

## APPENDIX B

### STUDENT CODE OF RIGHTS AND RESPONSIBILITIES POLICY (REPLACING THE CODE OF STUDENT CONDUCT)

#### 1. PURPOSE

The purpose of the Student Code of Rights and Responsibilities Policy is:

- to help foster a University Community characterized by respect, fairness, accountability and safety;
- to identify what constitutes non-academic misconduct;
- to set out transparent processes for submitting, resolving, and investigating allegations of non-academic misconduct; and
- to clarify the rights and responsibilities involved in non-academic misconduct situations.

The core focus of Memorial's Student Code of Rights and Responsibilities Policy is to help create a safe and supportive community and manage Concerns and Complaints that arise involving Students. There are 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 which deals with Concerns and Complaints that arise amongst University Employees.
- Memorial's [Sexual Harassment and Sexual Assault](#) policy and its procedures which deals with Complaints of a sexual or gender identity nature.
- Memorial's Respectful Learning Environment Policy which provides a mechanism to have Concerns and Complaints of Students regarding University Employees addressed in relation to Learning Environments.
- [Memorial's Health and Safety Policy](#) - The Health and Safety Management System (HSMS) provides a framework to enable compliance with Occupational Health and Safety (OHS) legislation and university policies and procedures. Specifically, it appries members of the University Community of their duties and responsibilities to applicable legislation, relevant policies, and procedures and reporting requirements.
- Matters of an academic nature are addressed in academic regulations within the [University Calendar](#).

- As per Calendar regulations, the unit specific Professional Suitability Policy and Procedures, as may be implemented, deals with conduct involving professional suitability that may also apply to matters that are subject to this Policy.
- 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 co-ordinate the process to be utilized as necessary and appropriate.

## 2. SCOPE

- a) This Code applies to non-academic conduct by a student, or a group of students, that takes place:
- (i) on University property; and/or through University-provided IT infrastructure, technologies, and/or services;
  - (ii) off University property, or through electronic media regardless of where it originates, in circumstances where:
    - a student is on a course or participating in an organized class activity;
    - a student is participating in a sanctioned activity;
    - a student represents, claims to represent, or would reasonably be perceived to be representing, the University;
  - (iii) a student whose behaviour has connection to, or adverse impact on, University operations or a member of the University's ability to reasonably participate in University related programs, activities, or employment; a student represents or appears to represent the University or an organization affiliated with the University;
  - (iv) the conduct adversely affects the operation of the University or the reasonable participation by members of the University Community in the University's living, learning, or working environments;
  - (v) the University has reasonable grounds to believe there is a risk to the safety of a member(s) of the University Community in the University's living, learning, or working environments; or
  - (vi) the University's reputation may be damaged.
- b) This Code covers non-academic conduct in academic programs including class lectures, laboratories, or the like on University premises. It also covers any organized academic activity such as a clinical placement, exchange, field trip, internship, Co-op and work placements, or research activities that occur off University property.
- c) A Complaint shall be made within twelve months (12) after the alleged violation occurred. 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.

d) Individuals who wish to report a Concern or Complaint should contact the following:

- St. John's Campus, Harlow Campus, Signal Hill Campus and Labrador Campus – Director, Student Life or delegate;
- Marine Institute – Director, Student Affairs;
- Grenfell Campus – The Registrar and Director of Student Services.

e) Parallel Proceedings

- i. Proceedings under this Code may be taken before, at the same time, or after civil or criminal matters. If a report of misconduct has resulted in civil or criminal proceedings against a student, the Student Conduct Officer in consultation with the General Counsel, will determine whether the case should be deferred until the conclusion of such other proceeding. Interim measures can be imposed if there is a reasonable basis that any offence under the Code has occurred, and may continue in both informal and formal reviews under the Code. See Section 11.

