

Part 17 – Health and Safety

Personal Harassment Policy POL 1704

Policy Sponsor:	President	Effective:	June 2, 2008
Office of Administrative Responsibility:	Associate Vice-President of Human Resources and Ombudsperson/Human Rights Advisor	Last Reviewed:	September, 2008
Approver:	Board of Governors	Revised:	September, 2008

A. PURPOSE

Mount Royal (MR) is committed to creating a supportive working and learning environment that is free from personal harassment.

B. SCOPE

This Policy applies to all members of the MR community, including, but not limited to: Students, Employees, visiting academics, volunteers and to the work, study and living environment. Any contractors, including employees of the contractors, with MR are bound by this Policy when on MR premises or carrying out the terms of their contract with MR.

For the purposes of this Policy, harassment in the work, study and living environment include, but is not limited to: harassment on MR premises, at MR-related functions, in the course of work or study assignments outside MR campus, at work or study-related conferences or training sessions, during work or study-related travel, or in person, over the telephone or computer.

C. PRINCIPLES

- (1) This Policy is supportive of MR's *Code of Personal Conduct*.
- (2) All members of the Mount Royal community will be treated equitably under this Policy. All matters arising under this Policy will be dealt with in a fair, unbiased and timely manner.
- (3) All members of the Mount Royal community have a responsibility to ensure that the learning and work environment are free from personal harassment and need to promote a harassment free environment. They are expected to act on this responsibility whenever necessary, whether or not they are in receipt of a complaint. The expertise and assistance of the Ombudsperson/Human Rights Advisor is available to all members of the Mount Royal community.

- (4) In dealing with a complaint, efforts at informal resolution will normally be made first with a focus on mediation and education.
- (5) This Policy will be interpreted, administered, and applied in accordance with the principles of procedural fairness. In particular:
 - (a) all parties will be advised of the provisions of this Policy and of the procedures available to them;
 - (b) any Complainant who wishes to make a complaint under this Policy must be prepared to be identified to the Respondent;
 - (c) all parties must be given the opportunity to present information in support of their positions and to defend themselves against allegations of harassment; and,
 - (d) throughout the three step procedure process, parties may be accompanied by a support person or a representative from their Association, but not legal counsel.
- (6) This Policy is not to be interpreted, administered, or applied in such a way as to detract from the right and obligation of those in supervisory roles to manage and discipline employees and students, subject to Mount Royal policies and procedures.
- (7) Members of the Mount Royal community have an obligation to participate in procedures under this Policy. Refusal to participate may be grounds for dismissal.
- (8) Complaints of personal harassment must be made in good faith. Mount Royal will not tolerate abuse of the complaint process. Frivolous, vexatious or malicious Complaints of personal harassment may result in disciplinary action up to and including termination.
- (9) Should a Student or Employee choose to report a complaint of personal harassment, the Employee with whom the matter is discussed must respect the Complainant's confidence and should offer support and guidance in assisting the Complainant to take further action.
- (10) Unresolved complaints should be referred to Human Resources for appropriate investigation and resolution.
- (11) Persons who believe that the actions of others are inappropriate, disrespectful or harmful have the right to bring their concerns forward and to have them addressed by the appropriate level of authority without fear of recrimination or reprisal.
- (12) Nothing in this Policy shall detract from the right of an Employee or Student to make inquiries or register a complaint, at any time, through their own Associations' internal processes. Conversely, should a member of any

Mount Royal Association not find satisfaction in their Associations' internal mechanisms, he/she has the right to pursue a Complaint of personal harassment under this Policy.

D. POLICY STATEMENT

In keeping with Mount Royal's institutional goal of becoming an employer of choice within the Canadian post-secondary community and to establish and maintain an environment in which the dignity and worth of all members of the Mount Royal community are respected, it is the policy of Mount Royal that discrimination and/or harassment of students and employees is unacceptable and will not be tolerated.

The focus of this Policy is on prevention and awareness of personal harassment within the campus community. Members of the Mount Royal community who are aware of acts of discrimination or harassment have a responsibility to take appropriate steps to stop the discriminatory or harassing behavior. *The Human Rights Policy (POL 1702)* pertains to the prohibited grounds of discrimination and harassment as identified by the *Alberta Human Rights Citizenship and Multicultural Act*.

This Policy pertains to personal harassment. Personal harassment can damage working and social conditions for staff and students. Any incidents of personal harassment may lead to disciplinary action up to and including termination of an employee subject to labour legislation and the Mount Royal collective agreements. Cases of personal harassment by students will be dealt with under the *Code of Student Conduct (POL 513)*.

