



COLLECTIVE AGREEMENT

between

MEMORIAL UNIVERSITY OF NEWFOUNDLAND

and

**LECTURERS' UNION OF MEMORIAL UNIVERSITY
OF NEWFOUNDLAND**

February 5, 2009 – August 31, 2012

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ARTICLE 1 – Preamble

- 1.01 The University and LUMUN recognize the important contribution of Per Course Instructors to the University in the achievement of its mission.

ARTICLE 2 – Purpose

- 2.01 The general purpose of this Agreement is to establish orderly collective bargaining between Memorial University of Newfoundland (hereinafter referred to as the “University”) and its Per Course Instructors, represented by the Lecturers’ Union of Memorial University of Newfoundland (hereinafter referred to as the “Union”); to establish and maintain a harmonious working relationship between the parties; to ensure the prompt resolution of disputes and grievances; and to set forth the terms and conditions of employment.
- 2.02 The parties recognize that it is in their common interest to promote and enhance the working relations between the University, the Union, and its members, consistent with the principles of mutual respect, cooperation, and academic freedom.

ARTICLE 3 – Definitions and Interpretations

- 3.01 For the purposes of this Collective Agreement

- (a) “Academic Year” runs from September 1 to August 31 inclusive of both dates.
- (b) “Academic Unit” shall mean an Academic Department, School, non-departmentalized Faculty, Grenfell College Division, the Fisheries and Marine Institute, to which one (1) or more Per Course Instructors have their appointment. For Per Course Instructors at Sir Wilfred Grenfell College who are not members of a Division, the Academic Unit shall be the College.
- (c) “Administrative Head” shall mean the head of an Academic Department, Grenfell College Division, or the Dean or Director of an Academic Unit. For Per Course Instructors at the Fisheries and Marine Institute, the Administrative Head shall be the Associate Executive Director. For Per Course Instructors at Sir Wilfred Grenfell College who are not members of a Division, the Administrative Head shall be the Principal.
- (d) “Agreement” refers to the Collective Agreement entered into between the University and the Union.
- (e) “Course” shall be a unit of academic instruction for credit or designated “foundation” taught for three (3) or more hours a week over a thirteen-week semester, or an equivalent period for a session, preceded by registration and advising of students and followed by an examination period. Courses may be

taught by various methods including, but not limited to, lectures, laboratories and distance delivery.

- (f) “Day” shall mean a weekday when the University is open for administrative business unless otherwise stated in this Collective Agreement.
- (g) “Distance Education” shall mean the teaching of a course section where its mode of delivery is completely online or in traditional correspondence when the instructor is not in the physical presence of the students.
- (h) “Per Course Instructor,” shall mean an employee included in the bargaining unit as defined by the Order issued by the Labour Relations Board of the Province of Newfoundland and Labrador, dated December 21, 2006.
- (i) “President” shall mean the President of the University or any University employee authorized to act on his or her behalf.
- (j) “Shall” means that the action is mandatory.
- (k) “Union” shall be the Lecturers Union of Memorial University of Newfoundland (LUMUN).
- (l) “University” shall mean the Memorial University of Newfoundland as defined in the *Memorial University Act*.
- (m) “Vice-President Academic” shall mean the Vice-President Academic of the University or any University employee authorized to act on his or her behalf.

3.02 When a word in the singular number or either gender is used in this Collective Agreement, it shall be construed as if the plural number of the other gender has been used and vice-versa where the context requires.

ARTICLE 4 – Union Recognition

4.01 Further to the Order issued by the Labour Relations Board of the Province of Newfoundland and Labrador, dated December 21, 2006, the University recognizes the Union as the exclusive bargaining agent for all employees of Memorial University of Newfoundland employed as Per Course Instructors to teach two courses or less per semester on a limited term basis on the campuses of the employer in the Province of Newfoundland or by distance education to the students of Memorial University of Newfoundland, save and except employment subject to the terms of a Collective Agreement between Memorial University of Newfoundland and the Memorial University of Newfoundland Faculty Association.

- 4.02 The parties agree that Per Course Instructors employed by Memorial University of Newfoundland on the campus of Cape Breton University to teach two courses or less per semester on a limited term basis are included in the bargaining unit.

ARTICLE 5 – Union Security and Check-Off

- 5.01 The University shall advise new Per Course Instructors in their letter of appointment that they are included in the bargaining unit represented by the Union, and that their employment is on the terms and conditions set out in the Agreement. The letter shall also include contact information for the Union and website address where the collective agreement may be accessed, or a copy of the collective agreement.
- 5.02 The University agrees to provide to the Union copies of all letters of appointment at the same time that they are provided to Per Course Instructors.
- 5.03 The University shall invite Per Course Instructors to participate in orientation sessions for new academic employees hosted by the Office of Faculty Relations.
- 5.04 At the Per Course Instructor's request, the instructor shall be permitted to have a Union representative present at any meeting with the University concerning a matter arising out of the Collective Agreement.
- 5.05 Duly authorized representatives of the Union shall be permitted to transact official business of the Union with members of the Union or with official representatives of the University, on University property, provided such business shall not interfere with the normal operations of the University.

Dues Check-Off

- 5.06 The University agrees to deduct on a biweekly basis the dues or assessments of the Union from the salary of each Per Course Instructor.
- 5.07 The Union shall advise the Director of Faculty Relations in writing of the amount or rate of its biweekly dues or assessments. The University shall remit to the Union the amounts deducted within one (1) week following each biweekly pay day. Such remittance shall be accompanied by a list that includes the name, employee identification number and academic unit of each bargaining unit member from whose salary the deduction has been made.

Information for the Union

- 5.08 The University shall provide the Union with a list of employees in the bargaining unit by the fourth week of each academic term. Such list shall include name, academic unit, teaching assignment, precedence, and payment. Subject to availability, the University shall provide the mailing address, telephone number

and Memorial University e-mail address of each Per Course Instructor. Notification of changes to appointments shall be made within 15 days of any such change. The confidentiality of personal information shall be protected by the Union and the information shall only be used for communication with bargaining unit members necessary for their representation and shall not be shared with any third party.

5.09 The University will post the text of the Collective Agreement on its website and the Office of Faculty Relations will provide a printed copy to any Per Course Instructor on request. A copy of the Collective Agreement shall be made available in the administrative office(s) of each academic unit.

5.10 The University shall host the Union's website.

Office Space and Facilities

5.11 In order to facilitate the administration of the collective agreement, the University shall make available to the Union, without charge, office space that is accessible to persons with disabilities.

5.12 Postal and telephone service will be provided on a cost recovery basis. Printing, computing services, use of audio visual equipment and internal mail service shall be provided to the Union on the same basis and at the same rates as it is provided to Academic Units.

5.13 The University shall provide the Union with access to meeting rooms for the purpose of holding membership meetings, subject to availability of space.

ARTICLE 6 – Management Rights

6.01 The Union recognizes that all rights, powers and authority which are not specifically abridged, delegated, or modified by this Collective Agreement are vested in the University.

6.02 The University shall exercise these rights in good faith and in a reasonable non-arbitrary and non-discriminatory manner.

ARTICLE 7 – No Discrimination and No Harassment

7.01 The University and the Union agree that there will be no discrimination, interference, restriction, intimidation or coercion with respect to any Per Course Instructor regarding the terms or conditions of her or his employment by reason of race; religion; religious creed; political opinion; political activity; colour or ethnic, national or social origin; sex; pregnancy; sexual orientation; gender identity; marital status; family status; physical disability or mental disability; age; except as may be permitted by the *Human Rights Code* R.S.N.L. 1990, c. H-14,

as amended, nor by reason of membership or non-membership in the Union, nor by reason of language (except where the lack of language competence would clearly prevent the carrying out of required duties). While the parties agree not to discriminate on the basis of place of residence, a Per Course Instructor who chooses to reside in a location which predictably interferes with the discharge of his or her responsibilities may not cite this clause as a defence against disciplinary action resulting from that failure to discharge his or her responsibilities.

- 7.02 The University and the Union acknowledge the legal duty to accommodate any Per Course Instructor regarding the terms and conditions of his or her employment up to the point of undue hardship in accordance with the *Human Rights Code* R.S.N.L. 1990, c. H-14, as amended.
- 7.03 In situations where an accommodation is required pursuant to clause 7.02 regarding the terms or conditions of any Per Course Instructor's employment, the University, Union and Per Course Instructor shall meet to explore reasonable accommodation.
- 7.04 The University has a responsibility to provide a workplace and learning environment that is free of sexual and personal harassment.
- 7.05 The parties agree that the Union shall be entitled to representation on the Respectful Workplace Advisory Committee and the Sexual Harassment Board.
- 7.06 A Per Course Instructor alleging that he or she has been personally harassed may file a complaint in accordance with the University's Respectful Workplace Policy and/or may file a grievance in accordance with Article 17 – Grievance Procedure.
- 7.07 A Per Course Instructor alleging that he or she has been sexually harassed shall pursue the matter in accordance with the University-Wide Procedures for Sexual Harassment Complaints. This shall not preclude a Per Course Instructor from filing a grievance in accordance with Article 17 – Grievance Procedure.

ARTICLE 8 – No Strike or Lockout

- 8.01 The parties agree that there will be no strike or lockout as defined by the *Labour Relations Act*, R.S.N.L. 1990, c. L-1, as amended, during the life of this Collective Agreement.
- 8.02 During a strike or lockout of another University bargaining unit, Per Course Instructors shall not be required to perform the duties of those employees.