### 3. DEFINITIONS

A full glossary of terms and definitions with relevant examples may be found below. For the purpose of interpreting this document:

- **“Class”** refers to a period of instruction such as a lecture, seminar, tutorial, laboratory, recital, concert, or sports event.
- **“Concern”** means a situation which is of Concern to a Complainant regarding any form of non-academic misconduct, which may or may not be in writing, and which the complainant wishes to resolve informally and expeditiously.
- **“Complaint”** a written statement outlining a Concern by a Member of the University Community or otherwise associated with the University Community pursuant to this policy.
- **“Complainant”** means a Member of the University Community who raises a Concern or Complaint under this Code or otherwise associated with the University Community pursuant to this policy. 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).
- **“Complaints Coordinator”** is a person(s) who is appointed by the University to act in the role as outlined in this Code. The University may decide to appoint a different Complaints Coordinator(s) for the St. John's Campus, Signal Hill

Campus, Harlow Campus, Grenfell Campus, Labrador Campus, and/ or the Marine Institute.

- **“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.
- **“Day”** a weekday when the University is open for the transaction of administrative business.
- **“Elder(s)”** person(s) recognized by their Indigenous community as a holder of Indigenous wisdom, knowledge and history and who supports and guides learning in Indigenous groups by impacting tradition, knowledge, culture, values and lessons using role modeling and traditional practices. Elder is not necessarily a position or an age.
- **“Formal Resolution”** means a process in which an external or internal investigator conducts an investigation. It is a means of addressing Complaints and does not require the consent of the parties. Please see Section C.0, Procedure for Formal Resolution of the Student Code of Rights and Responsibilities Procedures.
- **“Frivolous”** refers to devoid of merit.
- **“Harassment”** is:  
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, sex, sexual orientation, gender identity, gender expression, 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.

- **“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, cyberbullying, etc.
- **“Cyberbullying”** is the act of bullying or harassing someone online by sending or posting, often anonymously, hurtful, or intimidating messages. 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.

Examples of Harassment include, but are not limited to:

- 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 including electronic communication;
- Actual or threatened physical contact or assault;
- Bullying, cyberbullying, or intimidation.

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:

- Interpersonal conflict or disagreement, which is expressed in a respectful manner;
  - Performance feedback, which is expressed in a respectful and appropriate manner.
- **“Hazing”** means any activity expected of someone joining or participating in a group that humiliates, degrades, abuses, or endangers them, regardless of a person’s willingness to participate. Hazing endangers the mental or physical health or safety of a student. Common hazing includes alcohol/binge drinking, humiliation, isolation, sleep deprivation, and sexual acts.

- **“Hearing”** a hearing will only be conducted in accordance with Section 16 of this Code.
- **“Head of Campus”**
  - i. For the St. John’s Campus, the Signal Hill Campus, the Harlow Campus and the Labrador Campus – Associate Vice-President (Academic) and Dean of Students, or delegate.
  - ii. For the Grenfell Campus –Vice-President, Grenfell Campus, or delegate.
  - iii. For the Marine Institute – Associate Vice-President (Academic and Student Affairs and Services), Marine Institute or delegate.
- **“Informal Resolution”** means processes that a complainant can consider with the Complaints Co-ordinator with the goal of resolution of Concerns and Complaints.

Informal procedures will include consulting with the parties involved and attempting to mediate a satisfactory resolution. The process will focus mainly on restorative justice. 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 at the unit level. The Code also provides for early intervention regarding behavior that may be of Concern, without involving the formal procedures under the Code. Informal resolution may not be appropriate in all circumstances. Parties will be made aware of on-campus and community supports while engaging with the Student Support Office as a means of offering support.

- **“Interim Measures”** means the Student Conduct Officer may impose interim measures where the alleged behaviour of a student may be considered to constitute a danger to persons or property, or to be hindering a member of the University from enjoying rights or pursuing activities within the University. When deemed appropriate the Student Conduct Officer may impose interim measures 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. See Section 11 of the Policy.
- **“Investigator”** means 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”** means a written summary of the evidence and any conclusions reached by the Investigator in regard to a Complaint under this policy.
- **“Learning Environment”** refers to 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 at home or abroad.
- **“Learning Environment Assessment”** refers to an independent third-party review conducted by the Investigator of the Learning Environment in a particular unit with goals consistent with the purpose of the policy.
- **“Mediation”** refers to a voluntary process whereby an internal or external individual(s) facilitates appropriate dialogue between two or more parties with the objective of assisting the parties to arrive at reconciliation, or a mutually agreeable resolution. Mediation requires consent of both parties and may not be appropriate in all circumstances.
- **“Member of the University Community”** means all students at the University and any person who teaches, conducts research, studies, works at or under the auspices of the University and includes, without limitations, all employees and others while they are acting on behalf of the University. Students include former students while they were still members of the University Community if reported incidents of student non-academic misconduct occurred within the time limits set by this policy.
- **“President”** means the President of Memorial University or their delegate.
- **“Respondent”** means a student against whom a Complaint has been made pursuant to this policy.
- **“Restorative Justice”** means emphasizing the role of the persons impacted and community members through active involvement in the misconduct process, holding students 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”** means any threat of reprisal, attempt to intimidate, or adverse behaviour or action taken against a Complainant or a University Community person, if that person:
  - invoked this policy;

