

APPENDIX H

Respectful Learning Environment Policy

Approval Date:

Effective Date:

Review Date:

Authority: The Provost and Vice-President (Academic) through the Associate Vice-President (Academic) and Dean of Students and Vice-President (Administration, Finance and Advancement)

Purpose:

The purpose of the Respectful Learning Environment Policy is to provide a mechanism to have Concerns and Complaints of Students, regarding University Employees, addressed in relation to Learning Environments; and to align with Memorial University's responsibilities under the provincial [Human Rights Act, 2010](#).

The University's goal is to be a dynamic, respectful, and welcoming community with the aim to be a place of proactive programs, inspired learning, dynamic research, commitment to communities, and promotion and pride. The fostering of respectful learning environments is a critical component in achieving these goals along with a number of university policies and procedures that help Memorial emphasize inclusion and equity, service, innovation, care and well-being, and achievement, amongst all members of the University Community. These include:

- Memorial's [Respectful Workplace](#) policy deals with harassment Concerns and Complaints that arise in the workplace environment
- Memorial's [Student Code of Rights and Responsibilities](#) deals with Concerns and Complaints that arise involving Students.
- Memorial's [Sexual Harassment and Sexual Assault](#) policy and its procedures deal with Complaints of a sexual or gender identity nature.
- Matters of an academic nature are addressed in academic regulations within the [University Calendar](#).
- As per Calendar Regulations, unit specific Professional Suitability Policy and Procedures, as may be implemented, deals with conduct involving professional suitability.

In situations where the same conduct is the subject matter of the Complaint or Concern under more than one internal policy, procedure or regulation, the units responsible for each policy must coordinate the process to be utilized as necessary and may consult with the Head of Campus as appropriate.

Scope:

Students of the University and University employees.

Exclusions include undergraduate and postgraduate Learners enrolled in the Faculty of Medicine who are subject to the [Policy for the Resolution of Incidents of Learner Mistreatment in the Faculty of Medicine](#) for matters addressed herein.

This policy does **not** cover decisions made on academic matters such as the assignment of grades, methods of evaluation, and course structure and methods. Students who have a Complaint of an academic nature should, in the first instance, speak to their instructor. If they are not satisfied with the instructor's response, they may take their concerns to the Department or Division or Discipline Head, Dean or Director (as appropriate). Students who are dissatisfied with decisions resulting from this approach are directed to the appropriate Academic Appeal Procedures as specified in the [General Academic Regulations \(Undergraduate\)](#) or the [Graduate Studies General Regulations](#).

Definitions:

Academic Unit - Refers to a centre, department, discipline, division, faculty, program or school, other than an administrative unit, as the context requires.

Actions – Activities that may assist in helping parties reach an early resolution of a Concern or which result from the outcome of an Investigation in relation to a formal Complaint.

Bystander – An individual who has witnessed or is otherwise aware of an incident(s) of disrespectful behaviour at Memorial University. A bystander can report an incident but cannot be a Complainant in the procedure process.

Complainant – A Student(s) (see definition below of “Student”) who raises a Concern or a Complaint applicable under this policy. A complainant can also be a representative of the University, in which case the complaint may be presented by the Chief Risk Officer, Head of Campus, Respectful Learning Environment Complaints Coordinator or Vice-President(s).

Complaint – A written statement outlining the concerns by a Student(s) pursuant to this policy.

Consent — An active, direct, voluntary, unimpaired, on-going and conscious choice and agreement, expressed by word or conduct, between and among persons to engage in sexual activity. A person can only consent for themselves. Consent cannot be given or received while under the influence of alcohol or drugs, while incapacitated, unconscious or otherwise incapable of consenting. Consent cannot be induced by abusing a position of power, trust or authority. Consent can be withdrawn at any time. In addition, silence is not consent.

Concern – A situation which is of concern to a Student(s), which may or may not be in writing, which they wish to resolve without proceeding to a Complaint.

Day(s) – A weekday when the University is open for the transaction of administrative business.