ARTICLE 9 – Union Management Committee

- 9.01 There shall be a Union-Management Committee consisting of three (3) bargaining unit representatives appointed by the Union and three (3) representatives from within the University appointed by the University. One representative of each of the Parties shall be from Sir Wilfred Grenfell College.
- 9.02 The purpose of the Committee is to review matters of mutual interest arising from the application of this Collective Agreement and to foster communications and co-operation between the Parties, but the Committee shall not have the power to deal with any matters which are properly the subject of a grievance or negotiation.
- 9.03 The Committee shall meet whenever the need arises, but in any event, at least every three (3) months. A member or members of the Committee shall participate by teleconference or other telecommunications technology where it is not feasible to meet in person.
- 9.04 The Committee shall have Co-Chairpersons appointed by the respective Parties. Each Co-Chairperson will alternately be responsible for convening and chairing meetings of the Committee.
- 9.05 Minutes of each meeting of the Committee shall be prepared by the non-chairing Co-Chairperson and distributed to all Committee members, where reasonably practicable, at least seven (7) days prior to the next meeting.

ARTICLE 10 – Reports and Resolutions of the University

- 10.01 The University agrees to provide the President of the Union, upon request, with a copy of the Memorial University budget approved by the Board of Regents, and a copy of the University's audited consolidated financial statements.

ARTICLE 11 – Representation on University Bodies

- 11.01 Subject to Senate by-laws and procedures, the Union shall be entitled to send a non-voting delegate to meetings of the Senate.

ARTICLE 12 – Seniority

- 12.01 Seniority shall operate on an Academic Unit basis and shall be based on the number of courses or equivalents taught within the Academic Unit as a Per Course Instructor.
- 12.02 A Per Course Instructor shall be on probation in an Academic Unit until she or he has taught three (3) courses or equivalent within the Academic Unit as Per Course Instructor and has taught in at least three (3) semesters.

- 12.03 Following the successful completion of the probationary period, a Per Course Instructor will be notified that she/he has been placed on the seniority list for the Academic Unit with credit for courses taught during the probationary period.
- 12.04 A Per Course Instructor on the seniority list appointed to a teaching term appointment at the University under the terms of the collective agreement with the Memorial University of Newfoundland Faculty Association subsequent to September 1, 2006, shall receive credit for one course per semester as a teaching term appointee to a maximum of four (4) courses. Such credits will be recorded as they are earned.
- 12.05 At least once each semester, no later than the end of the 4th week of lectures, the University shall provide the Union with a list of Per Course Instructors in each academic unit who are on the seniority list and who are on probation. Such list shall be in descending order of seniority. It shall include course names and numbers, and the number of sections or equivalents taught by each Per Course Instructor within the academic unit. This listing will be used for offers of appointment for the next semester.
- 12.06 A Per Course Instructor shall be removed from the seniority list if:
- (a) she or he has been dismissed for just cause and not reinstated; or
 - (b) she or he has not taught a course at the University within the last three years.

At the Union's written request and with the agreement of the University, a one (1) year extension to the three (3) year period may be granted in exceptional circumstances. Such requests shall be submitted with supporting documentation to the Director of the Faculty Relations and shall not be unreasonably denied.

ARTICLE 13 – Appointments

- 13.01 When the Administrative Head determines that a course is available to be taught by a Per Course Instructor, the position shall be posted electronically and may be concurrently advertised elsewhere. The postings(s) shall be for ten (10) days except where this is not possible due to emergency circumstances.
- 13.02 Appointments available for Per Course Instructors shall normally be posted no later than October 30 for the Winter semester, no later than February 28 for the Spring/Intersession/Summer semester, and no later than June 30 of each year for the Fall semester.
- 13.03 Postings shall include, but are not limited to, the nature of the position, the application deadline and the requirements for the position including academic and professional qualifications and experience.

- 13.04 Applications in response to postings shall be submitted electronically or in writing to the Administrative Head.
- 13.05 In accordance with the provisions of the Collective Agreement in Article 12, persons applying for a posting shall have seniority for the appointment based on the number of courses or equivalents previously taught in that academic unit of Memorial University, provided they meet the requirements for the position as outlined in the job posting. In the event that more than one applicant has equal seniority, the final determination will be made by the Administrative Head.
- 13.06 In the event a posted position is not filled through the posting procedure, including circumstances where there is no qualified applicant or no qualified applicant who is immediately available, the University may fill the position as it deems appropriate.
- 13.07 In the event of an emergency situation such as, but not limited to, resignation, death, serious illness, withdrawal of the assigned instructor, higher than anticipated student enrolment, or when an unanticipated position occurs, the University shall, where it is practicable in the circumstances to do so, choose first from the applicant pool in the original posting following the procedure in 13.05 above, which may result in a Per Course Instructor being assigned a second course. If there is no such applicant available, the University may fill the position as it deems appropriate.
- 13.08 The University, without posting and without following seniority, may assign:
- (a) adjunct professors, up to ten (10) courses in an academic year,
 - (b) post-doctoral fellows, up to twenty (20) courses in an academic year,
 - (c) graduate students, during their program at the University, up to the percentage of per course appointments filled by graduate students during the preceding academic year.
- 13.09 When a new graduate program is approved by Senate or modifications to an existing graduate program are approved by Senate, the percentage of per course appointments filled by graduate students may increase in accordance with academic requirements of such programs. The University shall inform and consult with the Union on such developments in a timely manner.
- 13.10 All offers of employment to Per Course Instructors are conditional upon sufficient student enrolment in the course.
- 13.11 Per Course Instructors shall be notified of their appointments in writing.
- 13.12 Where the current practice of cross-listing a specified course between departments is discontinued, the University shall consult with the Union with

respect to seniority rights and the parties shall deal with the seniority issues that arise on a case-by-case basis.

ARTICLE 14 – Duties and Responsibilities

14.01 All Per Course Instructors have certain duties and responsibilities that derive from their positions as teaching scholars and that includes a professional duty to develop and maintain their scholarly competence and effectiveness as teachers.

14.02 The duties and responsibilities of Per Course Instructors include course preparation and delivery and student evaluation and consultation, recognizing that there are approved non-standard teaching formats (including but not limited to Laboratory Courses, and intern, clinical, thesis and other academic supervision of undergraduate and graduate students in the Academic Unit). These duties and responsibilities shall be discharged in accordance with all regulations, resolutions, guidelines and policies of the University, including those of the Academic Unit, as follows:

- (a) Per Course Instructors shall attend any orientation sessions or meetings relating to the delivery of their assigned courses and teach their courses in accordance with course descriptions in the University Calendar and the schedule shown in the approved timetable. When it is not reasonably practicable for the Per Course Instructor to attend such orientation sessions or meetings, alternative arrangements may be made in consultation with the Administrative Head.
- (b) Per Course Instructors shall inform their students of the methods and planned schedule of evaluation in their courses. Per Course Instructors shall, by the end of the second week of classes, provide the Administrative Head with information describing their current courses, including course outlines, methods of evaluation, bibliography (if appropriate), planned schedule of evaluation and student consultation arrangements, and upon request, instruments of evaluation and any material required for external accreditation purposes.
- (c) Per Course Instructors shall schedule and be available on campus for individual consultation with students at reasonable times outside of scheduled teaching hours for not less than two (2) hours per course per week (prorated for portions of courses) or shall make such other arrangements as may be agreed to in writing by the Administrative Head. Per Course Instructors shall make these arrangements known to their students in writing not later than six (6) days after the start of lectures in a semester or three (3) days after the start of lectures in Intersession or Summer Session. In the case of Per Course Instructors teaching distance education courses, such consultation may be conducted by distance technology.

- (d) Per Course Instructors shall examine or otherwise evaluate students in courses and programmes for which they are responsible. This includes the evaluation of student work within a reasonable period of time after its submission, its demonstration or its performance and acceptance of a fair and equitable share of grading or marking in team-taught or multi-section courses with a common final examination. When such examination or other evaluation must be undertaken following the end of the appointment, it shall be the responsibility of the Administrative Head to arrange for the evaluation at no expense to the Per Course Instructor.

ARTICLE 15 – Evaluation

- 15.01 Evaluation of Per Course Instructors by the Administrative Head may be carried out from time to time, but there shall be no more than three (3) such evaluations per instructor per semester unless mutually agreed upon between the instructor and the Administrative Head.
- 15.02 The primary purposes of evaluation are to improve the quality of teaching, to provide feedback and guidance and to ensure that Per Course Instructors meet their professional duty to develop and maintain their scholarly competence and effectiveness as teachers.
- 15.03 Evaluations shall relate to the duties and responsibilities referenced in Article 14 and may include consideration of timeliness in attendance to duties and adherence to the regulations, resolutions, guidelines and policies of the University including those of the Academic Unit.
- 15.04 Evaluations of instructional effectiveness may include consideration of results of Senate-approved student evaluations, review of course and program content, in-class reviews and substantiated student reports on teaching.
- 15.05 Per Course Instructors shall be given no less than five (5) days' notice that an in class, face-to-face, or electronically monitored (e.g. via teleconference, video taped) evaluation is to take place.
- 15.06 Every reasonable effort shall be made to conduct in-class, face-to-face, or electronically monitored evaluations at a mutually agreed on time.
- 15.07 During his or her first semester teaching at the University, a Per Course Instructor may make a written request for an in-class review for the purpose of obtaining feedback and guidance on teaching practices, which shall be scheduled for a class mutually agreed between the Instructor and the Administrative Head.
- 15.08 Course Evaluation Questionnaires shall be conducted in accordance with Senate policies and procedures.