- participated or cooperated in any process under this policy; or
  - associated with a complainant who has invoked this policy or participated in any of its processes.
- **“Sanctioned Activity”** means an activity that has been formally approved by the University through a University administrator authorized to do so.
- **“Sexual Assault”** is a criminal offence under the Criminal Code of Canada RSC, 1985, c. C-46. It is any type of unwanted sexual act characterized by the use of force, threat(s), or control of a person carried out in circumstances where the person has not freely consented. (See definition of Consent). In cases of sexual assault, persons are advised to contact legal authorities immediately. They should also refer to the Sexual Harassment Office and consult the [Sexual Assaults Support and Response Guide](#).
- **“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”** is defined in this Student Code of Rights and Responsibilities Policy to include as follows:
    - Individual enrolled either full-time or part-time in classes, including when on placements that are part of their academic program;
    - Persons who are enrolled in a program but not currently registered in classes;
    - Persons residing in Student Residences, who are not employees and who are not otherwise defined as Students in this section;
    - Persons who withdraw from the University after the alleged conduct, will be considered Students for the purpose of a proceeding under this Code when they re-enrol.
- **“Student Conduct Officer”** is a person(s) who is appointed by the University to act in the role as outlined in this Code.
    - For the St. John’s Campus, Signal Hill Campus, Harlow Campus, and Labrador Campus – Director of Student Life or delegate;
    - For the Grenfell Campus – The Registrar and Director of Student Services;
    - For the Marine Institute – Director, Student Affairs.



- **“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 Student Union, etc. This individual must not be a witness to the complainant 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.
- **“Student Residences”** building(s) where students live on Memorial’s campuses including the following campuses: St. John’s, Grenfell, Signal Hill, Bonne Bay and Harlow, as well as, the infrastructure surrounding these buildings such as parking lots, dining facilities and recreational areas.
- **“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.
- **“University”** means Memorial University.

#### 4. RIGHTS AND RESPONSIBILITIES

All Students have an obligation to familiarize themselves with the entirety of the Student Code of Rights and Responsibilities as it applies to their particular role as a Student. This is to ensure that they are aware of their rights, responsibilities and expectations to the University Community.

##### **Student Rights**

- a) The right to academic and educational pursuits at the University with the privileges it affords to those in good standing;
- b) The right to participate fully in University life without the fear or threat of harassment, intimidation, stalking, bullying, coercion, discrimination, or acts of violence;
- c) The right to an educational and on-campus residential environment that is safe, respectful, and conducive to learning;
- d) The right to natural justice under this Code;
- e) The right to privacy of personal information as per University policies;

- f) The right to the freedoms of opinion, expression, belief, and association to the extent that these freedoms do not interfere with the rights of others, or violate other University policies and procedures;
- g) The right to peaceful assembly and participation in demonstrations within the University, provided that such actions do not violate the fundamental rights of other Members of the University Community, nor violate the fundamental responsibilities of the student as outlined in the Student Code of Rights and Responsibilities policy.

