



# Draft Policy for Consultation

## Student Code of Rights and Responsibilities

### (Former Student Code of Conduct)

Feedback can be sent to [Policy@Mun.ca](mailto:Policy@Mun.ca)

## Authority

Associate Vice-President (Academic) and Dean of Students

## Purpose

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

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

The core focus of Memorial's Code of Student Rights and Responsibilities is to help create a safe and supportive community and manage Concerns and Complaints that arise involving Students. There are a number of university policies and procedures that help Memorial emphasize inclusion and equity, service, innovation, care and well-being, and achievement, amongst all members of the University Community. These include:

- Memorial's [Respectful Workplace](#) policy which deals with Concerns and Complaints that arise amongst University Employees.
- Memorial's [Sexual Harassment and Sexual Assault](#) policy and its procedures which deals with Complaints of a sexual or gender identity nature.

- Memorial's Respectful Learning Environment Policy which provides a mechanism to have Concerns and Complaints of Students regarding University Employees addressed in relation to Learning Environments.
- Matters of an academic nature are addressed in academic regulations within the [University Calendar](#).
- The unit specific Professional Suitability Policy and Procedures, as may be implemented, deals with conduct involving professional suitability that may also apply to matters that are subject to this Policy.

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

## Scope

- a) This Code applies to non-academic conduct by a student, or a group of students, that takes place:
  - (i) on University property;
  - (ii) off University property, or through electronic media regardless of where it originates, in circumstances where:
    - a student is on a course or participating in an organized class activity;
    - a student is participating in a sanctioned activity;
  - (iii) a student represents or appears to represent the University or an organization affiliated with the University;
  - (iv) the conduct adversely affects the operation of the University or the reasonable participation by members of the University community in the University's living, learning, or working environments;
  - (v) the University has reasonable grounds to believe there is a risk to the safety of a member(s) of the University community in the University's living, learning, or working environments; or
  - (vi) the University's reputation may be damaged.
- b) This Code covers non-academic conduct in academic programs including class lectures, laboratories, or the like on University premises. It also covers any organized academic activity such as a clinical placement, exchange, field trip, internship, or research activities that occur off University property.

c) Parallel Proceedings

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

## Definitions

A full glossary of terms and definitions with relevant examples may be found in [Appendix A](#).

For the purpose of interpreting this document:

- **“Concern”** means a situation which is of concern to a Complainant regarding any form of non-academic misconduct, which may or may not be in writing, and which the complainant wishes to resolve informally and expeditiously.
- **“Complaint”** a written statement outlining a concern by a Member of the University Community or otherwise associated with the university community pursuant to this policy
- **“Complainant”** means a Member of the university community who raises a concern or complaint under this Code or otherwise associated with the university community pursuant to this policy.
- **“Complaints Coordinator”** is a person(s) who is appointed by the University to act in the role as outlined in this Code. The University may decide to appoint a different Complaints Coordinator(s) for the St. John’s Campus, Signal Hill Campus, Harlow Campus, Grenfell Campus, Labrador Campus, and/ or the Marine Institute.
- **“Elder(s)”** person(s) recognized by their Indigenous community/ies as a holder of Indigenous wisdom, knowledge and history and who supports and guides learning in Indigenous groups by impacting tradition, knowledge, culture, values and lessons using role modeling and traditional practices. Elder is not necessarily a position or an age.