15.09 The results of evaluations will be shared with the Per Course Instructor, treated in a confidential manner, and placed in the Per Course Instructor's Official Employee File in accordance with the provisions of Article 19.04 of this Collective Agreement.

ARTICLE 16 – Discipline and Dismissal

16.01 No Per Course Instructor shall be disciplined or dismissed except for just cause.

16.02 The disciplinary actions that may be taken by the University include, but are not limited to, letter(s) of warning or reprimand, suspension(s) with or without pay, and dismissal. Such disciplinary action shall be in accordance with the principles of progressive discipline, and be reasonable and commensurate with the seriousness of the violation.

16.03 Where the University convenes a meeting with the Per Course Instructor for the purpose of communicating disciplinary action(s), the University will provide the Per Course Instructor with reasonable advance notice of the nature of the meeting and his or her right to Union representation. The Per Course Instructor shall be provided with an opportunity to be heard at such meeting.

16.04 The Per Course Instructor shall be notified in writing of the nature of the disciplinary action(s) taken and the reasons for such action(s) within five (5) days of the discipline, and a copy of the letter shall be forwarded to the Union.

16.05 Any disciplinary action against a Per Course Instructor in regard to an allegation of sexual harassment shall be in accordance with the University-Wide Procedures on Sexual Harassment Complaints, as amended from time to time in accordance with its terms.

ARTICLE 17 – Grievance Procedure

17.01 Should a dispute arise between the Union or a Per Course Instructor and the University, a good faith effort shall be made to settle the dispute in accordance with the provisions of this Article.

17.02 For the purpose of this Agreement, a grievance shall be defined as any difference arising out of the interpretation, application, administration or alleged violation of the Collective Agreement, including any question as to whether a matter is arbitrable.

17.03 The following types of grievances are recognized:

- (i) **Individual Grievance:** The complaint of an individual Per Course Instructor.
- (ii) **Group Grievance:** The complaint of two or more Per Course Instructors.

(iii) **Policy Grievance:** The complaint of the Union or the University which may involve a question of general application or interpretation of the Collective Agreement.

17.04 The Union shall have the right to originate an individual, group or policy grievance. A Union policy grievance, a group grievance involving grievors from two or more academic units, or a grievance involving suspension or termination of employment shall be submitted at Step 2.

17.05 The grievor shall be entitled to Union representation and shall be entitled to be present at every step of the grievance procedure. In the case of group grievances, as many grievors may be present as is reasonably practicable.

17.06 No grievance shall be defeated or denied by any technical objection occasioned by a clerical, typographical or similar technical error or by inadvertent omission of a step in the grievance procedure.

17.07 No Per Course Instructor shall be subject to reprisal for exercising his or her grievance rights under this Collective Agreement.

17.08 The University and the Union shall make every reasonable effort to schedule grievance meetings at times that do not interfere with the grievor's employment duties. When this is not possible, the grievor shall be permitted the required time off to attend grievance meetings with the University without loss of pay or benefits. In such cases, the grievor shall make every reasonable effort to arrange an exchange or substitution for his or her scheduled teaching duties acceptable to the Administrative Head. When this is not possible, the Administrative Head shall make such arrangements.

17.09 The time limits in this Article are mandatory and may be varied only by written mutual consent of the Parties to the Collective Agreement, and such consent when requested prior to the expiration of the time limits, shall not be unreasonably withheld. Should the University default on the time lines for responding to a grievance at any of the steps of the grievance procedure, the Union shall have the right to immediately advance the grievance to the next level.

17.10 The grievance procedure shall be as follows:

Step 1

A Per Course Instructor, together with his or her Union Representative shall, within thirty (30) days of the date the instructor knew or ought reasonably to have known of the occurrence of the matter giving rise to the grievance, submit the grievance in writing to the Administrative Head.

The Administrative Head shall render a written reply within twenty (20) days of receipt of the grievance, following a meeting of the Parties if either Party considers a meeting to be necessary. In a departmentalized unit, the Administrative Head shall also consult with the Dean of the Faculty prior to rendering a written reply.

Step 2

If the decision rendered by the Administrative Head at Step 1 is unsatisfactory to the Union, and the Union decides to continue the grievance, the grievance shall be submitted in writing to the Vice-President (Academic) within fifteen (15) days. The Vice-President (Academic) shall convene a grievance resolution meeting of the two Parties who shall make a good faith effort to resolve the grievance. The Vice-President (Academic) shall render a reply within fifteen (15) days of receipt of the grievance.

Step 3

Failing a satisfactory settlement being reached, the Union may decide to take the grievance to arbitration and shall notify the Vice-President (Academic) in writing of its intent to submit the grievance to arbitration within twenty (20) days of the Union receiving the reply at Step Two.

University Grievances

17.11 The Vice-President (Academic) shall have the right to originate a policy grievance on behalf of the University and to submit such grievance in writing to the President of the Union. Where the Parties are unable to resolve such grievance to their mutual satisfaction within twenty (20) days of receipt of the grievance by the Union, the Vice-President (Academic) may within a further twenty (20) days notify the Union in writing of his or her intent to submit the grievance to arbitration.

ARTICLE 18 – Arbitration Procedure

18.01 Within fifteen (15) days of the receipt of the written notice of intent to submit the grievance to arbitration, the Parties shall appoint a sole arbitrator to hear the grievance. Where the Parties fail to agree upon a sole arbitrator within the preceding time frame, the Minister of Human Resources Labour and Employment shall, on the request of either Party, appoint a sole arbitrator to hear the grievance.

18.02 Where a grievance is referred to arbitration, the Parties may, by mutual written consent, agree to have the grievance heard by a board of arbitration.

18.03 Within fifteen (15) days from the date of such mutual written consent, each Party shall notify the other Party in writing indicating the name, address and telephone

number of its nominee to the arbitration board. If either of the Parties fail to appoint a nominee within the specified time frame, the Minister of Human Resources Labour and Employment shall, on the request of either Party, appoint a nominee on behalf of the Party who fails to appoint a nominee.

- 18.04 Within ten (10) days of the appointment of the second nominee, the nominees shall select a person to chair the board of arbitration. If the nominees fail to select a chairperson within the specified time frame, the Minister of Human Resources Labour and Employment shall, on the request of either Party, appoint the chairperson on behalf of the nominees.
- 18.05 The sole arbitrator or board of arbitration constituted under this Article shall hear relevant evidence relating to the grievance and argument thereon and make a decision on the grievance. The decision is final and binding upon the Parties and upon any person on whose behalf this Collective Agreement was made.
- 18.06 The decision of the majority of the members of an arbitration board named shall be the decision of that board and if there is no majority decision the decision of the chairperson shall be the decision of the board.
- 18.07 The sole arbitrator or board of arbitration shall have all the powers vested in arbitrators under the *Labour Relations Act*, R.S.N.L. 1990, c. L-1, as amended, including in the case of discipline or discharge, the power to substitute another penalty that to it seems just and reasonable in the circumstances. The sole arbitrator or board of arbitration shall not have the power to alter, amend, modify, change or make any decision inconsistent with the Collective Agreement.
- 18.08 The Parties shall equally share the fees and expenses of the sole arbitrator. If the Parties mutually agree to a board of arbitration, each Party shall pay the fees and expenses of its own nominee to the board of arbitration and the Parties shall share equally the fees and expenses of the chairperson.
- 18.09 The time limits in this Article are mandatory and may be varied only by mutual written consent of the Parties to the Collective Agreement and such consent when requested prior to the expiry of the time limits, shall not be unreasonably withheld.
- 18.10 The parties shall make every reasonable effort to schedule arbitrations at times that do not interfere with the employment duties of the grievor and other witnesses whose attendance is required at the arbitration. When this is not possible, the grievor and other witnesses shall be permitted the required time off to attend at the arbitration without loss of pay or benefits. In such cases, the grievor and any witnesses shall make every reasonable effort to arrange an exchange or substitution for his or her scheduled teaching duties acceptable to the Administrative Head. Where this is not possible, the Administrative Head shall make such arrangements.

18.11 Arbitrations shall be held at a location outside the university's premises, unless the parties mutually agree to hold the hearings on the university's premises in which case the University shall provide appropriate space for the hearing and each of the parties.

ARTICLE 19 – Official Employee File

19.01 There shall be one official employee file which shall be maintained by and located in the Department of Human Resources.

19.02 Upon request, a Per Course Instructor shall have the right, on the next day where reasonably practicable, to consult his or her official employee file in the presence of a representative of the University, and, if he or she so wishes, a representative of the Union. Copies of the documents in a Per Course Instructor's official file may be made available to the Instructor, on request.

19.03 A Per Course Instructor shall have the right to authorize a named representative of the Union to examine his or her official employee file in his or her absence. Any such representative shall provide the express written authorization of the Per Course Instructor to the appropriate official of the Department of Human Resources. A separate authorization shall be provided for each such request.

19.04 A copy of any disciplinary or evaluation document shall be supplied concurrently to the Per Course Instructor. A Per Course Instructor shall be given an opportunity to sign the file copy of an evaluation or disciplinary report as an acknowledgement that he or she has received such a report. Per Course Instructors shall have the right to respond in writing to any documents placed in their official employee file and their response shall also form part of their official employee file.

19.05 In the case of a graduate student who is also a Per Course Instructor, all documents relating to the student's employment as a Per Course Instructor shall be kept separate from the student's academic file.