### **Student Responsibilities**

- a) The responsibility to behave in such a way as to make the University a safe, respectful, and inclusive place to live, work, and study. Students are called upon to refrain from conduct that threatens or endangers the health, safety, well-being or dignity of any member of the University Community;
- b) The responsibility to uphold an atmosphere of equity and respect for others, consistent with the value that the University places on diversity in our community.
- c) The responsibility to be fully acquainted with, and to adhere to University policies, procedures, and rules;
- d) The responsibility to maintain a safe and secure campus community by refraining from unauthorized entry to University premises, and unauthorized possession of University property;
- e) The responsibility to respect the privacy of personal information of all Members of the University Community;
- f) The responsibility to maintain integrity in one's interactions with the University. Knowingly providing false or inaccurate information to the University or an official thereof, altering or tampering with a document submitted to the University or otherwise engaging in fraudulent behaviour with respect to the University constitutes misconduct. Incidents that are deemed to be academic misconduct will proceed under applicable academic regulations;
- g) The responsibility to act in accordance with the law and University policy with respect to illegal drugs;
- h) For those who choose to consume regulated substances such as cannabis, alcohol or prescription drugs, the responsibility to do so, will be in accordance with the federal, provincial and other applicable local requirements, and other related University policies and regulations;
- i) When outside of Canada, students are expected to abide by the laws in the country to which they are studying. This may include but is not limited to, laws regarding peaceful assembly, and alcohol and cannabis consumption. With regard to international placements or exchanges, the student is responsible to inform themselves of any laws, federal regulations, etc. of the country to where they are going to study or work.

## **5. POLICY**

Memorial University is a learning, teaching and working community of students, faculty and staff, with the goal of being a dynamic, respectful, and welcoming community that is respectful of the rights, responsibilities, well-being, and dignity of all its members.

Students are responsible individuals and members of society with rights and responsibilities as citizens and learners. Students are expected to adhere to the University's core values of integrity, inclusiveness, diversity, collegiality, responsiveness, and accountability in all aspects of university life, and to show respect for others. The University, given the adherence to these values, is committed to providing developmental and educational opportunities in response to the issues of non-academic student conduct, when appropriate.

The principles of the safety and well-being of the University Community (including students), deterrence, restitution, education and, where appropriate, restorative justice, will guide the misconduct process.

The Student Code of Rights and Responsibilities policy reflects the expectation that students will conduct themselves in a manner consistent with generally accepted standards of behaviour. This includes compliance with University regulations and policies, departmental policies, and federal, provincial and municipal laws, as well as codes of ethics that govern students who are members of regulated professions.

## **6. REFERRALS**

In cases where a Complainant is unsure of whether or not there has been a breach of this Code, but has a Concern about a Student, a referral may be made to the Student Conduct Officer or delegate in accordance with the Procedures. The Student Conduct Officer may seek advice or refer the Complainant or Respondent to University support units which may include Student Wellness and Counseling Centre, the Sexual Harassment Office, the Internationalization Office, etc. to develop a strategy or plan to ensure the continued health and safety of the Student and members of the University Community. The Student Conduct Officer or delegate will only involve those persons who are necessary, and required to ensure that proper assistance is provided to the Student and will not use this referral to solicit evidence for the purposes of finding an offence under the Code. This approach is not punitive in nature, but is a method of early intervention of potential behavioural or other issues.

## **7. OFFENCES**

The Code outlines behavior that the University considers to be non-academic misconduct offences, and the range of remedies and/or penalties which may be imposed. Academic misconduct is governed by the University Calendar and other University policies. Further details on offences can be found in Appendix A.

## **8. SPECIAL MEASURES PROVISION**

If the Head of Campus has grounds to believe that the well-being, safety, or security of the University Community is at risk with respect to student misconduct, the University shall initiate an investigation and/or inform legal authorities. A Learning Environment Assessment may be recommended to the Provost to authorize an independent third-party review of the Learning Environment in question to gather information relating to issues of respect in that environment.

This Policy does not restrict the right of persons to file Complaints with external agencies, under such legislation as the Criminal Code of Canada, or other legal rights.

## **9. CONFIDENTIALITY AND PRIVACY**

All persons involved in any process related to this Code are required to maintain confidentiality regarding Code procedures, incidents and individuals related to or involved with this process. This applies only to information that a participant learns as a result of their participation in the investigation. It is not intended to prevent participants from speaking in first voice about their own experiences with a related incident or the investigation itself. Reasonable discretion and confidentiality is expected of all persons involved in the Student Code of Rights and Responsibilities. Confidential matters are handled in accordance with the [Access to Information and Protection of Privacy Act, 2015, cA-1.2](#) , other privacy legislation to which the University is subject, and [the University Privacy Policy](#).