- **“Formal Resolution”** means a process in which an external or internal investigator conducts an investigation. It is a means of addressing complaints and does not require the consent of the parties.
- **“Head of Campus”** means:
  - For the St. John’s Campus, the Signal Hill Campus, the Harlow Campus and the Labrador Campus – Associate Vice-President (Academic) and Dean of Students or delegate.
  - For the Grenfell Campus – Vice-President, Grenfell Campus, or delegate.
  - For the Marine Institute – Associate Vice-President (Academic and Student Affairs and Services), Marine Institute or delegate.
- **“Informal Resolution”** means processes that a complainant can consider with the Complaints Co-ordinator with the goal of resolution of concerns and complaints. The University recognizes that many concerns can be resolved informally, without resorting to the formal provisions of this Code. The principles underlying this Code are educational and whenever appropriate the University encourages informal resolution of minor incidents.
- **“Member of the University Community”** means all students at the University and any person who teaches, conducts research, works at or under the auspices of the University and includes, without limitations, all employees and others while they are acting on behalf of the University. Students include former students while they were still members of the University community if reported incidents of student non-academic misconduct occurred within the time limits set by this policy.
- **“Natural Justice”** requires that a person receive a fair and unbiased treatment before a decision is made that will negatively affect them. The three main requirements of natural justice that must be met in every case are: adequate notice, fair treatment and no bias
- **“Retaliation”** means any threat of reprisal, attempt to intimidate, or adverse behaviour or action taken against a Complainant or a university community person, if that person:
  - invoked this policy;
  - participated or cooperated in any process under this policy; or
  - associated with a complainant who has invoked this policy or participated in any of its processes.
- **“Respondent”** means a student against whom a Complaint has been made pursuant to this policy.

- **“Restorative Justice”** means emphasizing the role of the persons impacted and community members through active involvement in the misconduct process, holding Students directly accountable to the people and communities harmed by their conduct and providing a range of opportunities for dialogue, negotiation and problem solving whenever possible.
- **“University”** means Memorial University of Newfoundland and Labrador.

## Policy

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

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

The principles of the safety and wellbeing of the university community (including students), deterrence, restitution, education and, where appropriate, restorative justice, will guide the misconduct process.

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

## RIGHTS AND RESPONSIBILITIES

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

## **Student Rights**

- a) The right to academic and educational pursuits at the University with the privileges it affords to those in good standing.
- b) The right to participate fully in University life without the fear or threat of harassment, intimidation, stalking, bullying, coercion, discrimination, or acts of violence.
- c) The right to an educational and on-campus residential environment that is safe, respectful and conducive to learning.
- d) The right to natural justice under this Code.
- e) The right to privacy of personal information as per University policies.
- f) The right to the freedoms of opinion, expression, belief and association to the extent that these freedoms do not interfere with the rights of others or violate other University policies and procedures.
- g) The right to peaceful assembly and participation in demonstrations within the University provided that such actions do not violate the fundamental rights of other members of the University community nor violate the fundamental responsibilities of the student as outlined in this Code.

## **Student Responsibilities**

- a) The responsibility to behave in such a way as to make the University a safe, respectful, and inclusive place to live, work, and study. Students are called upon to refrain from conduct that threatens or endangers the health, safety, well-being or dignity of any member of the University community.
- a) The responsibility to uphold an atmosphere of equity and respect for others, consistent with the value that the University places on diversity in our community.
- b) The responsibility to be fully acquainted with and to adhere to University policies, procedures, and rules.
- c) The responsibility to maintain a safe and secure campus community by refraining from unauthorized entry to University premises and unauthorized possession of University property.
- d) The responsibility to respect the privacy of personal information of all members of the University community.
- e) The responsibility to respect the privacy of personal information of all members of the University community.
- f) The responsibility to maintain integrity in one's interactions with the University. Knowingly providing false or inaccurate information to the University or an official thereof, altering or tampering with a document submitted to the University or otherwise engaging in fraudulent behaviour with respect to the University constitutes misconduct.



- g) The responsibility to act in accordance with the law and University policy with respect to illegal drugs.
- h) For those who choose to consume cannabis, the responsibility to do so in accordance with the federal Cannabis Act, the provincial requirements, and other related University policies and regulations.

## REFERRALS

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

## OFFENCES

The Code outlines behavior that the University considers to be non-academic misconduct offences and the range of remedies and/or penalties which may be imposed. Academic misconduct is governed by the University Calendar and other University policies.

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

- a) Offences against persons, which include but are not limited to:
  - (i) Physical, or verbal assault and/or harassment or the threat thereof;
  - (ii) Creating a condition that unnecessarily endangers the physical and/or mental health or safety of other persons;
  - (iii) Uttering threats;
  - (iv) Bullying, intimidating or harassing another person;
  - (v) Any conduct that can be reasonably considered hazing or frothing activities. Students shall not organize or engage in any act that endangers, or could reasonably be seen to endanger the mental or physical health or safety of a Student, for the purpose of initiation, admission into, affiliation with, or for

continued membership in a group or organization including the residence community.