ARTICLE 20 – Academic Freedoms and Responsibilities

20.01 All Per Course Instructors enjoy equal rights to academic freedom.

20.02 Academic freedom is necessary for the pursuit of the University's purposes. The defense of academic freedom is an obligation on all members of the University community. Academic Freedom does not require neutrality on the part of the individual, nor it does it preclude commitment. Rather, it makes commitment possible.

- 20.03 The parties agree to uphold the right of Per Course Instructors to teach, to learn, to engage in scholarly activity, to publish, to comment, to criticize, to examine, to question, to acquire and disseminate knowledge, to create, and to perform; all of these without deference to prescribed doctrine.
- 20.04 Per Course Instructors with primary responsibility for the content and/or presentation of a course shall be accorded academic freedom in the design and/or presentation of that course, in accordance with the course description in the University calendar, and subject to the regulations, resolutions, guidelines and policies of the University, including those of the Academic Unit.
- 20.05 Academic freedom includes the right to discuss and criticize policies and actions of the University and the Union and protects against the imposition of any penalty for exercising that right.
- 20.06 Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base one's teaching and scholarly activities on an honest search for knowledge. In exercising the freedom to comment and criticize, Per Course Instructors have a corresponding obligation to use academic freedom in a responsible manner by recognizing the rights of other members of the University community, and by affirming the rights of others to hold differing points of view.
- 20.07 Academic freedom does not confer legal immunity, nor does it diminish the obligations of Per Course Instructors to fulfill the duties and responsibilities of their appointments. Per Course Instructors shall not be hindered or impeded in any way by the University or by the Union from exercising their legal rights, nor shall they suffer any penalty imposed by either party for exercising those rights.
- 20.08 Per Course Instructors retain all their freedom as citizens to express themselves. The University accepts no responsibility for such expressions and shall exercise no censorship. In statements outside the University, Per Course Instructors shall not claim to speak on behalf of the University unless specifically authorized to do so. Should confusion arise concerning whether a Per Course Instructor was speaking on behalf of the University, the Per Course Instructor shall issue a disclaimer.

ARTICLE 21 – Intellectual Property Rights

- 21.01 Per Course Instructors shall retain copyright to intellectual property created in the course of their employment. In cases where the University commissions a Per Course Instructor to produce or create intellectual property, copyright and royalties will be determined by agreement between the Per Course Instructor and the University and reflected in a written contract between the Per Course Instructor and the University and, if applicable, a third party.

ARTICLE 22 – Other Employment and Activities

- 22.01 The parties recognize that other employment and professional activities may enhance the reputation of the University and the professional, scholarly and scientific competence of the Per Course Instructor.
- 22.02 The parties recognize the part-time nature of Per Course appointments and the freedom of Per Course Instructors to engage in other employment, professional, scholarly or scientific activities.
- 22.03 Accepting a Per Course appointment from the University shall not restrict the Per Course Instructor from engaging in other employment, professional, scholarly or scientific activities, provided such employment or activities do not conflict with the performance of the duties and responsibilities of the Per Course Instructor and further provided that the Per Course Instructor shall not represent himself or herself as acting on behalf of the University, unless specifically authorized to do so. However, nothing shall prevent the Per Course Instructor from stating the nature of his or her appointment with the University.
- 22.04 Should outside activities involve the use of University employees, facilities, equipment, supplies or services, such use shall be subject to the prior written approval of the Administrative Head. The request for approval shall include information on the nature and scope of outside activities for which support is requested. If approval is granted, the charges for such employees, facilities, equipment, supplies or services shall be at the prevailing rates unless the Vice-President (Academic) agrees in writing, to waive all or part of the charges.

ARTICLE 23 – Credit Courses

- 23.01 A Per Course Instructor may register for or audit one (1) credit course at the University during each semester that she or he is employed as a Per Course Instructor. Financial assistance is limited to the cost of University tuition fees for the course. This provision shall not apply to graduate students registered at the University.

ARTICLE 24 – Expenses and Access to Facilities

- 24.01 Per Course Instructors who are required to use their personal vehicles for University business shall be reimbursed in accordance with University Travel Guidelines.
- 24.02 The University shall use its best efforts to provide Per Course Instructors with access to appropriate office space.
- 24.03 The University shall provide Per Course Instructors with access to library facilities while they are members of the bargaining unit.

24.04 Per Course Instructors shall be provided with a University email address and have reasonable access to University email, postal, printing, duplication, computer lab access, and classroom support services necessary for the performance of their duties.

24.05 The University shall use its best efforts to post to its website a list of Per Course Instructors' office locations, email addresses and telephone numbers by the end of the third week of a teaching semester.

24.06 Per Course Instructors assigned to teach a course by distance education shall be provided with a per course expense allowance of \$100.

ARTICLE 25 – Health and Safety

25.01 The University recognizes its responsibility to provide a workplace that is safe and healthy and shall maintain proper standards on University premises in conformity with all applicable acts, regulations and codes.

25.02 Joint Health and Safety Committees shall be established at the St. John's and Sir Wilfred Grenfell College campuses of the University. The purpose of these Committees is to assist in the promotion of a safe and healthy workplace; the identification of unsafe or unhealthy conditions; and the prevention of accidents.

At the St. John's campus:

- (a) The Committee shall consist of three (3) bargaining unit representatives appointed by the union and three (3) representatives from within the University appointed by the University.
- (b) The Committee shall meet whenever the need arises, but in any event, at least every three (3) months.
- (c) The Committee shall have Co-Chairpersons appointed by the respective Parties. Each Co-Chairperson will alternately be responsible for convening and chairing meetings of the Committee.
- (d) Minutes of each meeting of the Committee shall be prepared by the non-chairing Co-Chairperson and distributed to all Committee members, where reasonably practicable, seven (7) days prior to the next meeting.

At Sir Wilfred Grenfell College:

- (e) The Union shall be entitled to a seat on the campus-wide Joint Health and Safety Committee in accordance with established practices, procedures and applicable legislation.

- 25.03 At the commencement of each semester, the Union shall provide the University with written notification of the names of Per Course Instructors appointed as representatives on Joint Health and Safety Committees. Those Per Course Instructors shall receive a payment of \$75 for each Joint Health and Safety Committee meeting that she or he attends.
- 25.04 The University shall advise Per Course Instructors and the Union of hazards known to the University and associated with the Per Course Instructor's work and workplace. Similarly, Per Course Instructors have a duty to make reasonable efforts to be informed of hazards associated with their work and workplace and to report any such hazards of which they become aware to the Administrative Head.
- 25.05 A Per Course Instructor may refuse to perform work that he or she has reasonable grounds to believe is dangerous to his or her health or safety, or the health and safety of another person at the workplace until remedial action has been taken by the University to the Instructor's satisfaction; the Health and Safety Committee has investigated the matter and advised the Instructor to return to work; or a government-appointed occupational health and safety officer has investigated the matter and advised the Instructor to return to work.
- 25.06 The University shall not take disciplinary action against a Per Course Instructor and a Per Course Instructor shall not suffer any loss of wages or benefits because he or she has reasonably refused to perform work under Clause 25.05.

ARTICLE 26 – Designated University Holidays

- 26.01 Per Course Instructors shall not be required to work on any of the following University holidays:
- (a) Labour Day
 - (b) Thanksgiving Day
 - (c) Remembrance Day
 - (d) Christmas Eve
 - (e) Christmas Day
 - (f) Boxing Day
 - (g) New Year's Eve
 - (h) New Year's Day
 - (i) Second January Holiday
 - (j) Good Friday
 - (k) Memorial Day
- 26.02 Should any of these holidays fall on a Saturday or Sunday, the University shall declare a contiguous workday as the holiday.

ARTICLE 27 – Leaves

Sick Leave and Family Responsibility Leave

27.01 A Per Course Instructor may be absent without loss of pay or benefits for up to three (3) teaching hours per course per semester, because of illness or family responsibilities of the instructor. In such cases, the Per Course Instructor shall make every reasonable effort to arrange an exchange or substitution for his or her scheduled teaching duties acceptable to the Administrative Head. Where this is not possible, the Administrative Head shall make such arrangements. The Per Course Instructor will notify the Administrative Head in advance with as much notice as possible of any absence.

Bereavement Leave

27.02 A Per Course Instructor is entitled to bereavement leave of three (3) consecutive days without loss of pay or benefits in the event of the death of the instructor's spouse, child (including stepchild or ward of the employee), grandchild, mother, father, brother or sister, grandparent or a mother-in-law, father-in-law, brother-in-law, sister-in-law, daughter-in-law or son-in-law or a relative permanently residing in the same household. In such cases the Per Course Instructor shall make every reasonable effort to arrange an exchange or substitution for his or her scheduled teaching duties acceptable to the Administrative Head. Where this is not possible, the Administrative Head shall make such arrangements. The Per Course Instructor will notify the Administrative Head in advance with as much notice as possible of any absence.

In exceptional circumstances, additional bereavement leave without pay may be granted at the discretion of the Administrative Head.

Compassionate Care Leave

27.03 A Per Course Instructor is entitled to a leave of absence without pay of up to eight (8) weeks or to the end of his or her appointment, whichever ever occurs first, to provide care or support to a family member of the instructor where a legally qualified medical practitioner issues a certificate stating that the family member has a serious medical condition with a significant risk of death within twenty-six (26) weeks. The Per Course Instructor shall accrue precedence during any such period of leave.

