UNIVERSITY-WIDE PROCEDURES FOR SEXUAL HARASSMENT CONCERNS AND COMPLAINTS

PREAMBLE

- The University has a Sexual Harassment Policy which is approved by the University's Board of Regents and which may be amended from time to time by the Board of Regents.
- These Procedures should be read in conjunction with the Sexual Harassment Policy.
- The three excerpts below are from the University's Sexual Harassment Policy and are reproduced here for ease of reference.
- You should be familiar with the full text of the Policy which is available at http://www.mun.ca/policy/site/policy.php?id=192.

Principle Section

Sexual Harassment is a violation of human rights. Memorial University recognizes its ethical and legal responsibility to provide a workplace and learning environment that is free of sexual harassment.

Confidentiality - Section 5.0

All complaints shall be handled with confidentiality. Members of the Sexual Harassment Board, Mediators, as well as the Sexual Harassment Investigators and the Advisor and all who may be involved in the concern or complaint process are expected to maintain confidentiality. Confidentiality may not apply to persons subject to extra-University judicial processes, or where disclosure is permitted by law, or where the health, safety and security of a person or persons is a concern.

Responsibilities & Duties - Section 1.0

All members of the University community, and in particular those in academic or administrative authority, shall:
a. know what constitutes sexual harassment;
b. familiarize themselves with and be aware of the Sexual Harassment Policy and its related
University-wide Procedures for Sexual Harassment Concerns and Complaints;
c. encourage an environment which is free of sexual harassment;
d. inform students, staff and colleagues of the Sexual Harassment Policy and its related
University-wide Procedures for Sexual Harassment Concerns and Complaints; and
2. consult with the advisor to obtain advice and guidance regarding possible concerns of sexual
harassment and refer individuals to the Advisor.

PROCEDURES

These Procedures are designed to deal with both concerns and formal complaints of sexual
harassment. The President has the authority to relieve against any time limits outlined in these
procedures where an extension is needed in good faith and where it is believed to not
substantially prejudice either party.

1. PROCEDURE FOR INFORMAL CONSULTATIONS REGARDING SEXUAL
HARASSMENT COMPLAINTS

Consulting with the Advisor

A person who thinks he or she has been the target of sexual harassment should meet with the
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 related procedures to
individuals seeking advice. The Advisor shall also provide information about other available
University services, including the Counseling Centre, Employee Assistance Program, Campus
Enforcement and Patrol, Student Health Services, and other appropriate internal and/or external
services.

All informal consultations with the Advisor are confidential. However, neither the confidentiality
provisions, nor the notification protocols should prohibit the Advisor from notifying the Manager
of Campus Enforcement and Patrol (CEP) and the appropriate administrative officer of the
University where it is the Advisor's reasonable belief that the health or safety of a member or
members of the University community is at risk.

A concern about sexual harassment during a consultation does not become a complaint unless, or
until, the individual who has expressed the concern instructs the Advisor to use these Procedures,
(i.e. mediation or investigation), to resolve it.

The Advisor will keep a non-identifying account of the nature of the concern, any advice given
and any outcome achieved. This information is retained for statistical purposes. Record retention
relating to the formal complaint process is collected and retained in accordance with the
University-Wide Procedures for Sexual Harassment Concerns and Complaints. The Advisor
shall take no action which adversely affects the academic, employment or professional interests of the individual who has expressed the concern or the subject of a concern as a result of these informal consultations.

The Advisor will divulge neither the name of the individual expressing the concern, nor the subject of the concern, to any third party without the informed and voluntary consent of either party unless the Advisor has reason to believe that the health or safety of a member or members of the University is at risk. However, such confidentiality may not apply to persons subject to extra-University judicial processes, or where disclosure is permitted by law.

**Informal Resolutions without Filing a Formal Complaint**

An individual may choose to try to resolve a matter with the assistance of the Advisor, without filing a formal complaint in accordance with Section 2. The expression of a concern through the informal consultation process is not a pre-requisite to the filing of a formal complaint in accordance with Section 2. However, an individual is encouraged, where deemed appropriate and in consultation with the Advisor, to avail of the informal consultation and informal method of resolution.

The informal consultation process shall be treated with the same level of confidentiality as formal complaint process under this Procedure and if a formal complaint is not filed in relation to the matter, no records, other than a non identifying account of the informal consultation process will be maintained for statistical purposes.