- (vi) While a university environment is one where freedom of speech is highly valued, students must adhere to provisions of the Human Rights Act, 2010 and discrimination is prohibited on the following grounds: race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income and political opinion. Comments or action based on an individual's association or relationship whether actual or presumed, with an individual or class of individuals identified above is also prohibited. For resolution of incidents of sexual harassment and sexual assault, refer to the University's Sexual Harassment and Sexual Assault Policy.
- b) Offences involving property, which include, but are not limited to:
- (i) Unauthorized entry or presence on any premises of the University;
  - (ii) Taking, destroying or damaging property that is not their own;
  - (iii) Defacing any part of the University premises;
  - (iv) Knowingly possessing stolen property;
  - (v) Creating a condition that endangers or threatens destruction of the property of the University or of any of the members of the University community.
- c) Offences involving drugs or alcohol, which include, but are not limited to:
- (i) Underage drinking;
  - (ii) Underage use of cannabis;
  - (iii) Being disorderly or causing a disturbance while under the influence of alcohol or drugs for recreational purposes;
  - (iv) Providing alcohol to minors;
  - (v) Illegal possession, selling, or distribution of alcohol;
  - (vi) Use, consumption, possession, cultivation, selling, or distribution of drugs or paraphernalia that are illegal under Federal or Provincial legislation or are not permitted under University policies or regulations;
  - (vii) Trafficking in or distribution of prescription drugs; or
  - (viii) Breach of the University Alcohol Policy.
  - (ix) Smoking - no person shall engage in smoking on campus where smoking is banned.



- d) Conduct that would be realized as a breach of the law and/or disrespect for the health and safety of the University community or its members, including:
  - (i) Creating dangerous or unsafe conditions - such actions as setting fires, fake fire alarms, blocking exit routes, tampering with life-saving equipment, or impeding work of University or emergency personnel;
  - (ii) Inciting violence – the use of words which threaten violence of physical injury to a person or persons, or use words in a situation of clear and present danger which incite others to violence; and
  - (iii) Bringing weapons to University property or activities – this includes firearms (including air guns and imitation firearms), explosives, other weapons or dangerous chemicals.
  - (iv) Possession and use of weapons other than that outlined in the Weapons Policy.
  
- e) Offences involving disruption, which include, but are not limited to:
  - (i) Counseling, conspiring with or aiding a person in the commission of an offence defined in this Code;
  - (ii) Being charged with contravening the provisions of the Criminal Code or any federal, provincial or municipal legislation for which an offence is created;
  - (iii) Refusing to comply with a sanction or sanctions imposed under the provisions of this Code, or interfering with a process under this Code;
  - (iv) Acting threatening or otherwise causing a disturbance that obstructs any activity organized by the University or by any of its faculties, schools, departments or divisions, clubs, societies or resource centres, or the rights of a member of the University community to carry on their legitimate activities, to speak to or associate with others.

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

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

- Peaceful assemblies, demonstrations, picketing or other activity outside a class or meeting that does not substantially interfere with the communication inside, or impede access to the meeting or class.
- Silent or symbolic protest.

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

f) Other offences include, but are not limited to:

(i) Unauthorized use of any facility, equipment or service of the University;

- Bringing false or malicious charges or complaints against any member of the University community;
- Retaliation against persons for laying a complaint or providing statements under this Code;

(ii) Fraudulent activity.

(iii) Illegal gambling.

(iv) Misconduct related to online posting;

- Failure to comply with reasonable direction of university or law enforcement officers acting in the performance of their duties;
- Knowingly providing fake information to any person acting on behalf of the University, or to forge, alter, or misuse any university document or identification, or providing fake information to any person regarding their standing, status, or academic record at the University;
- Unauthorized use of protected Memorial University trademarks, names, or images;
- Offering a bribe, or providing monetary or other benefit to a Member of the University Community for the purpose of gaining advantage;
- The dissemination of malicious or defamatory material, or the engaging in any activity that creates social or academic climate that inhibits or interferes with the full participation of University learning and living;
- Knowingly posting third party personal information without consent in violation of the third party’s personal privacy.