Frivolous or vexatious accusations of harassment may also lead to discipline up to and including termination of an Employee. Cases of frivolous or vexatious accusations of harassment by Students will be dealt with under the *Code of Student Conduct (POL 513)*.

E. DEFINITIONS

(1) Personal Harassment

Personal Harassment is conduct or comments which are intimidating, threatening, demeaning or abusive and may be accompanied by direct or implied threats to grade(s), status or job and is behavior which is known or ought reasonably to be known as unwelcome. Personal harassment takes many forms and can be a source of great anxiety to an individual. It may be so serious and unrelenting that the person who is being, or has been, harassed feels it is necessary to change their job or course of study. Harassment has the impact of creating a work or study environment that is hostile, affects the integrity and dignity of and limits individuals in their pursuit of education, research or work goals.

Personal harassment can include, but is not limited to, remarks, jokes or actions which demean or humiliate another person and which deny individuals

their dignity and respect. Some of the examples outlined below may cause mild irritation if occurring only once, but if repeated, become personal harassment. Other examples are very clearly harassment even if they occur only once; all are inappropriate and unacceptable:

- setting arbitrary or unachievable workloads in an unreasonable manner and making threats associated with failure to achieve;
- verbal and/or physical intimidation;
- ostracism;
- excessive supervision;
- public reprimand, ridicule, sarcasm or humiliation;
- constant criticism or trivializing of achievements;
- bullying, which can be defined as offensive, malicious, intimidating, insulting or humiliating behaviour, often associated with the misuse of power or position;
- academic bullying; for example, asserting a position of intellectual superiority in an aggressive, abusive or offensive manner or making threats of academic failure.

Any difficulty in defining personal harassment should not deter a member of the faculty, staff or student body from seeking support or complaining of behavior which causes him/her distress. He/she should also not be deterred because of embarrassment or fear of intimidation or publicity.

(2) Academic Freedom, Human Rights and Personal Harassment

The exercise of academic freedom is distinct from the act of personal harassment of any kind. In practice, the act of personal harassment may impinge upon another individual's ability to exercise his/her right of academic freedom.

Academic freedom is defined in *POL 850* and the *Mount Royal Calendar* as:

The common good of society depends upon the search for knowledge and its free exposition. Academic freedom in educational institutions is essential to both these purposes in the teaching function of the institution as well as in its scholarship and research. Academic staff shall not be hindered or impeded in any way by the institution or faculty association from exercising their legal rights. Academic members of the community are entitled, regardless of prescribed doctrine, to freedom in carrying out research and in publishing the results thereof, freedom of teaching and discussion, freedom to criticize the college and the faculty association, and freedom from institutional censorship. Academic freedom does not require neutrality on the part of the individual. Rather, academic freedom makes commitment possible. Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research and teaching on an honest search for knowledge. In exercising the freedom to comment and criticize, academic staff members

have a corresponding obligation to use academic freedom in a responsible manner. This implies recognition of the rights of other members of the academic community and a tolerance of differing points of view.

In all cases, the rights of individuals as protected by the *Alberta Human Rights, Citizenship and Multiculturalism Act*, the *Mount Royal Human Rights Policy (POL 1702)*, and/or this Policy are super-ordinate to other rights and freedoms in the campus community.

Academic freedom implies in no way the right to engage in any action that demeans the freedom or dignity of other individuals in the campus community.

RELATED LINKS

Published Procedures of this Policy

- Procedures for Dealing with Personal Harassment

Part 17 – Health and Safety

Parent Policy: Personal Harassment Policy POL 1704

Procedures for Dealing with Personal Harassment

Policy Sponsor:	President	Effective:	September 2008
Office of Administrative Responsibility:	Associate Vice-President, Human Resources and Ombudsperson/Human Rights Advisor	Last Reviewed;	September 2008
Approver:	President's Direct Report Group	Revised:	September 2008

A. PURPOSE

Mount Royal is committed to creating a supportive working and learning environment that is free from personal harassment.

B. DEFINITIONS

- (1) **Complaint:** means a statement by a Complainant seeking recourse pursuant to the Policy.
- (2) **Complainant:** refers to any person who seeks recourse pursuant to the Policy either as someone who has been the subject of harassment or who is aware of situations or incidents that may have an adverse impact upon any member of the College community.
- (3) **Employee:** refers to faculty, staff and administration employed by Mount Royal, regardless of whether they are in a full-time, part-time or casual position.
- (4) **Policy:** means the *Personal Harassment Policy 1704*.
- (5) **Respondent:** refers to the person who has been accused of personal harassment.
- (6) **Student:** refers to individuals registered in a course or program at Mount Royal and includes those taking full-time, part-time, credit or non-credit studies.