The Advisor shall provide advice to the individual expressing an informal concern to identify appropriate ways to resolve the concern, which may include but is not limited to:

- **Option 1:** The Advisor will suggest to the person expressing the concern, where appropriate, that he or she approach the person whose behavior gives cause for concern, making it clear why the behavior is viewed as unacceptable and gives rise to concern.
- **Option 2:** The Advisor will suggest to the person expressing the concern, where appropriate, that he or she write a letter to the subject of the concern. Such a letter may be effective when the subject of a concern does not respond to verbal request, as in Option 1.
- **Option 3:** The Advisor may provide assistance if the person expressing the concern is not comfortable speaking with or writing to the other individual. Such an option may be appropriate, for example, in situations that involve misunderstandings due to cultural differences; in helping an individual who lacks assertiveness skills to resolve a situation that has the potential to escalate; in clarifying issues that lead to discomfort, particularly when the relationship between the person expressing the concern and the subject of the concern involves a power imbalance; or in instances when the subject of a concern appears to be unaware of the impact of his or her alleged behavior. The Advisor may seek the assistance of a third party to facilitate an informal resolution and where appropriate, the subject of the concern would be advised. The Advisor would make no attempt to determine whether sexual harassment had occurred, nor keep any record of the consultation, other than a non identifying account for statistics purposes. During the informal, confidential consultation, the Advisor would convey the concern, advising the
subject, if appropriate, how the alleged behavior is experienced as inappropriate and has given rise to concern. The Advisor would take no action which could adversely affect the academic, employment or professional interests of the subject of discussion as a result of these informal consultations.

- Option 4: The Advisor may recommend that a concern be resolved, where appropriate, through the provision of sexual harassment awareness training. This option may be recommended when an individual expresses a concern about a workplace or learning environment that may be experienced as uncomfortable, intimidating, hostile or offensive. For example, the Advisor may be invited by the appropriate department or academic unit and a recommendation may follow that a particular workplace or learning environment receives sexual harassment awareness training. So as not to adversely impact the academic, employment or professional interests of the person expressing the concern, or the subject(s) of the concern, their identities, as well as the nature of the concern, would remain confidential.

2. PROCEDURE FOR LODGING A FORMAL COMPLAINT OF SEXUAL HARASSMENT

a. Time Frame for Submitting a Complaint

A complainant may file a formal complaint by signing and filing a Sexual Harassment Complaint Form (FORM 1) with the Advisor within twelve (12) calendar months of the incident. Events prior to the twelve (12) month period can be referenced if the incident(s) is relevant and part of a series of incidents that form a pattern of harassment. The Advisor shall outline the option of mediation to the complainant as outlined in this document. If the complainant or respondent is a member of a bargaining unit he or she will be advised upon filing a complaint that he or she may contact and seek the support of his or her union representative if so desired. The complainant or the respondent will be asked to formally acknowledge that he or she has been so advised by signing the Acknowledgement of Notification of Advice to Members of Bargaining Units (FORM 2) and returning it to the Advisor.

b. Complaint-Related Correspondence

i. Correspondence by Letters and Written Notices

All correspondence and written notices generated by the President's Office regarding sexual harassment complaints that are addressed or copied to complainants and/or respondents shall be copied to the Advisor. Correspondence that is addressed to complainants and/or respondents must be sent through Express Post with signature, hand-delivered or by some other means through which proof of delivery can be obtained. Envelopes are to be sealed and stamped as follows: "Personal and Confidential" and "To Be Opened By Addressee Only". The Advisor shall retain a copy of all such correspondence until directed to destroy them according to the records section (4.0) of the Procedures.
ii. Proof of Delivery

For purposes of these Procedures, if the addressee is the complainant or respondent, a document shall be considered to have been received by the addressee:

- on the date of delivery, if delivered by hand to the individual for whom it is intended, or
- within five (5) days of the date of mailing, if sent by Express Post with signature, to the last available address of the complainant or the respondent as recorded in the records of the University, or, where a complainant or a respondent provides the Advisor with an address for delivery of documents pursuant to these Procedures, at that address;

For purposes of these Procedures, if the addressee is the Advisor, President or his or her delegate, a document shall be considered to have been received by the addressee:

- on the date of delivery, if delivered by hand to the individual for whom it is intended, or within five (5) days of the date of mailing, if sent by Express Post with signature.

c. Contacting the Respondent of the Complaint

Once a complaint form has been signed and filed with the Advisor, where the respondent is identified, the Advisor shall, within three (3) days of receipt of the complaint by the Advisor, send to the respondent by Express Post with signature, or hand-delivery or by some other means through which proof of delivery can be obtained, the following documentation:

i. a copy of the Sexual Harassment Complaint Form (FORM 1)
ii. if the respondent is a member of a bargaining unit, a copy of the Acknowledgement of Notification of Advice to Members of Bargaining Units Form (FORM 2)
iii. where applicable, a copy of the Request for Investigation Form (FORM 3)
iv. when necessary, a copy of the Release of Information Form signed by the complainant (FORM 4),
v. a copy of both the Sexual Harassment Policy and The Sexual Harassment Procedures
vi. where applicable, advice that the complainant has requested mediation; and
vii. written notice of the complaint, including a suggestion that the respondent may make contact with the Advisor for information with respect to the Policy and Procedures and direction necessary should the respondent decide to provide a written reply to the complaint. The respondent will be advised that his/her written reply to the complaint will be provided to the complainant by the Advisor.