## SPECIAL MEASURES PROVISION

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

If the Head of Campus has grounds to believe that the well-being, safety, or security of the University community is at risk with respect to student misconduct, the University shall initiate an investigation and/or inform legal authorities.

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

## CONFIDENTIALITY AND PRIVACY

All persons involved in any process related to this Code are required to maintain confidentiality. Confidential matters are handled in accordance with the [Access to Information and Protection of Privacy Act, 2015, cA-1.2](#), other privacy legislation to which the University is subject, and [the University Privacy Policy](#). Nothing in this section shall be construed so as to prevent a Complainant or Respondent from seeking advice and guidance, all persons involved in the complaint (including personal supports) related to this policy are required to maintain confidentiality with respect to the process, any information provided by other parties or witnesses to the process and subsequent reports.

Only persons with a bona fide need to know the details of a situation will have access to such information and access is limited to the scope of their responsibilities. Third parties attempting to gain or gaining access to personal information with respect to a Concern or Complaint, where such information is not needed to perform the scope of their responsibilities, does so in violation of this Policy and may be in violation of the [Access to Information and Protection of Privacy Act](#).

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

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



Confidentiality may not apply to persons subject to extra-University judicial processes, or where disclosure is permitted or required by law, or where the well-being, safety and security of a person or persons is a concern or where disclosure is needed to conduct an investigation or to impose discipline. In such circumstances, information, as appropriate, would only be shared with those with a bona fide need to know.

## **PROCESS**

For persons who wish to report a concern or complaint, the following routes are available:

- a) Consultation with the Student Life Office (Student Conduct Officer or designate)
- b) An informal resolution process (including Restorative Justice)
- c) Referral to the appropriate units and/or policies in relation to equity, diversity and inclusion for certain discrimination complaints, the Sexual Harassment Office for matters concerning sexual harassment or sexual assault or Suitability for the Profession policy
- d) The formal resolution process

## **FRIVOLOUS OR VEXATIOUS COMPLAINTS**

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

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

## **RETALIATION**

No person shall retaliate against another for bringing forward a Concern or Complaint or for being involved in any process related to this policy. The University considers Retaliation at any stage to be a serious offence. Where there is evidence of retaliation, the same route as for dealing with a Concern or Complaint will be followed.

Retaliation, at any stage, is considered to be a serious offence.

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



## UNIVERSITY AS COMPLAINANT

The University may take steps under this policy as a Complainant.

The process and investigation of allegations will be in accordance with the procedures for concerns and complaints of student non-academic misconduct.

## SANCTIONS/ RESOLUTIONS

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

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

- a) the seriousness, harm, and impact of the conduct on the Complainant, the University community, a University activity or reputation, or property of the University;
- b) whether the incident is a single, isolated incident;
- c) whether the incident was planned and deliberate or inadvertent;
- d) whether other University policies were violated;
- e) any financial costs; and
- f) any other factor determined as relevant.

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

Further details on the sanctions/resolutions that may be imposed by the University can be found in [Appendix B](#):

## HEARINGS

- a) A hearing will be held in the event that the Student Conduct Officer recommends a sanction in Appendix B (q) or (r). A hearing panel will be called, and shall consist of five members comprised as follows:



- (i) three (3) non-students from the University community, one of whom will act as Chair and voting member; and
- (ii) two (2) students. The student representatives will be appointed by the student union of which the Respondent is a member.

The hearing panel members will be selected by the Chief Risk Officer of the University from a pool of candidates. During the selection process every effort will be made to ensure diverse representation of panel members. Decisions of the hearing panel will be by majority vote.