Elder(s)- person(s) recognized by their Indigenous community(ies) as a holder of Indigenous wisdom, knowledge and history and who supports and guides learning in Indigenous groups by

imparting tradition, knowledge, culture, values and lessons using role modeling and traditional practices. Elder is not necessarily a position or an age.

Frivolous - Devoid of merit.

Harassment – 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. Harassment includes Personal Harassment and Harassment based on Prohibited Grounds of Discrimination which includes race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, marital status, family status, source of income and political opinion. Comments or action based on an individual's association or relationship whether actual or presumed, with an individual or class of individuals identified above is also prohibited. For resolution of incidents of sexual harassment and sexual assault, refer to the [University's Sexual Harassment and Sexual Assault Policy](#). Examples of these incidents connected to the Sexual Harassment and Sexual Assault Policy include but are not limited to sex, sexual orientation, gender identity, and gender expression.

Examples of Harassment include, but are not limited to:

- Verbal abuse, yelling, and/or making threats;
- Making degrading or offensive comments, gestures, and/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;
- Pressuring students to exceed established restrictions on work or duty hours; and/or
- Threats made or implied about a recommendation, the student's grade or the student's career.
- Bullying, cyberbullying or intimidation:

“Bullying” is 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, cyberbullying, etc.;

“Cyberbullying” is the act of bullying or harassing someone online by sending or posting, often anonymously, hurtful or intimidating messages. It can occur through text, apps, or on-line in social media forums, where there is shared public content. This includes sending, posting or sharing negative, harmful, or false, content about someone else. It can include sharing personal or private information about someone else causing embarrassment or humiliation.

Harassment may be intentional or unintentional and may occur during a single serious incident or a series of single incidents. Whether or not a single incident constitutes Harassment will depend on the nature and type of incident(s). Harassment, for example, does not include:

- 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.

Head of Campus – For the purpose of this policy, this is the Provost and Vice-President Academic (or delegate) and/or the Vice-President Administration and Finance (or delegate) for the St. John’s Campus, Harlow Campus, Signal Hill Campus and Labrador Campus; Associate Vice-President (Academic) and Student Affairs at the Marine Institute (or delegate); and the Vice-President of the Grenfell Campus (or delegate).

Investigator – The person (who may be internal or external and who has no real or perceived conflict of interest or reasonable apprehension of bias) appointed by the **Head of Campus** when an investigation is required in relation to a Complaint under this policy.

Investigative Report – A written summary of the evidence and any conclusions reached by the Investigator in regards to a Complaint under this policy.

Learning Environment – Venues where Students and University Employees interact. This includes but is not limited to: on-line environments, classroom settings, laboratories and places such as a Learning Commons and/or the setting for some form of experiential learning or extracurricular activities both home and abroad.

Learning Environment Assessment – An independent third-party review conducted by the Investigator of the Learning Environment in a particular unit with goals consistent with the purpose of this policy.

Legal Authorities – The legal entities, external to the University, who have the responsibility and jurisdiction to uphold and enforce the law including the [Criminal Code, R.S.C., 1985, c. C-46](#), as amended (The Criminal Code).

Member of the University Community - Any person who teaches, conducts research, studies or works at or under the auspices of the University and includes, without limitation, all employees, all students; and any other person(s) while they are acting on behalf of or at the request of the University. Students and employees include former students and employees while they were still members of the University if reported incidents of harassment occurred within the time limits set out in this Policy.

Respondent – A University Employee(s) against whom a Complaint has been made pursuant to this policy.

Restorative Justice – A philosophy and approach that emphasizes the role of the person(s) impacted and community members through active involvement in the process, holding individuals directly accountable to the people and communities harmed by their conduct and providing a range of opportunities for dialogue, negotiation and problem solving whenever possible.

Retaliation – Any threat of reprisal or attempt to intimidate or any adverse behaviour or action taken against a Student(s) in response to that initial person having:

- invoked this policy;
- participated or cooperated in any investigation under this policy; or

- been associated with a Student(s) who has invoked this policy or participated in any of its processes.