The Complainant or Respondent may seek support, guidance, or other services as needed (or where beneficial without breaching required confidentiality as stated above).

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 with respect to the process, any information provided by other parties or witnesses to the process and subsequent reports.

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. Third parties attempting to gain or 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](#).

A breach of confidentiality by persons involved in any process related to this Policy may be subject to discipline or other appropriate action.

The Respondent and Complainant are entitled to have access to all relevant information created or gathered for a formal investigation. In addition, witnesses who participate in an investigation may request information that relates to their statements to the Investigator.

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 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.

Confidentiality is required to ensure that all individuals involved in the process are protected. The University is subject to privacy legislation including [the University Privacy Policy](#), 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, Complainants will be provided with limited details regarding the status of their Complaint. This may or may not include details related to sanctioning and outcomes.

Typically, complainants will not be provided with information regarding any sanctions imposed as a result of the Complaint.

## **10. PROCESS**

The informal resolution process is a primary objective of this policy.

The University recognizes that many Concerns can be resolved informally, without resorting to the formal provisions of this Code. The principles underlying this Code are educational and whenever appropriate the University encourages informal resolution.

All Concerns and Complaints will be addressed in accordance with the associated Procedures, which may include consultation with the Complaints Coordinator, Informal Resolution Process (including Restorative Justice), or Formal Resolution Process as appropriate.

## **11. INTERIM MEASURES**

The Student Conduct Officer may impose interim measures where the alleged behaviour of a student may be considered to constitute a danger to persons or property, or to be hindering a member of the University from enjoying rights or pursuing activities within the University. When deemed appropriate the Student Conduct Officer may impose interim measures 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.

Interim measures can include the following:

- a) Removal from Residence: If the interim measures are to include temporary removal of a student from Residence, this will only be done in consultation with the Director of Student Residences and Ancillary Services (St. John's Campus), or the Manager of Student Housing (Grenfell Campus) as appropriate or their designate.
- b) Temporary limitation of access to all or part of the campus: The Student Conduct Officer can impose a temporary limitation of access to all or part of the campus, where in their discretion, such a temporary limitation to access is required for the safety of the student(s) or the University.

Provisions of reasons: Within two (2) business days following the imposition of any interim measure the student shall be informed in writing of the reasons for the interim measure. The student shall be given the opportunity to respond to the imposition of the interim measure, in writing, to the Head of Campus. Following the response of the student, the Head of Campus will reassess the interim measures imposed and either revoke or affirm the measure.

## **12. FRIVOLOUS OR VEXATIOUS COMPLAINTS**

If a review or investigation determines that a Complaint is frivolous or vexatious, disciplinary action may be taken against the Complainant.

Any imposed discipline for a Student related to frivolous or vexatious Complaints will be taken in accordance with the Code of Student Rights and Responsibilities.

### **13. RETALIATION**

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.

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

### **14. UNIVERSITY AS COMPLAINANT**

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).

The process and investigation of allegations will be in accordance with the procedures for Concerns and Complaints as outlined herein.

### **15. SANCTIONS/ RESOLUTIONS**

After an investigation, the University may impose sanctions where an investigation determines that a non-academic misconduct offence has occurred. Sanctions may be applied independently or in combination. All efforts will be made to determine outcomes in a timely manner. Failure to comply with a sanction may result in the imposition of further sanctions which may include restricting access to programs and spaces or locations on campus.

In determining appropriate sanction(s) in a case of confirmed non-academic misconduct, consideration will be given to the following factors:

- a) the seriousness, harm, and impact of the conduct on the Complainant, the University Community, a University activity or reputation, or property of the University;

- b) whether the incident is a single, isolated incident;
- c) whether the incident was planned and deliberate or inadvertent;
- d) whether other University policies were violated;
- e) records of previous convictions may be taken into account in imposing a sanction;
- f) any financial costs;
- g) any other factor determined as relevant.

Wherever possible, the principles of Restorative Justice should be used in determining the approach to resolving a particular situation. Sanctions may be used independently or in combination for any single offence. Repeated and/or multiple violations may increase the severity of sanctions applied.

Further details on the Sanctions and Resolutions that may be imposed by the University can be found in Appendix B below.