- b) Subject to the rules in this section, the hearing panel, assisted by legal counsel, has discretion to determine its own procedure in accordance with due process, natural justice, and fairness.
- c) The recommendation of the sanction under Appendix B (q) or (r) will be presented by the Student Conduct Officer or designate, who may be assisted by legal counsel. The Respondent may be assisted and represented by another person, who may be legal counsel.
- d) A hearing may proceed, at the discretion of the Chair, in the absence of the Respondent, provided the Respondent has been given at least two weeks' notice of the hearing date and fails to attend.
- e) The hearing panel shall provide a written decision after the hearing. The decision shall either affirm the recommendation of the Student Conduct Officer to impose a sanction under Appendix B (q) or (r)), or deny the recommendation of the Student Conduct Officer to impose a sanction under Appendix B (q) or (r) and in that case will substitute another sanction or sanctions under Appendix B of the Code.
- f) Hearing guidelines:
  - (i) The hearing shall be conducted in private unless there is agreement otherwise between the Complainant, Respondent, the Student Conduct Officer and the Chair;
  - (ii) The Respondent and the Student Conduct Officer may present witnesses and cross-examine each other's witnesses;
  - (iii) The Respondent and the Student Conduct Officer may make opening statements and closing arguments;



- (iv) The hearing panel has the discretion to accept records, exhibits, and written statements as evidence for consideration at the hearing.

## APPEALS

- a) A Complainant or the Respondent may only appeal the outcome of the decision on one or more of the following grounds:
  - (i) there is evidence of a conflict of interest;
  - (ii) there was a significant error in process;
  - (iii) the result is patently unreasonable;
  - (iv) there is significant new evidence that was not available at the time of the decision, which has the potential to change the outcome of a case.

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

- b) A Student who has received a sanction from the Student Conduct Officer or the hearing panel shall have a right to appeal the sanction to the Head of Campus. The Respondent shall have 10 working days to provide written grounds why the sanction imposed by the Student Conduct Officer or hearing panel should be reconsidered. The Respondent is entitled to a meeting with the Head of Campus but the appeal must be in writing. If the sanction is eviction from residence, the student may be required to leave residence while the appeal is pending;

Appeals to sanctions will be addressed by the Head of Campus within ten (10) working days from receipt of a written appeal by the Student, and the Head of Campus will provide their decision in writing. The decision of the Head of Campus will either confirm, vary or overturn the sanction imposed by the Student Conduct Officer or the hearing panel, and in the case of overturning the sanction, may substitute its own decision on sanctions.

- c) If the Head of Campus decides suspension or expulsion is appropriate, they will advise the University Registrar.
- d) Decisions of the Head of Campus confirming suspension or expulsion may be appealed in writing, within 10 working days of the decision, to a panel of the Board of Regents.



## RECORDS

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

All records related to a Concern or Complaint are handled in accordance with the University's [Information Management](#) policy, [Privacy](#) policy, the [Access to Information and Protection of Privacy Act, 2015](#), related University policies and other applicable legislation.

A Record must be kept in all cases that have been the subject of an investigation, hearing and appeal, the result of which has been the imposition of a sanction, whether or not the Respondent has waived the right to a hearing. All such records shall be maintained for a period of five (5) years. All written complaints, witness statements, decisions, etc. will be disclosed to the Complainant and Respondent.

### b) **Composition of Records**

The record of cases shall comprise any written reports, including MIMS reports, the notice of hearing (including the offence); documentary evidence filed at a Hearing; all decisions.

### c) **Storage of Records**

The records shall be stored in the office of the appropriate Head of the Campus, or designate.

### d) **Use of Records:**

Records of previous convictions may be taken into account in imposing a sanction.

### e) **Recordings of Hearings**

The Student Conduct Officer shall ensure that a recording is made, and a transcript prepared, of all sessions of a hearing.

### f) **Reporting**

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





The Complaints Coordinator shall prepare an annual report of a general nature which will include only non-identifying information and will outline the statistics and general nature of concerns and complaints.

A summary report of the number, the type and the disposition of Complaints is prepared annually by the Associate Vice-President Academic (AVPA) and Dean of Students in a format that does not identify individual cases, and is made available to the Presidents Advisory Team through the Student Matters Steering Committee.

## **REVIEW**

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

## **GUIDELINES FOR NATURAL JUSTICE FOR STUDENT CONDUCT**

- a) The burden of proof is on the balance of probabilities rather than “beyond a reasonable doubt”. The burden of proof will be established by an analysis of “what is most likely to have happened.”
- b) The process should ensure as speedy a resolution of cases as is consistent with fair process.
- c) Each party must be given sufficient notice of an investigative process or appeals hearing, in writing, to allow for preparation of the case.
- d) The student must be informed of the allegations forming the basis of the report of misconduct against them.
- e) The student has the right to hear and to respond to evidence presented against them.
- f) Each party may have a support person.
- g) Students may be accompanied by a support person during the informal and formal resolution processes (as appropriate).
- h) Both sides of the case have the right to be heard.