C. GUIDELINES FOR COMPLAINANTS

Employees and students who believe they have been subjected to personal harassment have a role to play in stopping such behavior and therefore encouraged to address it themselves first, and may proceed by reporting a complaint as soon as possible after the harassment.

In order to facilitate the resolution process, it is important that the Complainant carefully record the dates, times, locations, witnesses (if any) and details of all incidents.

If counselling is required, employees may seek counseling through the Resilience Program (Wilson-Banwell Human Solutions), at 1-866-644-0326.

The Complainant must be certain that the complaint is accurate and not frivolous, vexatious or malicious. If a complaint is not valid and the Complainant is found to have acted maliciously or in bad faith, disciplinary action against the Complainant may be recommended to the President.

All individuals involved in the following procedures shall keep confidential any information or materials they receive. The failure to do so may result in disciplinary action.

D. PROCEDURES FOR HANDLING COMPLAINTS

There are three steps in this process: (1) Informal Procedure, (2) Referral to Human Resources and (3) Tribunal Hearing. **At each step in the process, the focus of these procedures is on prevention, awareness and education.**

(1) Informal Procedure

If a Complainant wishes to proceed with a complaint, he/she **may take any of the following actions:**

- (i) express his/her concern immediately. It is best to direct the concern directly to the person causing the personal harassment, asking him/her to stop;
- (ii) report the complaint to the Ombudsperson/Human Rights Advisor and/or a Human Resources Consultant; or
- (iii) report the complaint to a member of the College's administration, Supervisor/Manager, Chair/Dean/ Director, an executive member of the Mount Royal Faculty Association, Mount Royal Support Staff Association, or Students' Association of Mount Royal College.

Note: If the Respondent in a complaint is a student, the situation will be reported directly to the Office of Student Conduct for deliberations and sanctions.

At these levels, efforts will be made to implement supportive actions. If unresolved, refer the situation to Human Resources.

(2) Referral to Human Resources

- (a) The Associate Vice-President of Human Resources or designate shall arrange a meeting with the Complainant as soon as possible to:
 - (i) hear the concern;
 - (ii) provide the Complainant with a copy of the Policy and these Procedures;
 - (iii) explain the Policy and clarify what constitutes personal harassment under the Policy; discuss with the Complainant whether the issue under consideration does or does not warrant a complaint under the Policy;
 - (iv) identify and explain the options available to the Complainant for resolution; and;
 - (v) provide the Confidentiality and Protection of Privacy Notice and the Informed Notice and Consent Forms.

- (b) The Associate Vice-President of Human Resources or designate will meet with the Respondent to:
 - (i) inform the Respondent that a complaint has been lodged against him/her and glean his/her perspective on it;
 - (ii) provide the Respondent with a copy of the Policy and these Procedures;
 - (iii) explain the Policy and clarify what constitutes personal harassment under the Policy;
 - (iv) identify and explain the options available to resolve the complaint; and
 - (v) provide the Confidentiality and Protection of Privacy Notice, and the Informed Notice and Consent Forms.

- (c) After having met with both the Complainant and Respondent individually, the Associate Vice-President of Human Resources or designate will, as appropriate:
 - (i) clarify the situation if there is a misunderstanding between the Complainant and Respondent;

- (ii) educate the Respondent, if necessary, with regard to what is considered to be inappropriate behavior and receive assurance that such behavior will not occur again; or
- (iii) suggest alternative dispute resolution methods to the Complainant and Respondent to try and resolve the matter.

If, in the opinion of the Complainant, all attempts at alternate resolution approaches have failed or are deemed to be inappropriate, the Complainant may request that the complaint be handled by a Tribunal Hearing.