Sexual Assault — Is a criminal offence under the [Criminal Code R.S.C., 1985, c. C-46](#) of Canada. It is any type of unwanted sexual act characterized by the use of force, threat(s), or control of a person or carried out in circumstances where the person has not freely consented (see definition of Consent.)

Sexual Harassment - Conduct or comments of a sexually-oriented or gender-oriented nature based on gender expression, gender identity, sex or sexual orientation directed at a person or group of persons by another person or persons, who knows or ought reasonably to know that such conduct or comments are unwelcome or unwanted. It includes Sexual Assault and assisting in Sexual Harassment. Conduct or comments which constitute harassment are outlined in [Memorial's Sexual Harassment and Sexual Assault Policy](#).

Student – Student is defined in this policy to include:

- 1) Persons enrolled either full-time or part-time in classes, including when on placements that are part of their academic program;
- 2) Persons who are enrolled in a program but not currently registered in classes; or
- 3) Persons residing in Student Residences, who are not employees and who are not otherwise defined as Students in this section.

Support Person(s) – An individual providing support to a Complainant or Respondent. It can be beneficial for a student to have a support person accompany them throughout the process. Examples of a support person can include a family member, friend, Elder, community member, representative from the respective union. 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.

Unit Assessment- means an independent third-party review of the learning or residence environment that seeks to gather information relative to the issues of student misconduct (non-academic) and to identify causes and effects and to make recommendations to the Head of Campus.

Unit Head – For the purpose of this policy, Unit Head is the term used to mean supervisor, manager, director, executive director, department head, division head, discipline chair, school head, associate dean, vice- dean, dean, dean of libraries, university registrar and other senior administrators; vice-provost, associate vice-presidents, vice-presidents, the president, as appropriate.

University – Memorial University.

University Employee(s) – A person(s) who is employed by the University on a permanent basis, or for a specified term, or on a contractual, part-time, or casual basis and includes a person hired under a University grant, but does not include student employees.

University-related activity – Any activity that is directly related to or arises out of the operations of the University at any location.

Vexatious - To intentionally annoy, embarrass, harass or harm.

Policy:

This Policy is a part of the Memorial University policy framework that fosters respectful Learning Environments, both inside and outside of classrooms, which emphasize fairness, accountability, safety and mutual respect amongst all members of the University Community.

1. General

- 1.1 Students and University Employees are to respect the human rights of all members of the University Community. Students and University Employees are to comply with the provisions of this policy including the confidentiality obligations and the expectation to participate in any procedures taken under this policy.
- 1.2 Students and University Employees have a responsibility to:
 - a. model respectful behaviour and refuse to engage in or condone behavior contrary to this policy;
 - b. encourage a Respectful Learning Environment;
 - c. participate in and facilitate participation in education and training about this policy and its related procedures;
 - d. familiarize themselves and comply with this policy and its related procedures;
 - e. where and when appropriate, advise others of this policy and its related procedures; and or
 - f. seek advice and guidance regarding possible situations that are contrary to this policy.
- 1.3 In addition, those with academic or administrative authority bear a particular responsibility to maintain and to promote a Respectful Learning Environment by taking prompt action should situations contrary to this policy occur. This includes but is not limited to:
 - a. seeking advice about how to carry out these responsibilities from the Director of Student Life (St. John's campus, Harlow Campus, Signal Hill Campus or Labrador Campus), the Director, Student Affairs (Marine Institute); the Registrar/ Director of Student Services (Grenfell campus) and/or the appropriate **Head of Campus** in order to facilitate addressing Concerns and Complaints in a prompt, confidential and fair manner;
 - b. addressing incidents that occur in the unit in a timely and confidential manner;
 - c. upon request, participating in the resolution of Complaints and Concerns; and
 - d. implementing any recommendations from the processes of this policy, which may include disciplinary action.

- 1.4 A representative of the University may take steps under this policy as a Complainant. If the University is the Complainant, a complaint may be presented by the Chief Risk Officer, Student Conduct Officer(s), Head of Campus or Vice-President(s).
- 1.5 The process and investigation of allegations will be in accordance with the procedures for Concerns and Complaints as outlined herein.