- i) Any record of the process will not be maintained in the student's academic or personal files if no charges are laid, although the relevant authority shall maintain official records for University purposes.
- j) At all levels of the process, decisions must be made in a reasonably timely way and be in writing. Reasons for the decisions must be provided.

## **ALCOHOL AND CANNABIS CONSUMPTION**

For those who choose to consume alcohol and/or cannabis, the responsibility to do so in accordance with provincial laws, with due regard for their personal safety and the well-being of others.

- i) The responsibility to be in compliance with all federal, provincial, and municipal laws, or activities which would not be permitted under University policies or regulations as appropriate.

## Appendix A

### Glossary and Definitions

- **“Bullying”** repeated, unreasonable, habitual and unwelcome behaviour directed to a person or a group e.g. sabotaging work equipment, interfering with someone’s ability to perform their duties, exclusionary practices, cyber bullying, etc.
- **“Class”** refers to a period of instruction such as a lecture, seminar, tutorial, laboratory, recital, concert, or sports event.
- **“Concern”** means a situation which is of concern to a Complainant regarding any form of non-academic misconduct, which may or may not be in writing, and which the complainant wishes to resolve informally and expeditiously.
- **“Complaint”** a written statement outlining a concern by a Member of the University Community or otherwise associated with the university community pursuant to this policy
- **“Complainant”** means a Member of the university community who raises a concern or complaint under this Code or otherwise associated with the university community pursuant to this policy.
- **“Cyberbullying”** is the act of harassing someone online by sending or posting, often anonymously, mean, hurtful, or intimidating messages.
- **“Complaints Coordinator”** is a person(s) who is appointed by the University to act in the role as outlined in this Code. The University may decide to appoint a different Complaints Coordinator(s) for the St. John’s Campus, Signal Hill Campus, Harlow Campus, Grenfell Campus, Labrador Campus, and/ or the Marine Institute.
- **“Day”** a weekday when the University is open for the transaction of administrative business for the purpose of calculating response times of complaints.
- **“Elder(s)”** person(s) recognized by their Indigenous community/ies as a holder of Indigenous wisdom, knowledge and history and who supports and guides learning in Indigenous groups by impacting tradition, knowledge, culture, values and lessons using role modeling and traditional practices. Elder is not necessarily a position or an age.

- **“Formal Resolution”** means a process in which an external or internal investigator conducts an investigation. It is a means of addressing complaints and does not require the consent of the parties.
- **“Frivolous”** - Devoid of merit
- **“Harassment” is:**

Comments or conduct that involve objectionable behaviours which are abusive, offensive, demeaning or vexatious that are known or ought reasonably to be known to be unwelcome which may be intended or unintended. Harassment includes Personal Harassment and Harassment based on Prohibited Grounds of Discrimination which includes: race, colour, nationality, ethnic origin, social origin, religious creed, religion, age, disability, disfigurement, sex, sexual orientation, gender identity, gender expression, marital status, family status, source of income and political opinion. Comments or action based on an individual’s association or relationship whether actual or presumed, with an individual or class of individuals identified above is also prohibited. For resolution of incidents of sexual harassment and sexual assault, refer to the University’s Sexual Harassment and Sexual Assault Policy. Examples of these incidents connected to the Sexual Harassment and Sexual Assault Policy include but are not limited to sex, sexual orientation, gender identity, and gender expression.