## **16. HEARINGS**

Appeals will take place in accordance with Section D of the Student Code of Rights and Responsibilities Procedures.

## **17. APPEALS**

Appeals will take place in accordance with Section E of the Student Code of Rights and Responsibilities Procedures.

## **18. RECORDS**

### **a) Keeping of Records**

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.

The Director of Student Life (St. John's Campus); Director of Student Affairs (Marine Institute); or the Registrar and 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 and 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; or the Vice-President for Grenfell Campus, or the 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.

**b) Reporting**

The Complaints Co-ordinator at each campus shall keep a record of consultations, any advice given, and any outcome achieved.

The Complaints Co-ordinator at each campus shall prepare an annual report of a general nature which will include only non-identifying information and will outline the statistics and general nature of Concerns and Complaints.

**19. REVIEW**

This Code will be reviewed on an interim basis every two years and formally every four years, as per the University Policy Framework, by a committee of not less than five (5) people appointed by the Associate Vice-President (Academic) and Dean of Students. The committee shall include at least two (2) students. The committee may make recommendations to the Board of Regents for amendments to the Code.

**20. GUIDELINES FOR NATURAL JUSTICE FOR STUDENT CONDUCT**

- a) The burden of proof is on the balance of probabilities rather than "beyond a reasonable doubt". The burden of proof will be established by an analysis of what is most likely to have happened;
- b) The process should ensure as speedy a resolution of cases as is consistent with fair process;
- c) Each party must be given sufficient notice of an investigative process or appeals hearing, in writing, to allow for preparation of the case;

- d) The student must be informed of the allegations forming the basis of the report of misconduct against them;
- e) The student has the right to hear and to respond to evidence presented against them;
- f) Each party may have a Support Person;
- g) Students may be accompanied by a Support Person during the Informal and Formal resolution processes (as appropriate);
- h) Both sides of the case have the right to be heard;
- i) Any record of the process will not be maintained in the student's academic or personal files if no charges are laid, although the relevant authority shall maintain official records for University purposes;
- j) At all levels of the process, decisions must be made in a reasonably timely way and be in writing. Reasons for the decisions must be provided.

**Related Documents:**

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

[Conflict of Interest Policy](#)

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

[Information Management Policy](#)

[Policy for the Prevention and Resolution of Student Mistreatment in the Faculty of Medicine](#)

[Privacy Policy](#)

[Procedure for Addressing Anonymous Disclosures of Student Mistreatment in the Faculty of Medicine](#)

[Respectful Learning Environment Policy](#)

[Respectful Workplace Policy](#)

[Sexual Harassment and Sexual Assault Policy](#)

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

**For Inquiries Related to this Policy:**

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**Sponsor:** Provost and Vice-President (Academic)

**Approval Date:** Effective Date: September 3, 2024

## Appendix A Offences

The following shall constitute Offences under this Code for which a sanction may result:

1. Offences against persons, which include but are not limited to:
  - a. Physical, or verbal assault and/or harassment or the threat thereof;
  - b. Creating a condition that unnecessarily endangers the physical and/or mental health or safety of other persons;
  - c. Uttering threats;
  - d. Bullying, intimidating, or harassing another person;
  - e. Any conduct that can be reasonably considered hazing or frothing activities. Students shall not organize or engage in any act that endangers, or could reasonably be seen to endanger the mental or physical health or safety of a Student, for the purpose of initiation, admission into, affiliation with, or for continued membership in a group or organization including the residence community;
  - f. While a university environment is one where freedom of speech is highly valued, students must adhere to provisions of the Human Rights Act, 2010 and discrimination is prohibited on the following grounds: race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income and political opinion. Comments or action(s) based on an individual's association or relationship whether actual or presumed, with an individual or class of individuals identified above is also prohibited;
  - g. For resolution of incidents of sexual harassment and sexual assault, refer to the University's [Sexual Harassment and Sexual Assault Policy](#).
  