2. Process

- 2.1 The informal resolution process is a primary objective of this policy. All attempts may be made at the unit level to resolve any Concerns as soon as possible, in a fair and respectful manner without invoking the formal Complaint 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, training, counselling and facilitation provided by the appropriate professional and organized at the unit level.
- 2.2 If early resolution of a Concern is not successful or not appropriate, or the behaviour continues or reoccurs, a Student(s) may seek to file a Complaint in accordance with the Procedures.
- 2.3 This policy and related procedures do not restrict the right of individuals to file a separate Complaint with the Newfoundland and Labrador Human Rights Commission, invoke the [Criminal Code of Canada](#) or appropriate collective agreement, or legal rights. Complaints under this policy that are pursued under one of these other areas may, be held in abeyance under this policy pending the outcome of the other process.

In situations where the same conduct is the subject matter of the Complaint or Concern under more than one internal policy, procedure or regulation, the units responsible for each policy must coordinate the process to be utilized as necessary and appropriate.

- 2.4 Conflicts in the Learning Environment involving disruptive, 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.

3. Learning Environment Assessment

- 3.1 Where circumstances warrant, the appropriate **Head of Campus** may authorize a Learning Environment Assessment which would include an independent third-party review of the Learning Environment in question to gather information relating to issues of respect for students in that Learning Environment.

4. Frivolous or Vexatious Complaints

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

- 4.2 Any imposed discipline for a Student related to Frivolous or Vexatious Complaints will be taken in accordance with the Student Code of Rights and Responsibilities.

5. Time Limits

- 5.1 A Concern or Complaint shall be made within twelve (12) months of the incident(s). Events prior to the twelve (12) month period can be referenced if the incident(s) is relevant to the last in a series of incidents.

6. Conflict of Interest

- 6.1. Members of 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.

7. Confidentiality

- 7.1 All matters relating to Respectful Learning Environment 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 the University [Privacy Policy](#). 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 reasonable discretion and confidentiality with respect to the process, any information provided by other individuals or witnesses to the process and subsequent reports.

Confidentiality is required to ensure that all individuals involved in the process are protected. The University is subject to privacy legislation which obligates the University to uphold privacy rights and employ privacy considerations whenever personal information may be involved, including when policies and procedures are established. Where appropriate, and permitted by law, complaints will be provided with limited details regarding the status of their complaint, this may or may not include details related to sanctioning and outcomes. Normally sanctions will not be disclosed except where permitted by law.

- 7.2 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. Anyone who attempts to gain or succeeds in gaining access to personal information with respect to a Concern or Complaint, where such information is not needed to perform the scope of their responsibilities, does so in violation of this policy and may be in violation of the [Access to Information and Protection of Privacy Act, 2015](#).
- 7.3 Delivery of all written statements and reports shall be made in a confidential and secure manner, stating "to be opened by addressee only".
- 7.4 A breach of confidentiality by any individual with respect to a Concern or Complaint may be subject to disciplinary or other appropriate action.

- 7.5 In accordance with the [Access to Information and Protection of Privacy Act, 2015](#), the Respondent and Complainant are entitled to have access to all relevant information created or gathered for an investigation. In addition, witnesses who participate in an investigation may request information that relates to their statements to the Investigator.
- 7.6 Confidentiality may not apply to persons subject to extra-University judicial processes, or where disclosure is permitted or required by law such as in accordance with [Access to information and Protection of Privacy Act, 2015](#), or where the health, safety and security of a person or persons is a concern 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.