Examples of Harassment include, but are not limited to:

- Verbal abuse, yelling, and/or making threats;
- Making degrading or offensive comments, gestures, or jokes;
- Belittlement/humiliation;
- Spreading malicious gossip or rumours;
- Inappropriate communication through social media, e-mail, or instant messaging including electronic communication;
- Actual or threatened physical contact or assault;
- Bullying or intimidation;

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

- Interpersonal conflict or disagreement, which is expressed in a respectful manner;

- Performance feedback, which is expressed in a respectful and appropriate manner; or
- **“Hazing”** means any activity expected of someone joining or participating in a group that humiliates, degrades, abuses, or endangers them, regardless of a person’s willingness to participate. Hazing endangers the mental or physical health or safety of a student. Common hazing includes alcohol/binge drinking, humiliation, isolation, sleep deprivation, and sexual acts.
- **“Hearing”** - a hearing will only be conducted in accordance with section 8 of this Code.
- **“Head of Campus”** means:
  - For the St. John’s Campus, the Signal Hill Campus, the Harlow Campus and the Labrador Campus – Associate Vice-President (Academic) and Dean of Students or delegate.
  - For the Grenfell Campus – Vice-President, Grenfell Campus, or delegate.
  - For the Marine Institute – Associate Vice-President (Academic and Student Affairs and Services), Marine Institute or delegate.
- **“Informal Resolution”** means processes that a complainant can consider with the Complaints Coordinator with the goal of resolution of concerns and complaints. The University recognizes that many concerns can be resolved informally, without resorting to the formal provisions of this Code. The principles underlying this Code are educational and whenever appropriate the University encourages informal resolution of minor incidents.

Informal procedures will include consulting with the parties involved and attempting to mediate a satisfactory resolution. The focus will be on restorative justice. Every reasonable effort should be made to resolve the Concern early with open communication and in a responsive manner, which may include mechanisms such as coaching, mediation, training, counselling and facilitation at the unit level. The Code also provides for early intervention regarding behavior that may be of concern, without involving the formal procedures under the Code. Informal resolution may not be appropriate in all circumstances. Parties will be made aware of on-campus and community supports while engaging with the Code of Student Rights and Responsibilities Office as a means of offering support.

- **“Investigator”** means the person (who may be internal or external and who has no real or perceived conflict of interest or reasonable apprehension of bias) appointed by the **Head of Campus** when an investigation is required in relation to a Complaint under this policy.
- **“Investigative Report”** means a written summary of the evidence and any conclusions reached by the Investigator in regard to a Complaint under this policy.
- **“Mediation”** refers to a voluntary process whereby a third party facilitates a face-to-face dialogue between two or more parties and helps the parties arrive at reconciliation or mutually agreeable restitution. Mediation requires consent of both parties and may not be appropriate in all circumstances.
- **“Member of the University Community”** means all students at the University and any person who teaches, conducts research, works at or under the auspices of the University and includes, without limitations, all employees and others while they are acting on behalf of the University. Students include former students while they were still members of the University community if reported incidents of student non-academic misconduct occurred within the time limits set by this policy.
- **“Natural Justice”** requires that a person receive a fair and unbiased treatment before a decision is made that will negatively affect them. The three main requirements of natural justice that must be met in every case are: adequate notice, fair treatment and no bias
- **“President”** means the President of Memorial University or their delegate.
- **“Respondent”** means a student against whom a Complaint has been made pursuant to this policy.
- **“Restorative Justice”** means emphasizing the role of the persons impacted and community members through active involvement in the misconduct process, holding Students directly accountable to the people and communities harmed by their conduct and providing a range of opportunities for dialogue, negotiation and problem solving whenever possible.
- **“Retaliation”** means any threat of reprisal, attempt to intimidate, or adverse behaviour or action taken against a Complainant or a university community person, if that person:
  - invoked this policy;
  - participated or cooperated in any process under this policy; or
  - associated with a complainant who has invoked this policy or participated in any of its processes.

- **“Sanctioned Activity”** means an activity that has been formally approved by the University through a University administrator authorized to do so.
- **“Support Person(s)”** An individual providing support to a Complainant or Respondent. It can be beneficial for a student to have a support person accompany them throughout the process. Examples of a support person can include a family member, friend, Elder, community member, MUNSU representative, etc. This individual must not be a witness to the complaint and must not be in a conflict of interest position by virtue of involvement. The support person is not permitted to answer questions for the Complainant or Respondent or inhibit or interfere with the proceedings in any way.
- **“Sexual Assault”** is a criminal offence under the Criminal Code of Canada RSC, 1985, c. C-46. It is any type of unwanted sexual act characterized by the use of force, threat(s), or control of a person carried out in circumstances where the person has not freely consented. (See definition of Consent). In cases of sexual assault, persons are advised to contact legal authorities immediately. They should also refer to the Sexual Harassment Office and consult the Sexual Assaults Support and Response Guide.