(3) Tribunal Hearing

- (a) Once the Complaint is referred to the Tribunal Hearing, the Associate Vice-President of Human Resources will request that the Complainant complete the College Personal Harassment Complaint Form and submit it to the Associate Vice-President of Human Resources.
- (b) There shall be a Personal Harassment and Human Rights Standing Committee comprised of ten (10) members, which shall include both male and female representatives, with the following representation:
 - (i) one credit student to be appointed by the Students' Association of Mount Royal;
 - (ii) one credit-free student to be appointed by the Provost and Vice-President, Academic;
 - (iii) two faculty members appointed by the Mount Royal Faculty Association;
 - (iv) two support staff members appointed by the Mount Royal Support Staff Association;
 - (v) two management representatives appointed by the Associate Vice-President of Human Resources;
 - (vi) one exempt staff member appointed by the Associate Vice-President of Human Resources;
 - (vii) one Employee appointed by the Associate Vice-President of Human Resources.
- (c) The term of appointment for the members of the Personal Harassment and Human Rights Standing Committee shall be for either one (1) year or two (2) years in order to ensure continuity of at least half the membership from year to year.
- (d) The Personal Harassment and Human Rights Standing Committee shall receive training, which will be developed and delivered jointly by the Human Rights Advisor and Human Resources. Training will include an orientation as to procedural fairness and the rules of procedure and practice.
- (e) The Complaint shall be referred to a Tribunal comprised of three (3) members of the Personal Harassment and Human Rights Standing

Committee as selected by the Associate Vice-President of Human Resources.

- (f) The Tribunal shall be conducted in a manner consistent with the rules of procedural fairness to ensure the Complainant and Respondent are given a fair hearing. All sessions are confidential.
- (g) Members of the Tribunal are not to serve as advocates or representatives of a constituency group, but rather they are to serve as individual members of the larger MR community.
- (h) The Complainant or Respondent may object to having a member of the Personal Harassment and Human Rights Standing Committee sit on the Tribunal that is hearing the complaint on grounds of a real conflict of interest or reasonable apprehension of bias. In such a case, another member from the Personal Harassment and Human Rights Standing Committee will be asked to sit on the Tribunal.
- (i) Members of the Tribunal shall meet to establish rules of procedure and practice.
- (j) The Tribunal shall make a finding as to whether personal harassment has occurred and if it has, recommend appropriate action.
- (k) No later than ten (10) calendar days after determining whether there has been a violation of the Policy, the Tribunal shall submit its findings of facts and recommendations, if any, in writing to the Provost.
- (l) Subsequent to receiving the Tribunal's report, the Provost shall promptly render a decision regarding sanctions or an appropriate course of action. The Provost will provide the Complainant and Respondent with a written decision, along with a copy of the Tribunal's report. Substantiated cases of personal harassment may result in disciplinary action ranging from a written reprimand to dismissal.
- (m) All meeting records are confidential to the Tribunal Hearing members. However, upon written request to the Associate Vice-President of Human Resources, the Complainant or Respondent may receive copies of records from their own interview.
- (n) All written records concerning the formal procedure of personal harassment complaints will be kept in a separate confidential file maintained in the Department of Human Resources.

(3) Appeal of Findings of Facts

- (a) The Complainant or Respondent may appeal to the President findings of facts made by the Tribunal on one or more of the following grounds only:
 - (i) that the Tribunal made a fundamental procedural error seriously prejudicial to the appellant; or
 - (ii) the appellant has new evidence to present that could not reasonably have been presented earlier.
- (b) A notice of appeal that describes:
 - (i) a brief statement of the grounds on which the appeal is based;
 - (ii) the argument which the appellant relies on to support the grounds of appeal;
 - (iii) particular references to the evidence in relation to the grounds of appeal or arguments;
 - (iv) the nature of the relief sought by the appellant; and,
 - (v) the appellant's current contact information.

The notice of appeal must be provided in writing and signed by the appellant and delivered to the President within twenty (20) calendar days following the date on which the Provost's decision was sent to the appellant.

- (c) The evidence for the hearing of the appeal shall be the notice of appeal and any notes, transcripts, or reports of the Tribunal. However, the President may also:
 - (i) hear the Complainant, Respondent, and any witnesses; and
 - (ii) receive and examine any new or additional evidence that is relevant to the appeal.
- (d) In hearing the appeal, the President is not bound by the rules of evidence applicable to judicial proceedings and may establish any hearing procedures in accordance with the rules of procedural fairness.
- (e) Except in exceptional circumstances, the President shall hear the appeal within thirty (30) calendar days of receipt of the notice of appeal.
- (f) The President will render a written decision no more than ten (10) calendar days following the hearing, disposing of the appeal by:

- (i) affirming the finding of fact made by the Tribunal;
 - (ii) setting aside the finding of fact made by the Tribunal and modifying the finding of fact;
 - (iii) directing the original Tribunal members to consider any new evidence presented;
 - (iv) directing the original Tribunal members to conduct a new hearing or reconsider some pertinent aspect; or
 - (v) directing a new hearing be brought before a new Tribunal.
- (g) The written decision of the President will be delivered to the appellant by regular mail, Express Post, or email.
- (h) The President's decision is final and binding.