8. Interim Measures

- 8.1 Where a Concern or Complaint has been reported, the University will exercise care to protect and respect the rights of the Complainant and the Respondent. The University understands that Complainants may wish to control whether and how their experience will be dealt with. When deemed appropriate the Head of Campus in consultation with applicable individuals may recommend that interim measures be implemented to protect the well-being, safety and security of the Complainant, Respondent, or both, or to protect other Members of the University Community while a situation is being addressed. Such measures will be precautionary, not disciplinary and do not indicate a finding of fact.
- 8.2 Any decision and action by the Head of Campus to recommend interim measures shall be made in good faith and in an independent, impartial and fair manner towards the Complainant or the Respondent under the Procedures, and shall not in any way be deemed to be an indication of bias or evidence or finding of fact, towards either the Complainant or Respondent.
- 8.3 If the Associate Director of Faculty Relations (or designate) or the Associate Director of Human Resources (or designate) identify a pattern of behaviour in a Respondent (i.e., two or more incidents) follow-up will occur with the Head of Campus.
- 8.4 The Head of Campus in consultation with applicable individuals 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 Unit Head to the Respondent and the Complainant in the same manner as the original notice of interim measures.
- 8.5 Failure to comply with conditions of an interim measure may become part of any investigation.

9. Accommodation

- 9.1 In certain circumstances, the duty to accommodate for services, facilities and academic purposes may be required, under the provisions of the [Newfoundland](#)

[and Labrador Human Rights Act](#). In these circumstances, the **Unit Head will** facilitate the process of accommodation, while maintaining confidentiality. See also the University's [Workplace Accommodation Policy](#) and [Accessibility for Students with Disabilities Policy](#).

10. Records, Reports and Retention

- 10.1 All records related to a Concern or Complaint are handled in accordance with the University's [Information Management](#) policy, [Privacy](#) policy, the [Access to Information and Protection of Privacy Act, 2015](#), related University policies and other applicable legislation.
- 10.2 The Director of Student Life (St. John's Campus, Harlow Campus, Signal Hill Campus and Labrador Campus); Director of Student Affairs (Marine Institute); or the Registrar/Director of Student Services (Grenfell Campus) shall keep a record of consultations, any advice given, and any outcome achieved. A summary report of the number, the type and the disposition of Complaints is prepared by the Director of Student Life (St. John's Campus); Director of Student Affairs (Marine Institute); or the Registrar/Director of Student Services (Grenfell Campus) annually and submitted to the Associate Vice-President (Academic) and Dean of Students for the St John's campus, Harlow Campus, Signal Hill Campus and Labrador Campus; the Vice-President for Grenfell Campus and Associate Vice-President Academic and Student Affairs for the Marine Institute in a format that does not identify individual cases or people. Reports are provided in an aggregate format in line with Memorial's information management policy. Reports are made available by the Associate Vice President (Academic) and Dean of Students or respective Vice-President's to the President's Advisory Team through the Student Matters Steering Committee as appropriate.

11. Retaliation

- 11.1 No person shall retaliate against another for bringing forward a Concern or Complaint or for being involved in any process related to this policy. The University considers Retaliation at any stage to be a serious offence. Where there is evidence of Retaliation, the same route as for dealing with a Concern or Complaint will be followed.
- 11.2 Any imposed discipline related to Retaliation will be taken in accordance with the [Guide for Non-Bargaining, Management and Professional, and Senior Administrative Management Employees, the Student Code of Rights and Responsibilities](#), the applicable [collective agreements](#) or other applicable contractual provisions.
- 11.3 A breach of confidentiality by any person with respect to a Concern or Complaint, in appropriate circumstances, may also constitute Retaliation.

12. Appeals

- 12.1. Appeals will be considered in accordance with the process outlined in the Procedure.

Related Documents:

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

[Accessibility for Students with Disabilities Policy](#)

[Conflict of Interest Policy](#)

[Criminal Code of Canada](#)

[Employee Assistance Program](#)

[Equity, Diversity and Inclusion in Employment Policy](#)

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

[Management Employees](#)

[Information Management policy](#)

[Memorial University Calendar 2022-2023](#)

[Newfoundland and Labrador Human Rights Act](#)

[Privacy Policy](#)

[Respectful Workplace Policy](#)

[Sexual Harassment and Sexual Assault Policy](#)

[Student Code of Rights and Responsibilities](#)

[Workplace Accommodation Policy](#)

For Inquiries Related to this Policy:

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Sponsor: Provost and Vice-President (Academic)

Category: Human Rights

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