**“Sexual Harassment”** comments or conduct of a sexual nature and/or abusive conduct based on gender, gender identity, sex (including pregnancy and breast feeding) or sexual orientation directed at an individual or group of individuals by a person or persons of the same or opposite sex, who knows or ought reasonably to know that such comments or conduct is unwelcome and/or unwanted. The University has a Sexual Harassment and Sexual Assault Policy to deal with such matters.

**“Student”** individual currently or previously registered at the University within the last 30 days and persons residing in Student Residences, who are not employees and who are not otherwise defined as Students in this section;

**“Student Conduct Officer”** is a person(s) who is appointed by the University to act in the role as outlined in this Code.

- For the St. John’s Campus, Signal Hill Campus and Labrador Campus – Director of Student Life;
- For the Harlow Campus – Chief Conduct Officer and Head of School;
- For the Grenfell Campus – Registrar/Director, Student Services; and
- For the Marine Institute - Director of Student Affairs and Services



**“Student Residences”** – Building(s) where students live on Memorial’s campuses including the following campuses: St. John’s, Grenfell, Signal Hill, Bonne Bay and Harlow, as well as, the infrastructure surrounding these buildings such as parking lots, dining facilities and recreational areas.

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

**“University”** means Memorial University.





## Appendix B Sanctions and Resolutions

### a) **Restorative Justice**

If all parties agree, the Respondent may be required to complete specific activities as deemed appropriate. To engage in this process, the Respondent must accept responsibility for the misconduct, agree to address the harm caused, and determine, with the other parties, a way forward. Restorative justice measures include service to the University community, apologies, restitution, participation in a community conference or circle, participation in education seminars, or other appropriate measures.

### b) **Letter of reprimand**

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

### c) **Written or Verbal Apology**

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

### d) **Fines and Compensation for loss**

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

### e) **Education/Training Project**

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

f) **Referral**

The student is referred to appropriate community resources (i.e., alcohol assessment).

g) **Community Service**

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

h) **Non-Academic Probation**

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

i) **Loss of privileges**

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

j) **Behavioural Contract**

The student may be required to adhere to behavioural expectations, terms, and conditions that have been developed with, agreed to, and signed by the student. Failure to comply with the terms of the agreement will be considered a further offence under the Code.

k) **No Contact Order**

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

l) **Limitation of Access**

The student may be limited in their access to all or part of the University premises for a designated period of time. Limitation of access may include the student being prohibited from



registration in a particular course or program. This sanction shall not be used to evict a resident from on-campus Student Residences.

m) **Removal from Course**

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

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

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

o) **Residence Relocation**

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

p) **Eviction from Residence**

The student loses the privilege of living in University housing or visiting residence at any time. Eviction may be permanent, or a student may be permitted to reapply after a specified period of time or when other certain pre-conditions have been met. Eviction will occur only after consultation with the Director of Student Residences (St. John's), Director of Signal Hill Campus, or the Manager, Student Housing (Grenfell) as appropriate, or their designate.

q) **Suspension**

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

r) **Expulsion**

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



### s) **Follow-up on Sanctions/Outcomes**

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

## **Related Documents**

- [Respectful Workplace](#)
- [Sexual Harassment and Sexual Assault](#)
- [University Calendar](#)
- [Access to Information and Protection of Privacy Act, 2015, cA-1.2](#)
- [University Privacy Policy](#)
- [Access to Information and Protection of Privacy Act.](#)
- [Information Management](#)
- [Privacy](#)
- [Access to Information and Protection of Privacy Act, 2015](#)
- [Human Rights Act, 2010](#)
- [Criminal Code of Canada](#)

## **Contact**

### **For Inquiries Related to this Policy:**

Associate Vice-President (Academic) and Dean of Students: 709-864-2985

**Sponsor:** Dr. Donna Hardy Cox AVP(A) and Dean of Students, Office of the Provost and VPA

**Category:** Human Rights