27.04 The Per Course Instructor shall provide the University with at least two (2) weeks written notice of the date the leave is to begin, unless there is a valid reason why that notice cannot be given. The instructor shall include in that written notice the length of the leave that the instructor intends to take and shall give at least two (2) weeks written notice to the University of any change in the length of the leave to be taken.

27.05 For the purposes of compassionate care leave, the term “family member”, in relation to the instructor, means: (i) a spouse or cohabiting partner of the instructor, (ii) a child of the instructor or of the instructor’s spouse or cohabiting partner, (iii) a parent of the instructor or a spouse or common law partner of the parent; and any other persons defined as a “family member” for the purposes of compassionate care leave in the Labour Standards Regulations under the *Labour Standards Act*, RSNL 1990, cL-2, as amended from time to time.

Pregnancy, Adoption and Parental Leave

27.06 A Per Course Instructor is entitled to Pregnancy, Parental and, Adoption Leave without pay in accordance with the *Labour Standards Act*, R.S.N.L. 1990, c L-2, as amended from time to time. Such leaves will be granted without regard to the statutory 20-week service requirement. Per Course Instructors are entitled to a leave until the end of the appointment and shall accrue precedence during any such period of leave.

27.07 Where, prior to giving notice of intention to commence pregnancy, parental or adoption leave, a Per Course Instructor has accepted an offer of a per course appointment for the following semester, the Per Course Instructor shall be provided leave without pay for duration of the following semester and shall accrue precedence during any such period of leave.

Reservists Leave

27.08 A Per Course Instructor is entitled to Reservists Leave without pay in accordance with the Labour Standards Act, R.S.N.L. 1990, cl-2, as amended from time to time. Such leaves will be granted without regard to the statutory 6-month service requirement. Per Course Instructors are entitled to a leave until the end of the appointment and shall accrue precedence during any such period of leave.

Court Leave

27.09 In cases where a Per Course Instructor is summoned for jury service or serves as a juror; or is subpoenaed as a witness in court or in other legal or quasi-legal judicial proceedings, the instructor shall, upon written request to the Administrative Head, supported by a copy of the summons or subpoena, be granted leave without loss of pay or benefits for the time his or her presence is required.

Union Leave

27.10 The University agrees to provide the Union by September 15 of each year an amount equivalent to the per course payment for two (2) course sections for the purpose of administering the Collective Agreement.

27.11 The President of the Union (or designate) may, without loss of precedence, decline an offer by the University to teach a course section. No more than one section per semester, to a maximum of two (2) sections per year, may be declined under this clause.

27.12 The University and the Union shall make every reasonable effort to schedule negotiating sessions at times that do not interfere with the Per Course Instructor's employment duties. When this is not possible, members of the Union's Negotiating Committee shall be permitted the required time off to attend actual negotiating sessions with the University without loss of pay or benefits. In such cases the Per Course Instructor shall make every reasonable effort to arrange an exchange or substitution for her or his scheduled teaching duties acceptable to the Administrative Head. When this is not possible, the Administrative Head shall make such arrangements.

ARTICLE 28 – Salaries

28.01 Per Course Instructor salaries shall be as follows, based on three (3) credit hour course, (4% vacation pay included)}:

- September 1, 2008 – 8% increase \$4227
- September 1, 2009 – 4% increase \$4396
- September 1, 2010 – 4% increase \$4572
- September 1, 2011 – 4% increase \$4755

Salaries shall be prorated for portions of courses.

28.02 Per Course Instructor distance education course payment shall apply as follows (vacation pay included):

- \$106 per student as of last day of dropping courses without financial penalty
- Minimum payment of \$2544 per distance course

28.03 Course Cancellation Payment: If a course is cancelled or an appointment is revoked after a Per Course Instructor has received his or her letter of appointment, a \$200 fee shall be paid to a Per Course Instructor.

ARTICLE 29 – Duration

29.01 This Collective Agreement shall remain in effect from the date of ratification until such time as a new Collective Agreement is ratified or until there is a strike or lockout, whichever comes first. Either Party may give notice in writing, not more than ninety (90) days and not less than thirty (30) days before August 31, 2012 or not more than ninety (90) days and not less than thirty (30) days before August

31 of each subsequent year, if notice was not given by either party in the previous year, of its desire to commence collective bargaining with a view to the renewal or revision of this Collective Agreement or the conclusion of a new Collective Agreement.

29.02 Within twenty-one (21) days of receipt of the notice to bargain, or a further time that the parties may agree upon, the Parties shall notify each other in writing of the names of their Negotiating Committee members and shall begin negotiations for a new Collective Agreement.

APPENDIX A

LABOUR RELATIONS BOARD ORDER

5066

IN THE MATTER OF

Labour Relations Act

- and -

**Lecturers' Union of Memorial University
of Newfoundland**

Applicant

- and -

Memorial University of Newfoundland

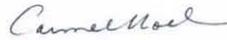
Respondent

WHEREAS pursuant to the Labour Relations Act, an application for certification as bargaining agent for a unit of employees of Memorial University of Newfoundland has been received from the Applicant by the Labour Relations Board;

AND WHEREAS following investigation, consideration of the representations of the interested parties and a vote, the Board has determined the unit described hereunder to be appropriate for collective bargaining and has satisfied itself that a majority of employees of the employer comprising such unit have selected the applicant trade union to be their bargaining agent;

NOW THEREFORE it is hereby ordered by the Labour Relations Board that Lecturers' Union of Memorial University of Newfoundland be and it is hereby certified to be the bargaining agent for a unit of employees of Memorial University of Newfoundland employed as per course instructors to teach two courses or less per semester on a limited term basis on the campuses of the employer in the Province of Newfoundland or by distance education to the students of Memorial University of Newfoundland, save and except employment subject to the terms of a Collective Agreement between Memorial University of Newfoundland and the Memorial University of Newfoundland Faculty Association.

THE official seal of the Board was hereunto affixed and attested to by the Chief Executive Officer of the Board at the City of St. John's in the Province of Newfoundland and Labrador this 21st day of December, 2006


Chief Executive Officer

APPENDIX B

University - Wide Procedures for Sexual Harassment Complaints (2001)

University - Wide Procedures for Sexual Harassment Complaints (2001)

1. Purpose
2. Application of Policy
3. General Principles
4. Definition of Sexual Harassment
5. Informal Meetings
6. Lodging a Complaint of Sexual Harassment
7. Mediation
8. Investigation
9. Sexual Harassment During Work Terms, Placements, Internships, Instructional Field Courses or Practica
10. Sir Wilfred Grenfell Campus, Harlow, L'Institut Frecker
11. Sexual Harassment Advisor
12. Sexual Harassment Board
13. Sexual Harassment Mediator Group
14. Appendix – Forms

1. PURPOSE

The procedures and recommendations for dealing with complaints of sexual harassment detailed in this document are aimed at providing a method for the resolution of such complaints which may arise at Memorial University of Newfoundland.

2. APPLICATION OF POLICY

This policy prohibits sexual harassment by any member of the University community. Any member may make a complaint of sexual harassment against another member of the university community. Adjunct professors, visiting scholars, grant-paid employees and post-doctoral fellows are considered members of the university community. Students and employees include former students and employees raising allegations of sexual harassment which occurred while they were still members of the university if those alleged incidents occurred within the time limits set out in this document.

Persons who are not employees or students of the University may have concerns about sexual harassment and are encouraged to express their concerns to the Sexual Harassment Advisor. When appropriate, these procedures may be used where a non-University person makes a complaint against a student or employee who was involved in the course of their work or study or participation in University activities and programs. Non-University persons include, but are not limited to volunteers, contractors, their employees and agents, vendors of goods and services and their employees and agents, visitors to the University, and others similarly connected to the University.

These procedures do not apply to non-University persons against whom a complaint is made. However, non-University persons are expected to conduct themselves in any University-related activity in a manner consistent with this policy. Allegations of sexual harassment against a non-University person will be dealt with by the University as unacceptable behaviour that may result in suspension of University privileges, such as access to campus or other appropriate action. Such allegations should be reported to the Sexual Harassment Advisor.

3. GENERAL PRINCIPLES

The Sexual Harassment Procedures shall be fair, and protect the individuals concerned as far as possible. All complaints shall be handled with confidentiality. Members of the Sexual Harassment Board, Mediator Group, and the Sexual Harassment Advisor are expected to maintain confidentiality, particularly within the work, study or living area in question. Confidentiality may not apply to persons subject to extra-University judicial processes, or where disclosure is required by law.

Malicious complaints and complaints made in bad faith shall constitute grounds for disciplinary action against the complainant, which shall be in accordance with existing collective agreements or other applicable disciplinary processes.

No person shall retaliate against another for bringing forward a complaint of sexual harassment. Retaliation is defined as behaviour which interferes with an individual's work or academic performance or creates an intimidating work or academic environment. The University considers retaliation or the threat of retaliation at any stage to be a serious offence because it prevents potential complainants and others from acting on their concerns.

In the University community power differences exist between or among faculty, staff and students. Where one person has power or authority over another, implied or explicitly, there is an increased potential for harassment issues to arise.

Parties will be strongly encouraged to resolve all disputes through the mediation procedures outlined in this document, but where these options fail, or were not deemed appropriate by the complainant after serious consultation with the Advisor, the complainant may request that an investigation be undertaken. In cases where either the complainant or the respondent feels aggrieved by the penalties imposed by the President, grievances or appeals may be sought. A complainant who is currently a member of a bargaining unit has the right to use the grievance procedures set out in a relevant collective agreement. These procedures may be used by anyone in the university community except students of the Co-operative Education Programmes employed outside the University during work terms.