Where the respondent is not immediately identifiable, the Advisor shall make reasonable efforts to identify and locate the respondent, and to provide the documents listed in c above.

If the Advisor cannot identify or locate the individual who is reported to have engaged in behaviours that may constitute sexual harassment and the complainant wishes to file a Formal
Complaint, the Advisor shall refer the individual to CEP or other appropriate University services.

If/when the respondent is identified, the complainant may then file a Formal Complaint and a Request for Mediation or Investigation with the Advisor and the respondent will be provided with the appropriate notice as per section c.

In situations whereby a complainant does not file a Formal Complaint and Request for Mediation or Investigation but the Advisor deems the situation is such that the health, safety of a member or members of the University community is a concern, the Advisor may consult with the Manager of Campus Enforcement and Patrol (CEP) and the appropriate administrative offices of the University.

d. Respondent's Right to Respond

The respondent may respond in writing to the allegations contained in the complaint, provided that such written responses are delivered to the Advisor within the time frame stated below:

i. Where the respondent has been advised that mediation has been requested, within three (3) days of his or her receipt of the Sexual Harassment Complaint Form (FORM 1), and indicating whether or not he or she is willing to participate in a mediation;

ii. Where the respondent has been advised that an investigation has been requested, within five (5) days of his or her receipt of the Sexual Harassment Complaint Form (FORM 1);

iii. The respondent should also be advised that should he or she respond in writing to the complaint, a copy of that response will be provided to the complainant.

e. Respondent's Participation

The respondent has the right to decide whether or not to participate in any proposed resolution of an informal concern or formal complaint, a proposed mediation or in an investigation. However, the process of investigation and disposition of a formal complaint under these Procedures may occur and continue notwithstanding such non-participation by the respondent.

f. Interim Accommodation

On behalf of the complainant or the respondent, the President and his or her delegates may take immediate measures to preserve the health, safety and security of the complainant and/or respondent while a situation is being resolved, investigated or decided. The Advisor may make recommendations to the President regarding the situation.

The President or his or her delegates may take interim measures to protect other members of the University community. The President or his or her delegates may take immediate measures to protect the health, safety and security of other members of the University community.

Any decision and action by the Advisor or the President or his or her delegates to take immediate measures to preserve the health, safety and security 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 the part of the Advisor or President 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. However, failure to comply with the conditions of an interim accommodation is a matter in respect of which sanction or discipline can be imposed under the appropriate collective agreements, handbooks or other appropriate discipline codes.

The Advisor shall notify the complainant and the respondent of any interim accommodations by Express Post with signature, or hand-delivery or by some other means through which proof of delivery can be obtained, outlining the interim accommodations which have been arranged. The Advisor shall use his or her best efforts, where circumstances permit, to ensure that both the complainant and the respondent are provided with notice in the same manner and at approximately the same time.

Following a consultation with the Advisor as to the health, safety and security of the complainant and/or respondent, the President or his or her delegates, has the discretion to make changes to the interim accommodations, where possible and appropriate. If a change is made to interim accommodations, notice of the change shall be provided by the Advisor in the same manner as the original notice of interim accommodation.

3. PROCEDURE FOR MEDIATION FOR SEXUAL HARASSMENT COMPLAINTS

a. The Mediation Procedure

As per the Sexual Harassment Policy, mediation is often referred to as alternative dispute resolution, is an assisted negotiation - a process in which a neutral third party, known as the mediator, attempt to facilitate a private discussion in a setting which is as safe as possible with the goal of achieving an effective resolution. The mediator will describe the extent of mediation confidentiality and the exceptions to that confidentiality. Mediation is a non-disciplinary means of resolution, designed to address complaints of sexual harassment. Mediation is not appropriate when only one party is committed to the process. Mediation may not be appropriate in circumstances where there have been allegations of: physical violence; threats to safety; serious emotional or physical abuse; intimidation, or where there is an imbalance of power between the parties.

A complainant may choose mediation to resolve a complaint of sexual harassment after submitting a Sexual Harassment Complaint Form to the Advisor. When the respondent of a complaint is notified, he or she will be informed of the complainant’s request that the matter be resolved through mediation.