2. Offences involving property, which include, but are not limited to:
  - a. Unauthorized entry or presence on any premises of the University;
  - b. Taking, destroying, or damaging property that is not their own;
  - c. Defacing any part of the University premises;
  - d. Knowingly possessing stolen property;

- e. Creating a condition that endangers or threatens destruction of the property of the University, or of any of the members of the University Community.
3. Offences involving drugs or alcohol, which include, but are not limited to:
- a. Underage drinking;
  - b. Underage use of cannabis;
  - c. Being disorderly or causing a disturbance while under the influence of alcohol or drugs for recreational purposes;
  - d. Providing alcohol to minors;
  - e. Illegal possession, selling, or distribution of alcohol;
  - f. Use, consumption, possession, cultivation, selling, or distribution of drugs or paraphernalia, that are illegal under Federal or Provincial legislation, or are not permitted under University policies or regulations;
  - g. Trafficking in or distribution of prescription drugs;
  - h. Breach of the University Alcohol Policy;
  - i. Smoking/Vaping - no person shall engage in smoking/vaping on campus where smoking/vaping is prohibited;
  - j. Being impaired by a regulated substance in a manner that creates disruption, risk, or harm to self or others.
4. Offences involving conduct that would be realized as a breach of the law and/or disrespect for the health and safety of the University Community or its members, including:
- a. Creating dangerous or unsafe conditions - such actions as setting fires, fake fire alarms, blocking exit routes, tampering with life-saving equipment, or impeding work of University or emergency personnel;
  - b. Inciting violence – the use of words which threaten violence of physical injury to a person or persons, or use words in a situation of clear and present danger which incite others to violence;
  - c. Bringing weapons to University property or activities – this includes firearms (including air guns and imitation firearms), explosives, other weapons or dangerous chemicals;
  - d. Possession and use of weapons other than that outlined in the Weapons Policy.

5. Offences involving disruption, which include, but are not limited to:
- a. Counseling, conspiring with, or aiding a person in the commission of an offence defined in this Code;
  - b. Participating in activities that contravene the provisions of the Criminal Code or any federal, provincial, or municipal legislation for which an offence is created;
  - c. Refusing to comply with a sanction or sanctions imposed under the provisions of this Code, or interfering with a process under this Code;
  - d. Acting, threatening, or otherwise causing a disturbance that obstructs any activity organized by the University, or by any of its faculties, schools, departments or divisions, clubs, societies, or resource centres, or the rights of a member of the University Community to carry on their legitimate activities, to speak to or associate with others.

Students and members of the University Community enjoy the freedom to pursue their intellectual and personal interests without interference. The objectives of the University are the pursuit of learning through scholarship, teaching and research within a spirit of free enquiry and expression. The University recognizes academic freedom and the right to free speech, creative expression and peaceful protest, acknowledging that the common good of society depends upon the search for knowledge and its free expression.

The following are not considered “disruption” in accordance with this section:

- Peaceful assemblies, demonstrations, picketing, or other activity inside or outside a class or meeting that does not substantially interfere with the communication inside, or impede access to the meeting, or class;
- Silent or symbolic protest that does not substantially interfere or intimidate others with the peaceful enjoyment of an activity, event, meeting or assembly.

However, noise that obstructs the conduct of a meeting or class, intimidates participants and guests, or forcibly blocks access to an activity constitutes “disruption” under this Code.

6. Other offences include, but are not limited to:
  - a. Unauthorized use of any facility, equipment, or service of the University;
  - b. Bringing false or malicious charges or Complaints against any member of the University Community;
  - c. Retaliation against persons for laying a Complaint or providing statements under this Code;
  - d. Fraudulent activity;
  - e. Illegal gambling;
  - f. Misconduct related to online posting;
  - g. Failure to comply with reasonable direction of university or law enforcement officers acting in the performance of their duties;
  - h. For non-academic purposes, knowingly providing fake information to any person acting on behalf of the University, or to forge, alter, or misuse any university document or identification, or providing fake information to any person regarding their standing, status, or academic record at the University;
  - i. Unauthorized use of protected Memorial University trademarks, names, or images;
  - j. Offering a bribe, or providing monetary or other benefit to a Member of the University Community for the purpose of gaining advantage;
  - k. The dissemination of malicious or defamatory material, or the engaging in any activity that creates a social or academic climate that inhibits or interferes with the full participation of University learning and living;
  - l. Knowingly sharing / posting third party personal information without consent in violation of the third party's personal privacy.

