either the Complainant or Respondent.
- 6.3 Failure to comply with conditions of an interim measure may become part of any investigation.
- 6.4 The appropriate Associate Dean (ie. Undergraduate Medical Education; Postgraduate Medical Education; Faculty Wellness, Equity and Professionalism), in consultation with the Associate Dean, Learner Well-Being and Success, may make changes to the interim measures, where necessary and appropriate. If a change is made to interim measures, notice of the change shall be provided by the appropriate Associate Dean as above or the Associate Dean, Learner Well-Being and Success and the Complainant in the same manner as the original notice of interim measures.
- 6.5 If the Coordinator, Learner Well-Being and Success and/or Director, Learner Well-Being and Success identify a pattern of behaviour in a Respondent (e.g. two or more incidents), follow-up will occur with the Respondent's administrative head (e.g. Discipline Chair; Associate Dean; manager/supervisor).

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

7 Record Keeping

- 7.2 All records are handled in accordance with the University's [Information Management](#) policy, the [Privacy](#) policy, the [Access to Information and Protection of Privacy Act](#) and other applicable legislation.
- 7.3 The Coordinator, Learner Well-Being and Success keeps a confidential record of consultations, any advice given and any outcome achieved. Any reports of a general nature generated by the Coordinator, Learner Well-Being and Success will only include non-identifying information, for statistical purposes only.

8 Appeals

8.1 A Complainant or a Respondent may only appeal the outcome of the decision on one or more of the following grounds:

- (a) evidence of a conflict of interest,
- (b) significant error in the process;
- (c) the result is patently unreasonable;
- (d) there is significant new evidence that was not available at the time of the decision, which has the potential to change the outcome of the matter .

Disagreement with a decision and/or sanction does not constitute grounds for appeal.

8.2 Respondents have the right to appeal or grieve decisions or discipline imposed, in accordance with the following:

- a) In the case of non-bargaining unit employees, appeals shall be filed in accordance with the Complaint and appeal procedures as outlined in the [Guide for Non-Bargaining, Management and Professional, and Senior Administrative Management Employees](#);
- b) In the case of bargaining unit employees, the Respondent has the right to file a grievance regarding any discipline and the decision of the appropriate Unit Head under the terms of the applicable collective agreement where these apply. ;

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

- c) For all other Faculty and Staff not covered in (a) or (b), the appeal shall be directed to the Dean, in writing, within fifteen (15) days of notification of the Action to be taken.

8.3 Complainants may appeal to the Dean, in writing, within fifteen (15) days of notification of the Action to be taken. In considering the appeal, the Dean is bound by all applicable collective agreements and University Guidelines as described in section 8.2 above.

9. Frivolous or Vexatious Complaints

9.1 If a review or investigation determines that a Complaint is Frivolous or Vexatious, disciplinary action may be taken against the Complainant.

- 9.1.1 Any imposed discipline related to a Complaint that is Frivolous or Vexatious will be taken in accordance with applicable and appropriate procedures.

10 Retaliation

10.1 No person shall retaliate against another for initiating a consultation, for bringing forward a Concern or Complaint of Mistreatment or for being involved in any process under this Policy, including as a witness. The FoM considers retaliation at any stage to be a serious offence. Where there is evidence of retaliation, the same route as for dealing with Concerns and Complaints of Mistreatment will be followed.

10.2 A breach of confidentiality by any person with respect to a Concern or Complaint may also constitute retaliation.

10.3 Any person who engages in retaliation or a threat of retaliation may be subject to discipline.

- 10.3.1 Any imposed discipline will be taken in accordance with the Guide for Non-Bargaining, Management and Professional, and Senior Administrative Management Employees, Student Code of Conduct, applicable collective agreements or, for persons not covered by one of the above, the applicable contractual provisions.



Faculty of Medicine

Policy for the Prevention and Resolution of Medical Learner Mistreatment in the Faculty of Medicine

[Procedure for the Resolution of Incidents of Learner Mistreatment in the Faculty of Medicine](#)

[Access to Information and Protection of Privacy Act](#)

[The Assessment and Care Protocol for Disturbing, Threatening or Violent Behaviour](#)

[Conflict of Interest Policy](#)

[Guide for Non-Bargaining, Management and Professional, and Senior Administrative
Management Employees](#)

[Information Management Policy](#)

[Privacy Policy](#)

[Respectful Workplace](#)

[Sexual Harassment and Sexual Assault](#)

[Student Code of Conduct](#)

[University-Wide Procedures for Sexual Harassment and Sexual Assault Concerns and
Complaints](#)