If both the complainant and the respondent consent to mediation, the Advisor will help the parties identify a mutually acceptable mediator. The Advisor shall ensure that the mediator chosen is appropriately qualified and free of any real or perceived conflict of interest and from any reasonable apprehension of bias.
Once a mediator is chosen:

i. the Advisor shall provide to the mediator a copy of the complaint and the written response, if any, of the respondent, and

ii. the mediator shall contact the parties to schedule individual interviews within five (5) days of his or her appointment, and advise the Advisor of the dates and times of those meetings.

The mediator shall conduct the mediation in a fair and objective manner utilizing reasonable methods in an attempt to facilitate resolution by the parties. The mediator shall not impose a resolution.

The Advisor shall advise both parties of their right to bring another person with them to the initial interviews and mediation. No person who is involved directly in the complaint shall be a support person for a party. If the respondent and/or complainant chooses to bring another person to mediation, they must inform the Advisor of the identity of that person at least three (3) days before the first 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 shall not be individuals who have been directly involved in the alleged harassment. If and when it is determined and agreed that the complainant and/or respondent will be accompanied by support person(s), the Advisor will inform the mediator of the identities of these persons.

b. Resolution Through Mediation

If, through the mediation process, a resolution is achieved, the mediator shall record the agreed upon resolution in writing. 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 mediator must return all documentation generated by the mediation and the signed resolution to the Advisor within ten (10) days of achieving a resolution. The Advisor shall place the documentation and agreed upon resolution in a confidential file for twelve months from the date of the signing. If within that twelve 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 a non identifying account of the complaint for statistical purposes.

c. Lack of Resolution Through Mediation

If a resolution is not achieved as a result of mediation, the mediator notifies the respondent, complainant and Advisor, in writing, that the mediation has failed. The mediator immediately returns all records generated by the mediation to the Advisor. The Advisor destroys all records related to the mediation, retaining only the Sexual Harassment Complaint (FORM 1) and respondent's statement (if provided). Because information obtained during mediation is without prejudice, it shall not be introduced automatically as evidence in any subsequent proceedings. Neither the mediator nor any other party involved in the mediation process shall be compelled to
give evidence in any future or concurrent University proceeding regarding any information disclosed during the mediation process except where disclosure is permitted by law, or where the health, safety and security of a person or persons is a concern.

d. Request for Investigation When Mediation Has Failed

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 Advisor informs the complainant in writing that he or she has seven (7) days from the receipt of notice from the Advisor to refer the matter to an investigation. To request an investigation, the complainant shall sign and file a Request for an Investigation (FORM 3) with the Advisor. If the complainant does not ask for an investigation within the seven (7) days allotted, the Advisor shall retain the Sexual Harassment Complaint (FORM 1) and the respondent's statement in a confidential file for twelve (12) months. If the complainant does not have, within that twelve (12) 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 a non identifying account of the complaint for statistical purposes only.

4. PROCEDURE FOR INVESTIGATION OF SEXUAL HARASSMENT COMPLAINTS

a. Procedure

When the mediation procedure has been without resolution as above in 3(c) and (d), or the mediation procedure was not chosen as an appropriate process, the complainant has the option of asking for an investigation to be conducted.

To invoke this procedure, the complainant must file and sign a written Sexual Harassment Complaint Form (FORM 1), if not already submitted, and a Request for an Investigation (FORM 3) with the Advisor. Within three (3) working days of the date the investigation is requested, the Advisor shall hand carry Sexual Harassment Complaint Form, the complainant's written and signed statement and completed Request for an Investigation Form (FORM 3) to the President's Office. 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, at the same time, send a copy of all this material to the respondent by Express Post with signature, hand-delivery or by some other means through which proof of delivery can be obtained. Unless the respondent has already prepared and submitted a written response to the allegations, the Advisor will request that he or she do so within five (5) days of receipt of the notification of Request for Investigation (FORM 3).

b. When the President Cannot Participate in the Investigative Process

If the President is unable to deal expeditiously with the consideration of a Request for Investigation, or when he or she is unable to deal with a complaint due to conflict of interest or reasonable apprehension of bias, he or she shall immediately forward the complaint to the
appropriate Vice-President as follows:

i. where the complainant and respondent are both members of the bargaining or non-bargaining unit administrative staff of the University, or where one of the parties to the complaint is a member of the non-bargaining unit administrative staff and the other party is not faculty, to the Vice-President (Administration and Finance);

ii. where the complainant and the respondent are students or academic staff members, to the Vice-President (Academic);

iii. where one party to the complaint is academic staff member and one is a member of the non-bargaining administrative staff, to the Vice-President (Academic).