## **Appendix B**

### **Sanctions and Resolutions**

a) Restorative Justice

Wherever possible, the principles of Restorative Justice should be used in determining the approach to resolving a particular situation. Sanctions may be used independently or in combination for any single offence. Repeated and/or multiple violations may increase the severity of sanctions applied.

If all parties agree, the Respondent may be required to complete specific activities as deemed appropriate. To engage in this process, the Respondent must accept responsibility for the misconduct, agree to address the harm caused, and determine, with the other parties, a way forward.

Restorative justice measures may include, but is not limited to service to the University Community, apologies, restitution, participation in a community conference or circle, participation in education seminars, or other appropriate measures.

b) Letter of reprimand

This sanction is written notice from the University that the Respondent has violated the Code and has been formally reprimanded. The notice provides details of the violation and a warning that an additional violation may result in more severe sanctions.

c) Written or Verbal Apology

The student provides a verbal or written apology to the person(s) affected by their conduct.

d) Fines and Compensation for loss

In the event of a monetary loss as a result of the misconduct, a fine may be imposed. Fines will be progressive in nature with a maximum of \$100 for a first offence, \$300 for a second, and \$500 for a third. The fine shall form a charge against the student's University account. If a student is unable to pay a fine, they will be required to complete service to the University or the broader community. Further, the student



may be required to pay for any damage or financial loss incurred as a result of the misconduct.

e) Education/Training Project

The student must complete specified education/training program, (e.g., anger management, alcohol/substance awareness program) or complete a research project. Students will be made aware of on-campus and community supports while engaging in this module.

f) Referral

The student is referred to appropriate community resources (e.g., alcohol assessment, mental health supports, academic supports, etc.).

g) Community Service

The student completes a designated number of hours of community service within the University or the wider community.

h) Non-Academic Probation

The student may be placed on non-academic probation for a designated period of time ranging from one semester to the duration of the student's academic program. Any further offences under the Code will be cause for further sanctions, up to and including expulsion.

i) Loss of privileges

The student may lose privileges for a designated period of time. This may include, but is not limited to, computer privileges, library facilities, recreational facilities, and distance education access.

j) Behavioural Contract

The student may be required to adhere to behavioural expectations, terms, and conditions that have been developed with, agreed to, and signed by the student.

Failure to comply with the terms of the agreement will be considered a further offence under the Code.

k) No Contact Order

The student may be prohibited from contacting another member of the University Community (directly or indirectly) where such contact may negatively impact the physical or mental well-being of such a person. This includes, but is not limited to face to face, telephone, email or any social media contact.

l) Limitation of Access

The student may be limited in their access to all or part of the University premises for a designated period of time. Limitation of access may include the student being prohibited from registration in a particular course or program. This sanction shall not be used to evict a resident from on-campus Student Residences.

m) Removal from Course

The student may be required to withdraw from a course where their continued attendance may interfere with the well-being, safety, or security of other students in this course.

n) Exclusion from a Class, Exam Room, or other Area

The student may be excluded from a class, exam room, or other area of the University.

o) Residence Relocation

The student may be required to vacate their current University residence and relocate to another on campus. The Director, Student Residences (St. John's Campus), the Director of Signal Hill Campus, or the Manager, Student Housing (Grenfell Campus) will be consulted.

p) Eviction from Residence

The student loses the privilege of living in University housing or visiting residence at any time. Eviction may be permanent, or a student may be permitted to reapply after

a specified period of time or when other certain pre-conditions have been met. Eviction will occur only after consultation with the Director of Student Residences (St. John's), Director of Signal Hill Campus, or the Manager, Student Housing (Grenfell) as appropriate, or their designate.

q) Suspension

The student incurs the loss of academic or other university privileges (such as access to university property) for a specified period of time, or until imposed conditions are met. The period of suspension shall not exceed 4 years. The student will be eligible to return after this time but may be required to fulfill specified conditions upon return.

r) Expulsion

The student may be permanently expelled from the University, which includes loss of academic or other University privileges (including exclusion from University property or activities).

s) Follow-up on Sanctions/Outcomes

As part of any sanction other than suspension or expulsion, a student may be required to report to the Office of Student Life or other University unit for follow-up or compliance assessment.