These procedures are not intended to inhibit normal social relationships or freedom of expression, nor is it the intention of this document to detract in any manner from the rights of academic staff to academic freedom. These procedures do not restrict the right of individuals to complain to the Human Rights Commission, make use of the Criminal Code or the appropriate collective agreements, or take legal action. In cases of alleged sexual assault, individuals will be advised to contact the appropriate legal authorities immediately.

The Sexual Harassment Board must be representative of all groups on campus. The Board shall monitor the effectiveness of the procedures and recommend changes where needed.

The Sexual Harassment Advisor has primary responsibility for the implementation of the University-Wide Procedures on Sexual Harassment Complaints and plays a key role in educating the university community. He or she shall maintain neutrality and a high profile on campus. The Sexual Harassment Advisor reports to the President of the University and Memorial University of Newfoundland's Sexual Harassment Board.

The University has a legal responsibility to provide a workplace and learning environment that is free of sexual harassment.

4. DEFINITION OF SEXUAL HARASSMENT

Conduct of a sexual nature directed at an individual or individuals by a person who knows or ought reasonably to know that such attention is unwanted, constitutes sexual harassment when:

- a. submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment, academic status or academic accreditation, or
- b. submission to or rejection of such conduct by an individual is used as the basis for employment, or for academic performance, status or accreditation decisions affecting such individual, or
- c. such conduct interferes with an individual's work or academic performance, or
- d. such conduct creates an intimidating, hostile, or offensive work or academic environment.

Such conduct includes, but is not limited to, unwelcome sexual invitations or requests, demands for sexual favours, unnecessary touching or patting, leering at a person's body, unwelcome and repeated innuendos or taunting about a person's body, appearance or sexual orientation, suggestive remarks or other verbal abuse of a sexual nature, visual displays of degrading or offensive sexual images, threats of a sexual nature, sexual assault, and any other verbal or physical conduct of a sexual nature.

Sexual harassment may occur during one incident, or a series of single incidents which in isolation would not necessarily constitute sexual harassment.

Sexual harassment may occur between individuals of the same sex or between the sexes.

Sexual harassment may occur in the course of work or study or participation in university-sponsored organizations, activities and programs, whether they occur on-campus or off-campus. Examples of off-campus settings, include, but are not limited to, field trips, athletic team road trips, conferences or training events, and work or study-related social functions.

5. INFORMAL MEETINGS

Meeting with the Sexual Harassment Advisor

A person who thinks he or she has been the target of sexual harassment should meet with the Sexual Harassment Advisor. Anyone may anonymously seek the advice of the Advisor, but the Advisor should suggest to anonymous complainants that they refrain from naming individuals as long as they wish to remain anonymous.

The Advisor shall provide information about the University's policy and its procedures to individuals seeking advice. The Advisor shall also provide information about other

available University services, including the Counselling Centre, Employee Assistance Program, Campus Enforcement and Patrol, Student Health Services, and other appropriate external services.

The Advisor may recommend to individuals how they might attempt to resolve the situation confidentially between themselves and the subject of the complaint. For example, the Advisor may advise that the individual speak directly to the subject or write a letter. However, these types of advice-seeking interactions do not constitute complaints of sexual harassment nor is any attempt made to ascertain whether sexual harassment has occurred. No paper shall be deposited in the Advisor's Office as a result of such interaction, and no record shall be kept by the Advisor other than an anonymous account of the interaction for statistical purposes. As a result of an advice-seeking interaction, the Advisor shall take no action which adversely affects the academic, employment or professional interests of the subject of discussion.

6. LODGING A COMPLAINT OF SEXUAL HARASSMENT

a. Time Frame for Submitting a Complaint

If a complainant decides to pursue the mediation or investigative procedures outlined in this document to resolve a complaint of sexual harassment, he or she shall sign and file a sexual harassment complaint form (Form # 1) with the Advisor within twelve (12) calendar months of the incident or the most recent of a series of incidents. The Advisor shall encourage a complainant to pursue the mediation procedures outlined in this document, which are intended to address complaints of sexual harassment as quickly and fairly as possible.

b. Contacting the respondent of the complaint

If a complaint form has been signed and filed with the Advisor by the complainant, the Advisor shall immediately contact the respondent and inform the respondent that a complaint has been filed and the exact nature of the complaint. If the respondent refuses to acknowledge receiving this information, the Advisor shall send this notification in a manner that provides proof of receipt, either by means of a receipt signed by the individual so named in the notification, or in the presence of a witness other than the person delivering the notification.

The respondent shall have the right to decide whether or not to participate in any informal procedures or with an investigation. However, a decision not to participate will not stop the process and may result in an investigation nonetheless.

c. Advice to Members of Bargaining Units

When the Advisor has received a signed sexual harassment complaint form, and the complaint involves a member of a bargaining unit either as the complainant or as the respondent, the Advisor shall immediately inform the complainant or the respondent that

she or he should contact the appropriate union representative for advice. The complainant or the respondent shall sign a form signifying that she or he has been so informed by the Advisor. (Form #2) If the individual refuses to sign the form, then the information shall be delivered by the Advisor in a manner that provides proof of receipt, either by means of a receipt signed by the individual named in the notification, or in the presence of a witness other than the person delivering the notification.

d. Multiple complaints

If several complaints are received regarding the same individual, and the complaints refer to the same incident or same incidents, these complaints shall be processed as one complaint. Each complainant will have the opportunity to make their individual submissions.

e. Interim Accommodation

The complainant or the respondent may request that the University Administration take immediate measures to preserve their safety, morale, or efficiency while a situation is being resolved, investigated or decided. Any decision and action by the University administration to take immediate measures to preserve the safety, morale, or efficiency under this paragraph in response to a request from a complainant or respondent shall be without prejudice to the rights of either the complainant or the respondent under these procedures, and shall not in any way be deemed to be an indication of bias on behalf of the University administration towards either the complainant or the respondent under any processes governed by these procedures, and shall not be considered as evidence by either the President or the investigator in their review or investigation of a complaint.

7. MEDIATION

a. Options

The complainant may choose amongst the following mediation procedures. The mediation procedures are: 1) meeting with the respondent of the complaint with the intervention of a member of the Sexual Harassment Mediator Group, mutually agreed upon by the complainant and the respondent, or 2) any procedure proposed by the mediator, and agreed upon by both the complainant and the respondent.

The complainant may use the mediation options in any order. If any one option is unsuccessful, the complainant may try another option. However, once an investigation has begun, the complainant may not revert to mediation procedures.

b. Role of the Sexual Harassment Mediator Group

If both the complainant and the respondent consent to mediation, the Advisor will help the parties identify a mutually acceptable mediator from the list of ten (10) Sexual

Harassment Mediator Group members. The Advisor shall ensure that the mediator chosen is free of any conflict of interest and/or apprehension of bias. If the matter proceeds to mediation, the mediator shall contact the parties with a proposal for a mediation process within five (5) working days of his or her appointment.

c. Mediation procedures

The mediator may attempt to facilitate a meeting between the two parties, or speak to the respondent on behalf of the complainant. The mediator may choose to speak to each party privately before the meeting occurs. The mediator may propose another course of action to the complainant and the respondent, and if both parties agree, may proceed with the proposed procedures.

In the event of a meeting between the parties, both the complainant and the respondent may bring another person with them to such a meeting and shall inform the Advisor of the identity of that person. The Advisor shall then forward this information to the other party at least 3 working days before the scheduled meeting. If either the complainant or the respondent object to the person identified to accompany the other party, the Advisor shall forward the objection to the other party and ask that party to choose another person to accompany him or her to the mediation. Both the complainant and the respondent shall be advised that the persons they choose to accompany them to a mediation should not be individuals who have been directly involved in the alleged harassment. Since the mediation procedures attempt to provide individuals with a process by which they might, together, reach a resolution, it is advised that neither party bring a lawyer to such meetings.

If, through the mediation process, a resolution is achieved, the mediator shall write the agreed upon resolution. This agreed upon resolution shall be signed by the complainant, the respondent and the mediator and shall be presented to each of the parties and the Advisor. The Advisor shall place the agreed upon resolution in a confidential file for 6 months from the date of the signing. If within that six (6) month period the complainant does not have any further complaints against the same respondent, the agreed upon resolution and all written records associated with the case shall be destroyed and the Advisor shall keep only an anonymous account of the complaint for statistical purposes.

If a resolution is not achieved as a result of mediation, all records and notes relating to what took place during the mediation shall be destroyed and no person shall give evidence or introduce documents during any subsequent proceedings at the University which would disclose what took place during the mediation.

d. Request for Investigation

Upon the completion of the mediation procedures without resolution, which occurs the day the Advisor receives written notification to that effect from the mediator, the complainant, or the respondent, the complainant has 7 working days to refer the matter

to an investigation. She or he shall forward a written statement to the Advisor, indicating that mediation procedures have failed, and that she or he is requesting an investigation. The complainant shall sign and file Form #3 with the Advisor. If the complainant does not ask for an investigation within the seven (7) working days allotted, the Advisor shall retain the original complaint (form #1) in a confidential file for six (6) months. If the complainant does not have, within that six (6) month period, any further complaints against the same respondent, the Advisor shall destroy the file and all its contents relating to the case and keep only an anonymous account of the complaint for statistical purposes only.