If the President is the subject of a complaint or is a complainant, the matter shall be forwarded to the Chair of the Board of Regents of the University who shall appoint an individual to take the place of the President in respect of all things which the President is required to do under these Procedures with respect to the complaint.

c. Decision to Proceed with Investigation

i. Within twenty (20) working days of the President's receipt of the complaint, the President shall review and determine if the allegations of sexual harassment have enough substance to warrant a formal investigation. Before an investigation begins, the President shall notify the respondent and the complainant, in writing, that an investigation will proceed.

ii. Based on the signed complaint, as well as the signed response to the complaint, the President may conduct separate interviews with the complainant, the respondent and the Advisor.

iii. The notification as referenced in c(i) above, shall include a copy of the signed allegations and any attachments.

iv. In this notice, the President shall advise the complainant and the respondent of his or her right to representation according to the relevant collective agreement, if any.

v. If there appears to be a concern about the complainant's and/or respondent's health, safety and security, the President shall decide as soon as possible if an investigation is warranted.

This notification as noted in c(i) above, must be sent to the complainant and respondent through Express Post with signature, hand-delivery or by some other means through which proof of delivery can be obtained, and hand-delivered to the Advisor. This notification also advises those complainants/respondents who are members of bargaining units of their rights to representation according to their relevant collective agreements.

d. Decision Not to Proceed with Investigation

If the President decides that the allegations do not warrant an investigation, he or she shall inform the complainant, the respondent and the Advisor in writing of this decision within twenty (20) days of receipt of the allegation. The President will return all complaint-related documentation to the Advisor who shall keep on file all materials pertaining to the complaint in his or her office until all deadlines for appeal or grievance have passed or twelve (12) months have elapsed, whichever is longer.
When the President decides that the allegations do not warrant an investigation, the President shall then inform the complainant and respondent in writing of the decision and further advise each of them that they have ten (10) working days following notification by the President to use informal options or to avail of the mediation process as outlined in these Procedures. If mediation is requested following a denied Request for Investigation, the Advisor follows those procedures specified in Section 3, Mediation, with the exception of 3(d). The intent of mediation following a denied request for investigation is to attempt to restore working/learning relationships.

e. Initiation of Formal Investigation

If the President decides that the allegations of sexual harassment have sufficient substance, he or she shall appoint an Investigator.

f. Written Notification

This investigation process commences with the receipt by the respondent and complainant of the written notification in section 2(b)(i) from the President and shall conform to the relevant clauses of the appropriate collective agreements, handbooks or discipline codes.

g. Appointment of an Investigator

Neither the Advisor nor any mediator involved in the case shall be the Investigator for any case. The Investigator shall not be an employee, member, or partner of a law firm that has been used as a solicitor by the University. The Investigator can be an individual who has previously provided investigative services to the university whether or not that person is a lawyer. Where appropriate, an Investigator can be selected for suitability from a pool of trained internal investigators or can be an externally appointed investigator. The Investigator must be qualified and able to submit their investigative report to the President within forty-five (45) working days. No person should be selected where there is a real or perceived conflict of interest or reasonable apprehension of bias.

h. Suspension of Investigation for Mediation

If, in the opinion of the Investigator, it would be appropriate for the complainant and respondent to seek resolution through mediation, and where they both consent to do so, the Investigator may interrupt the investigation for such period(s) of time as he or she considers reasonable to facilitate such a resolution. The Investigator will notify the Advisor and President, in writing, that the investigation procedure is being suspended while the parties seek to resolve the matter through mediation. Upon receipt of this notification, the Advisor will commence the mediation procedure as specified in Section 3(a). If resolution through mediation is achieved, the Advisor will notify the President in writing. The President will then notify the Investigator that the matter is resolved, that the investigation has been terminated, and that all records generated by the complaint should be returned to the Office of the President. The President will return all records generated by the complaint to the Advisor who then follows the procedures as specified in Section 3(b). If, during a suspended investigation, mediation fails to resolve the complaint, the
mediator notifies the Advisor, as specified in Section 3(c). The Advisor shall then notify the President, Investigator, complainant and respondent, in writing, that the investigation should immediately recommence. During the period of suspension, the time for completion of the investigative report shall also be suspended.

**i. Release of Information to the Complainant and Respondent**

The complainant and respondent have the right to full information concerning the allegations and supporting arguments. Upon the compilation and following the completion of the investigative report, the complainant and respondent shall be given a copy of the investigative report by the President and shall have the opportunity to respond to the evidence contained in the investigative report if he or she chooses.

**j. Role of the Investigator**

The Investigator shall conduct a thorough investigation into the allegations of sexual harassment and he or she shall write an investigative report which shall be forwarded to the President. The Investigator shall ascertain the facts surrounding the complaint and conduct the investigation in an impartial, fair and objective manner. If the complaint involves the last in a series of incidents, all named incidents that fall within the definition of sexual harassment shall be investigated without regard to time limits. All persons whose evidence is referenced in the investigation shall be named. The Investigator will consider and summarize the relevant facts based on a review of the interviews and documentation. The Investigator shall ascertain whether the resulting facts meet the definition of sexual harassment as outlined in the Sexual Harassment Policy and shall report whether, based on the balance of probabilities, the evidence supports or refutes the complaint. Throughout the investigation, the Advisor will monitor its progress and will be the Investigator's primary contact and resource. If matters arise during the course of an investigation that needs to be communicated to the complainant and respondent, the Investigator will inform the Advisor who will contact the complainant and respondent.

**k. Release of Investigative Report**

The investigation shall be completed and the Investigator's investigative report shall be submitted to the President within forty-five (45) working days of the initiation of the investigation. If mediation is entered into as per section 4(h) the investigation will be paused for the period of the mediation. The President will send copies of this report to the complainant and the respondent through Express Post with signature, hand-delivery or by some other means through which proof of delivery can be obtained and a copy of the investigative report will be hand carried to the Advisor.

**l. When Investigation Cannot Be Completed on Time**

In the event that the Investigator is unable to carry out one or more of the steps in 4(f) to 4(k) of these Procedures and complete an investigation within the specified time frames, the Investigator shall seek written authorization from the President for an extension. This written authorization will be copied to the Advisor, and, to the complainant and respondent, through Express Post with
signature, hand-delivery or by some other means through which proof of delivery can be obtained. An extension to the forty-five (45) working day deadline may be granted through a written request to the President and copied to the Advisor. One (1) extension may be granted at the discretion of the President and this extension shall not exceed twenty-five (25) working days.

Further extension(s) shall be made with the mutual consent of both parties and such consent shall not be unreasonably denied.

m. President's Response to Investigator's Report

Upon receipt of the investigative report, the President shall wait five (5) 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 Investigator's report and the responses, if any, from the complainant and the respondent. Within ten (10) working days of receiving the investigative report, the President shall provide both the complainant and the respondent with his/her written decision, and of the action the President will take and whether or not discipline will be imposed. The President shall notify the complainant and respondent by Express Post with signature, or hand-delivery or by some other means through which proof of delivery can be obtained by providing a copy of his or her decision. The Advisor shall be provided with a copy of this documentation.

n. Discipline

The President may consult with advisors, both internal and external to the University, and may impose fair and reasonable penalties, subject to the applicable handbooks, collective agreements or code of conduct. The existence of proceedings or determinations of any kind in any other forum shall not diminish the President's authority and jurisdiction to impose fair and reasonable penalties under these Procedures. For example an individual, whether convicted or not in a court of law, can still be subjected to discipline by the President under the applicable handbook, collective agreement or code of conduct.

Discipline will follow the concept of progressive discipline and may include but is not limited to the following factors:

1. the nature of the harassment
2. the degree of aggressiveness and physical contact
3. the impact of the comments or conduct on the complainant
4. the time period of the harassment
5. the age of the complainant
6. the psychological impact of the harassment on the complainant
7. whether the offence was an isolated incident or involved repeated acts
8. mitigating or aggravating circumstances affecting either party
9. whether there was an imbalance in power between the parties
10. the record of the subject of the complaint at the University vis-à-vis sexual harassment
11. sanctions applied in similar cases

The respondent and the complainant have the right to appeal/grieve as per the Appeals section (8.0) of the Sexual Harassment Policy. The President will, through the Advisor, notify a complainant if the President's decision referenced in Section 4 (m) is grieved or appealed, and shall provide notice in the same manner to the complainant of the outcome of any such grievances or appeals.

**o. Records**

If the President decides that sexual harassment did occur, the Advisor shall keep on file all materials pertaining to the complaint and the investigation in his or her office until all deadlines for appeal or grievance have passed or twelve (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. The Advisor will request that all documents and materials, including copies, pertaining to the formal complaint and investigative process be returned to the Advisor from the President's office and the Investigator. The Advisor will destroy any and all other copies of these documents and materials.

In cases where the President decides that sexual harassment did occur, and the complainant or 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 of 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. The Advisor will destroy any and all other copies of these materials.