8. INVESTIGATION

- a. If the complainant feels that the mediation procedure failed, or the mediation procedure was not chosen as an appropriate process, she or he has the option of asking for an investigation to be conducted. The complainant shall sign and file with the Advisor form #3 requesting an investigation. The Sexual Harassment Advisor shall forward forms #1 and #3, with details of the allegations, to the President's Office within 3 working days that the request for an investigation is signed. Any materials which the complainant wishes to attach to the above forms shall be copies only. The complainant should keep all original documents. The Advisor shall send a copy of all this material to the respondent at the same time.
- b. Based on the signed complaint, and with the consent of the individuals, the President may conduct separate interviews with the complainant, the respondent, and the Advisor. The President shall decide if the allegations of sexual harassment have enough substance to warrant a formal investigation. Before an investigation begins, the President shall inform the respondent, in writing, that an investigation will proceed. This notification, which shall include a copy of the signed allegations and all attachments, shall advise the respondent of his or her right to representation according to the relevant collective agreement, if any, and shall be sent within 20 working days of the President's receipt of the allegations. Such notification shall be delivered by the University Administration in a manner that provides proof of receipt, either by means of a receipt signed by the individual so named in the notification, or in the presence of a witness other than the person delivering the notification. The President will also inform the complainant that an investigation shall proceed.

If the President decides that the allegations do not warrant an investigation, he or she shall inform the complainant and the respondent in writing of this decision within 20 working days of having received the allegation. No further action shall be taken, and the file destroyed.

- c. If the President decides that the allegations of sexual harassment have sufficient substance, he or she shall decide to proceed with an investigation. This investigation process commences with the receipt by the respondent of the

written notification in section 8 (b) and shall conform to the relevant clauses of the appropriate collective agreement.

- d. The President shall appoint an investigator as the Investigative Officer to investigate any case of sexual harassment. Neither the Sexual Harassment Advisor nor the mediator involved in the case shall be the Investigative Officer for any case. The Investigative Officer shall not be an employee, member, or partner of a law firm that has been used by the University in the preceding five years. The Investigative Officer appointed shall be free of conflict of interest, nor shall there be a reasonable apprehension of bias.
- e. The respondent has the right to full information concerning the allegations and supporting arguments. Prior to the conclusion of an investigation, the respondent shall be given adequate opportunity to know any evidence presented and to respond to that evidence if he or she chooses.
- f. The Investigative Officer shall conduct an investigation into the allegations of sexual harassment and she or he shall write a final report which shall be forwarded to the President's Office. The Investigative Officer shall ascertain the facts surrounding the complaint and conduct the investigation in an impartial, fair and objective manner. All persons whose evidence is referenced in the investigation shall be named. The investigation shall be completed and the Investigative Officer's final report shall be submitted to the President within 60 working days of the initiation of the investigation. A copy of the final report shall be sent to the complainant, the respondent, and the Sexual Harassment Advisor.
- g. Upon receipt of the final report, the President shall wait 10 working days to give both the complainant and the respondent an opportunity to respond to the final report. The President shall decide if sexual harassment has occurred, based upon the Investigative Officer's final report. Within 15 working days of receiving the final report, the President shall simultaneously notify, in writing, the complainant, the respondent, the Sexual Harassment Advisor, if the allegation of sexual harassment is founded, and of the action the President will take. This notification shall be delivered by the University Administration in a manner that provides proof of receipt, either by means of a receipt signed by the individual so named in the notification, or in the presence of a witness other than the person delivering the notification.
- h. Discipline

The President of the University may impose fair and reasonable penalties, subject to the applicable collective agreement or code of discipline.

Discipline will follow the concept of progressive discipline and will take the following into consideration:

1. The severity of the offence
2. The offence's degree of deliberateness
3. Whether the offence was an isolated incident or involved repeated acts
4. Mitigating or aggravating circumstances affecting either party
5. Whether there was an imbalance in power between the parties
6. The record of the subject of the complaint at the University vis-a-vis sexual harassment.
7. Sanctions applied in similar cases

The respondent shall have the right to grieve the action(s) or discipline of the President under the terms of her/his respective collective agreement where these apply. Time limits for launching grievances shall extend from the date of the President's notification of the action to be taken and shall conform to any relevant collective agreement. In the case of students or non-bargaining unit members and management of the university, appeals shall be directed to the Board of Regents.

i. Records

If the President of the University decides that sexual harassment did occur, the Sexual Harassment Advisor shall keep on file all materials pertaining to the complaint and the investigation in his/her office until all deadlines for appeal or grievance have passed or 12 months have elapsed, whichever is longer. At the end of this period, if no appeal or grievance was initiated, all materials pertaining to the complaint and investigation shall be placed in the relevant personal files for that period provided in the applicable collective agreement, the University regulations with respect to students and for two (2) years with respect to all others. Any and all other copies of these materials shall be destroyed.

In cases where the President decides that sexual harassment did occur, and the respondent appeals or grieves this decision or the penalties imposed, and the President's decision that sexual harassment did occur is upheld when the appeal or grievance procedure has been completed, all materials pertaining to the complaint shall be placed in the relevant personal files for that period provided in the applicable collective agreement, the University regulations with respect to students and for two (2) years with respect to all others. Any and all other copies of these materials shall be destroyed.

In cases where the President decides that sexual harassment did occur, and the respondent appeals or grieves this decision or the penalties imposed, and the appeal or arbitration does not conclude that sexual harassment occurred, all materials pertaining to the complaint shall be destroyed. The complainant or the respondent may request that a copy of the final report be placed in her/his own personal file in Human Resources if one exists.

In cases where the President decides that sexual harassment did not occur, all materials pertaining to the complaint shall be destroyed.

9. SEXUAL HARASSMENT DURING WORK TERMS, PLACEMENTS, INTERNSHIPS, INSTRUCTIONAL FIELD COURSES, OR PRACTICA

The University has no control over companies, agencies, or institutions that employ students of the Co-operative Education Programmes, or those that supervise students doing placements, internships, instructional field courses, or practica outside of the University. These procedures cannot be used to address student complaints of sexual harassment in non-Memorial workplaces.

Many of the companies, agencies and institutions that regularly employ or supervise students in non-Memorial workplaces will have procedures to deal with sexual harassment or other forms of discrimination that students can use. In the absence of such procedures, students can complain to the Human Rights Commission or similar institutions or take legal action. The Advisor will be available to students who wish to discuss incidents and options.

Students are advised to report incidents of sexual harassment or other forms of discrimination that occur outside the University during work terms to their work Term Coordinators from the Office of Co-operative Education at Memorial. Students who are doing placements in non-Memorial workplaces, should report incidents of sexual harassment or other forms of discrimination that occur in this context to their faculty supervisor or department head, as appropriate.

10. SIR WILFRED GRENFELL CAMPUS, HARLOW, L'INSTITUT FRECKER

Sir Wilfred Grenfell College, Harlow, and L'Institut Frecker shall follow the procedures for dealing with complaints outlined in this document. Where necessary, these campuses may draw on resources and personnel in St. John's.

The University shall provide free long distance telephone calls to students on these campuses needing to speak to the Sexual Harassment Advisor or a member of the Sexual Harassment Mediator Group. The Sexual Harassment Advisor shall ensure that the Counselling Centre in Corner Brook and the Directors of Harlow and L'Institut Frecker are aware of this policy.

11. SEXUAL HARASSMENT ADVISOR

- a. The Sexual Harassment Advisor shall be a university employee attached to the Office of the University President. For administrative matters, including the establishment of budgets, approval of expenditures, leave management and office support, the Advisor shall report to the Director of Human Resources.
- b. For all matters other than those specified in 11(a) the Advisor shall report to and be supervised by the Sexual Harassment Board. He or she shall submit a written

annual report to the Board. This report shall be available to the constituent groups of the Board.

- c. The Advisor shall be responsible for the administration of the University-Wide Procedures on Sexual Harassment Complaints. He or she is responsible for receiving and responding to complaints of sexual harassment, co-ordinating activities and providing advice regarding the sexual harassment procedures to members of the university. The Advisor is also responsible for developing a collection of information resources on sexual harassment, conducting research and maintaining expertise on issues surrounding sexual harassment.
- d. In consultation with the Sexual Harassment Board, the Advisor is responsible for the creation of public awareness, developing and providing education about the issue and prevention of sexual harassment within the university community.
- e. The Sexual Harassment Advisor shall be a neutral party when administering the Procedures. She or he will not be the advocate for either the complainant or the respondent. His or her role is to ensure that the procedures are properly followed, provide information to both parties and ensure that the parties involved understand these procedures and the options available to them.
- f. The Advisor shall be a non-voting member of the Sexual Harassment Board.
- g. The Advisor shall provide advice regarding the Procedures to members of the Sexual Harassment Mediator Group and others seeking direction in the handling of cases.
- h. In consultation with the Sexual Harassment Board, the Advisor is responsible for coordinating the training for the members of the Sexual Harassment Mediator Group and others involved in the application of the sexual harassment procedures. In addition, the Advisor is responsible for keeping the Board members informed of current issues and developments related to sexual harassment and the resolution of sexual harassment complaints.
- i. The Advisor shall have a permanent office located at the St. John's campus and be available to all the campuses in St. John's. The Advisor will be available to the Corner Brook campus as the need arises. Memorial University shall pay for transportation, accommodation, and all other expenses incurred by the Advisor when the need to travel to Corner Brook arises.