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 are returned to the Sexual Harassment Office and destroyed by the Advisor. The complainant or the respondent may request that a copy of the investigative 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, the Advisor shall keep on file all materials pertaining to the complaint and the investigation in his or her office until all deadlines for formal appeal or grievance have passed or twelve (12) months have elapsed whichever is longer. The Advisor can refer complainants and/or respondents to the appropriate appeals procedure for their constituency upon request. When all deadlines for appeal have elapsed or when appeals are concluded, the Advisor shall destroy all records.
5. PROCEDURES FOR SEXUAL HARASSMENT COMPLAINTS DURING WORK TERMS, PLACEMENTS, INTERNSHIPS, INSTRUCTIONAL FIELD COURSES OR PRACTICA OUTSIDE OF THE UNIVERSITY

Memorial University has a responsibility to support students during work terms, placements, internships, instructional field courses or practica outside the University. The Advisor is available to students who wish to discuss incidents and options available to them.

Students are advised to report incidents of sexual harassment or other forms of discrimination that occur outside the University during work terms and can avail of the support, advice and guidance of the Sexual Harassment Advisor to do so. The Sexual Harassment Advisor is available to students during placements, internships, instructional field courses or practica outside the university. Students who are doing placements in non-University workplaces should report incidents of sexual harassment or other forms of discrimination that occur in this context.

Many of the companies, agencies and institutions that regularly employ or supervise students in non-University workplaces will have procedures to deal with sexual harassment or other forms of discrimination that students can use.

In the absence of company, agency and institutional policy, students can file a complaint or seek the advice of the Human Rights Commission or similar institutions to take the appropriate action.

6. PROCEDURE FOR SEXUAL HARASSMENT COMPLAINTS AT MARINE INSTITUTE CAMPUSES, GRENFELL CAMPUS, HARLOW AND FRECKER PROGRAM IN ST. PIERRE

Marine Institute campuses, Grenfell Campus, Harlow and Frecker Program in St. Pierre shall follow the procedures for dealing with complaints outlined in this document.

Students, faculty and staff from these campuses are encouraged to consult with the Advisor by telephone or email regarding any issues, concerns or complaints relating to sexual harassment. Students may place collect calls to the Advisor or may arrange free direct calls through the University. The nature of a concern or complaint may necessitate that the Advisor travel to the respective campus.

7. ROLE OF THE ADVISOR

The Advisor shall be a permanent, full-time University employee attached to the Office of the University President. For administrative matters, including the establishment of budgets, leave management and office support, the Advisor shall report to the Director of Human Resources.

a. The Advisor shall report to the University President. The Advisor shall consult with the Sexual Harassment Board on matters relating to the Procedures. The Advisor shall submit a written monthly report to the University President and the Board. This report shall be available to the constituent groups of the Board at the monthly Board meetings.
b. The Advisor shall be responsible for the administration of the University-Wide Procedures for Sexual Harassment Concerns and Complaints. He or she is responsible for receiving and responding to concerns and complaints of sexual harassment; monitoring the progress of informal and formal means of resolving sexual harassment concerns or complaints; acting as the primary contact for all of those involved in the complaint process, including investigators, mediators and University administration; coordinating activities; training and supervision of other office staff, and; providing advice regarding the Sexual Harassment Policy and 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.

c. The Advisor is responsible for ensuring the Sexual Harassment office operates within its allocated budget and shall provide periodic updates to the Sexual Harassment Board sub-committee on the financial operation of the Sexual Harassment office.

d. The Advisor is responsible for ensuring the creation and delivery of public awareness, the development of education programs and other activities to promote awareness and to assist in the prevention of sexual harassment within the University community.

e. The Advisor shall be a neutral party when administering the Procedures. The Advisor will not be the advocate for either the complainant or the respondent. His or her role is to endeavor 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 guidance and information regarding the requirement of the Procedures to Sexual Harassment Mediators, Sexual Harassment Investigators and others seeking direction in the handling of cases.

h. The Advisor is responsible for keeping the Board members informed of educational initiatives, current issues and trends and other developments relating to sexual harassment. The Advisor shall provide the Sexual Harassment Board with non identifying statistical information regarding the nature and number of concerns and complaints of sexual harassment.

i. The Advisor shall have a permanent office located at the St. John's campus and be available to all Memorial University of Newfoundland campuses (Marine Institute, Grenfell Campus, Harlow and Frecker Program in St. Pierre).
j. It is the responsibility of the President to appoint an individual to act in the capacity of the Advisor when one or more of the following situations exist:

- the Advisor is on leave for a period greater than three (3) working days
- the Advisor declares a conflict of interest or a reasonable apprehension of bias;
- the Advisor is the complainant or respondent.

8. TERMS OF REFERENCE FOR THE SEXUAL HARASSMENT BOARD

A. AUTHORITY:

The University Sexual Harassment Board is established under the authority of the President and has two components one for the St. John's area and one for Corner Brook. Its purpose is to oversee the implementation of and periodically review the University-Wide Procedures for Sexual Harassment Concerns and Complaints.