12. SEXUAL HARASSMENT BOARD

- a. The Board shall be responsible for overseeing the implementation and evaluation of the University-Wide Procedures for Sexual Harassment Complaints and for the periodical review of the Procedures.

- b. The Board shall be responsible for recommending the selection of the Sexual Harassment Advisor. The Board shall provide advice, supervise and review the Sexual Harassment Advisor; and shall report annually in writing to the executives of each constituent group and the President of the University. The Board may prepare other reports on request from time to time.
- c. The Sexual Harassment Board, in consultation with the Sexual Harassment Advisor, shall appoint individuals to the Sexual Harassment Mediator Group.
- d. The Board shall be composed of two members appointed by each of the following:
 - The Canadian Union of Public Employees, Local 1615 (CUPE)
 - The Memorial University of Newfoundland Faculty Association, (MUNFA)
 - The Newfoundland Association of Public Employees, Locals 7801, 7803, and 7804.
 - Marine Institute Instructor and Marine Institute Support Staff. Local 7405(NAPE) & Local 7850 (NAPE) (one from each local)
 - Council of Students' Union (MUNSU)
 - Graduate Students' Union (GSU)
 - Marine Institute Students' Union
 - University Administration

These members shall be appointed for a two-year renewable term.

- e. The members listed above shall appoint one member from outside the university community to serve for a two-year renewable term. This member shall have voting rights.
- f. The parties listed in 12(d) shall be responsible for maintaining their representation on the Board in accordance with any procedures they may prescribe.
- g. All changes to the University Wide Procedures for Sexual Harassment Complaints require the unanimous consent of all constituencies listed in 12(d).
- h. The Sexual Harassment Advisor shall convene a meeting in January of each year for the purpose of electing a chairperson.
- i. Sir Wilfred Grenfell College shall set up its own Sexual Harassment Board with one member appointed from each of the constituent groups existing at the college for a two-year renewable term as appropriate and one member from outside the university community to serve as in 12(e).

13. SEXUAL HARASSMENT MEDIATOR GROUP

- a. The Sexual Harassment Board, in consultation with the Sexual Harassment Advisor, is responsible for appointing individuals to the Sexual Harassment Mediator Group. The Mediator Group members shall be chosen on the basis of their mediation and counselling experience and shall be appointed for a two-year renewable term.
- b. The Sexual Harassment Mediator Group shall comprise no fewer than 10 individuals, with no fewer than 4 members chosen from outside the university community. The remaining members shall be chosen from within the university community. The Board shall ensure that the Mediator Group comprises men and women, is reflective of the diversity of groups in the university, and includes individuals from the various campuses.
- c. The role of the Sexual Harassment Mediator Group is:
 1. to provide support and assistance to complainants and respondents when requested.
 2. to act as mediators as required under the informal procedures.
 3. to be supportive and non-judgmental toward all those seeking their assistance.
 4. where appropriate, to assist individuals to resolve concerns about sexual harassment.
 5. where appropriate, to refer individuals to other resources available in the university, such as the Counselling Centre, Employee Assistance Program.
 6. to provide information to complainants and respondents concerning the Procedures for Sexual Harassment Complaints and to advise them regarding courses of action available to them.

APPENDIX

FORM #1 SEXUAL HARASSMENT COMPLAINT FORM

FORM #2 ADVICE TO CONTACT MEMBERS OF BARGAINING UNIT

FORM #3 SEXUAL HARASSMENT ANONYMOUS REPORT

APPENDIX C

LETTER OF UNDERSTANDING: PARTICIPATION ON COMMITTEES

July 17, 2008

Ms. Lesley Thompson
President, LUMUN

Dear Ms. Thompson,

This is to confirm an agreement reached between the University and LUMUN during collective bargaining.

The parties agree to the principle of Per Course Instructor participation and representation on committees in academic units, except where there is a conflict of interest or the deliberations of such committees are not relevant to the work of Per Course Instructors.

Within 60 days of ratification of this Collective Agreement, a joint committee composed of equal representation from MUN and LUMUN (including representatives from Sir Wilfred Grenfell College) will meet to begin a process to review the scope and nature of participation and representation of Per Course Instructors on committees in academic units.

The committee will communicate its commitment to the principle of participation and representation, and make its recommendations, to the Vice-President (Academic).

Sincerely,

A handwritten signature in blue ink that reads "Morgan C. Cooper". The signature is written in a cursive style with a large loop at the end of the name.

Morgan C. Cooper, LL.B., M.I.R.
Director of Faculty Relations & Chief Negotiator

APPENDIX D

LETTER OF UNDERSTANDING: EMPLOYMENT EQUITY REPORT

September 11, 2008

Ms. Lesley Thompson
President, LUMUN

Dear Ms. Thompson,

This is to confirm an agreement reached between the University and LUMUN during collective bargaining.

The University will provide to LUMUN an annual employment equity report. The report shall include aggregate employment equity data on the percentage of Per Course Instructors who have self-identified as women, visible minorities, aboriginal people and persons with disabilities.

Sincerely,

A handwritten signature in cursive script that reads "Morgan Cooper". The signature is written in black ink and includes a stylized flourish at the end.

Morgan C. Cooper, LL.B., M.I.R.

Director of Faculty Relations & Chief Negotiator

APPENDIX E

LETTER OF UNDERSTANDING: GENERAL LIABILITY POLICY

December 7, 2008

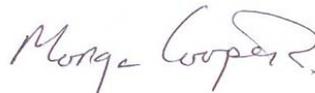
Ms. Lesley Thompson
President, LUMUN

Dear Ms. Thompson,

This is to confirm an agreement reached between the University and LUMUN during collective bargaining.

Per Course Instructors will be covered under the University's comprehensive general liability policy. The University will provide the Union with a copy of such policy on request.

Sincerely,



Morgan C. Cooper,
Director of Faculty Relations & Chief Negotiator

APPENDIX F

LETTER OF UNDERSTANDING: SALARY VARIANCE

December 7, 2008

Ms. Lesley Thompson
President, LUMUN

Dear Ms. Thompson,

This is to confirm an agreement reached between the University and LUMUN during collective bargaining.

The University may, in special circumstances, pay Per Course Instructors more than the amounts specified in the collective agreement, but only with the prior written consent of LUMUN.

Sincerely,

A handwritten signature in cursive script that reads "Morgan C. Cooper".

Morgan C. Cooper,
Director of Faculty Relations & Chief Negotiator

APPENDIX G

LETTER OF UNDERSTANDING: GRANDPARENTING SENIORITY

March 9, 2009

Ms. Lesley Thompson
President, LUMUN

Dear Ms. Thompson,

This is to confirm an agreement reached between the University and LUMUN during collective bargaining.

Notwithstanding the probationary provisions in Article 12, Per Course Instructors who have taught two courses in non-consecutive semesters between September 1, 2006 and the date of ratification of this Collective Agreement shall be placed on the seniority list.

Sincerely,

A handwritten signature in blue ink that reads "Morgan C. Cooper". The signature is written in a cursive style with a large, stylized initial "M".

Morgan C. Cooper
Director of Faculty Relations
& Chief Negotiator

APPENDIX H

LETTER OF UNDERSTANDING: BENEFITS COMMITTEE

December 7, 2008

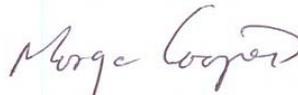
Ms. Lesley Thompson
President, LUMUN

Dear Ms. Thompson,

This is to confirm an agreement reached between the University and LUMUN during collective bargaining.

The parties agree that within 120 days of ratification of this Collective Agreement, a joint committee composed of equal members of MUN and LUMUN (including the servicing agent) will meet to gather data and to examine options for providing benefits to LUMUN members.

Sincerely,

A handwritten signature in cursive script that reads "Morgan C. Cooper".

Morgan C. Cooper,
Director of Faculty Relations & Chief Negotiator

APPENDIX I

LETTER OF UNDERSTANDING:

COMMITTEE ON PROFESSIONAL DEVELOPMENT

December 7, 2008

Ms. Lesley Thompson
President, LUMUN

Dear Ms. Thompson,

This is to confirm an agreement reached between the University and LUMUN during collective bargaining.

The University and LUMUN acknowledge the importance of professional development and scholarly activities for Per Course Instructors.

Within 120 days of ratification of this Collective Agreement, a joint committee composed of equal representation from MUN and LUMUN will meet to discuss mechanisms to support Per Course Instructors participating in and/or attending relevant professional development and scholarly activities. This committee will make its recommendations to the Vice-President (Academic).

Sincerely,



Morgan C. Cooper,
Director of Faculty Relations & Chief Negotiator

This final, edited Collective Agreement signed at St. John's, Newfoundland and Labrador this 9th day of March, 2009 with effect from March 9, 2009.

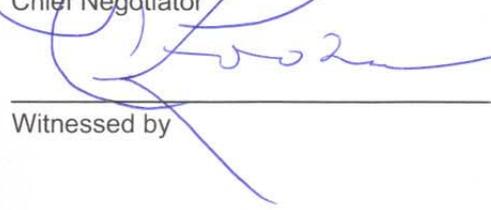
On Behalf of Memorial University
of Newfoundland



Acting President and Pro Vice-Chancellor

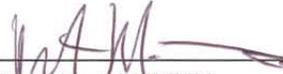


Director of Faculty Relations and
Chief Negotiator



Witnessed by

On Behalf of Lecturers' Union of
Memorial University of Newfoundland



President, LUMUN



Chief Negotiator



LUMUN Bargaining Team Member



LUMUN Bargaining Team Member



Witnessed by