B. MANDATE:

- Oversee the implementation of the University-Wide Procedures for Sexual Harassment Concerns and Complaints.
- Periodically review and approve any changes to the Procedures.
- Be represented on the selection committee for the appointment of the Advisor.
- Provide support to the Advisor.
- Liaise (role of each member) with the executives of each constituent group.
- Receive and review monthly reports from the Advisor.
- Promote, support and advocate the role of the Sexual Harassment Office throughout the University community.

An identified subcommittee of the Board will approve the annual budget allocation for the Sexual Harassment Office and periodically review the financial status of the Office in relation to its annual budget.

C. MEMBERSHIP:

i. The St. John's Board Component shall be composed of one male and one female member appointed by each of the following constituencies. One male and one female member per union can be represented on the St. John's Board. One male and one female member per local are permitted only when multiple locals from one union attend different union meetings, thus requiring the representation of unique concerns/priorities. The St. John's Board shall have the following as its membership:

- The Canadian Union of Public Employees (CUPE), Local 1615
- The Memorial University of Newfoundland Faculty Association, (MUNFA)
- The Newfoundland Association of Public Employees, Locals 7801, 7803, and 7804
- Marine Institute Instructors NAPE 7405
- Marine Institute Support Staff, NAPE Local 7850
ii. The **Corner Brook Board Component** shall be composed of one member appointed from each of the constituent groups:

- The Canadian Union of Public Employees (CUPE), Local 1615
- The Memorial University of Newfoundland Faculty Association, (MUNFA)
- The Newfoundland Association of Public Employees, Locals 7801, 1804, and 1809.
- Lecturers Union of Memorial University of Newfoundland (LUMUN)
- Grenfell Campus Students' Union (GCSU)
- University Administration
- One member from outside the University
- Sexual Harassment Advisor

iii. All members of both Board Components shall have a two-year renewable term.

iv. With the exception of the Advisor, all members have voting rights.

v. The parties listed in C(i) and (ii) above shall be responsible for maintaining their representation on the Board and reporting back to their constituent group.

vi. Any changes to the University-Wide Procedures for Sexual Harassment Concerns and Complaints requires unanimous consent of the combined constituencies (both the Corner Brook component and the St. John's component) as listed in C(i) and (ii) above.

vii. The Chair of each Board Component is elected from among the members of their respective Component and serves for a one-year renewable term.

**D. OPERATIONS:**

The Sexual Harassment Board Components meet monthly or as otherwise requested at the call of the respective Chair.

All members of the Sexual Harassment Board shall complete an undertaking of confidentiality and will comply with the terms of the agreement. All members of the Sexual Harassment Board shall treat as confidential any and all information and discussions that have been identified as confidential.

All members of the Sexual Harassment Board shall become familiar with the by-laws of the
Sexual Harassment Board and shall comply with the terms and conditions contained therein.

The respective Chair of the Sexual Harassment Board Components shall, following meetings of the Board, collect all documentation disseminated and will ensure that meeting documentation is given to the Advisor who will endeavor to ensure that confidentiality requirements are met.

9. TERMS OF REFERENCE FOR THE SEXUAL HARASSMENT MEDIATORS

a. The Advisor is responsible for identifying individuals as Sexual Harassment Mediators as required. The Mediator shall be chosen on the basis of their education, training, experience and suitability.

b. The Advisor shall endeavor to ensure that mediators are reflective of the diversity groups within the various campuses of the University.

c. The role of the sexual harassment mediator is to mediate as required in Section 3 of the University Wide Procedures for Sexual Harassment Concerns and Complaints.

10. TERMS OF REFERENCE FOR THE SEXUAL HARASSMENT INVESTIGATORS

a. The role of a Sexual Harassment Investigator is:

i. To investigate a complaint of sexual harassment upon the request of the University President as per the University-Wide Procedures for Sexual Harassment Concerns and Complaints.

ii. To maintain impartiality, objectivity and fairness while conducting an investigation.

iii. To have the capacity to investigate and deliver the investigative report within forty-five (45) working days.

b. The President, in consultation with the Advisor, is responsible for appointing individuals to investigate sexual harassment complaints. Investigators are appointed on the basis of their education; their awareness about issues pertaining to gender, sexual orientation and sexual harassment; and their experience. Investigators are normally appointed on a case by case basis.

c. Prior to appointment, and prior to commencing an investigation of any complaint, an investigator will be required to confirm to the University that he or she is not then involved in any matter where the interests which he or she represents are adverse to the interests of the University.

d. Upon appointment, all investigators will be provided with relevant information and documentation relevant to the investigation and University Policy and Procedures.

In the event there are discrepancies or inconsistencies between the above document and the University's Sexual Harassment Policy the University's Sexual Harassment Policy shall
prevail.