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Part 17 - Health and Safety

Human Rights Policy **POL 1702** (formerly POL 590-3 and POL 960-6)

Policy Type:	Management		
Policy Sponsor:	Vice President Student Affairs and Campus Life	Effective:	June 1, 2013
Office of Administrative Responsibility:	Diversity and Human Rights Services	Last Reviewed:	March 2013
Approver:	Board of Governors	Approved:	June 27, 2013

A. PURPOSE

Mount Royal is committed to creating and maintaining a supportive working and learning environment that is free from discrimination and harassment. In keeping with efforts 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 harassment of students, employees and visitors to our campus is unacceptable and will not be tolerated.

The fundamental objectives of this Policy are to prevent discrimination and harassment on grounds protected by the *Alberta Human Rights Act* ("the Act"), and to provide procedures for handling complaints and remedying situations. Concerns regarding discrimination or harassment that do not involve any of the grounds prohibited by the *Alberta Human Rights Act* are not covered by this policy. Such concerns may be addressed by other Mount Royal policies or procedures, including the *Personal Harassment Policy (POL 1704)*, the *Code of Conduct (POL 513)* or collective agreements and should be taken to the appropriate supervisor or association or human resources office.

B. DEFINITIONS

- (1) **Human Rights:** Human Rights are inalienable, indivisible, universal entitlements codified in international and domestic law. In Canada, they are protected and interpreted through:

- (a) The Canadian *Charter of Rights and Freedoms*;
- (b) Provincial-territorial human rights legislation (e.g. *Alberta's Human Rights Act*);
- (c) Decisions of tribunals and courts;
- (d) Human Rights commission policy statements, interventions and other mandated functions;
- (e) International law/instruments (ratified treaties, treaty body comments/decisions, and international and other jurisdictional court decisions).

(2) Discrimination is defined as one or a series of unwanted behavior or communication in any form including by telephone and electronic format, directed towards an individual or members of an identifiable group because of a prohibited ground of discrimination. Prohibited grounds of discrimination, as identified by the *Act*, and at Mount Royal are (see Appendix 1):

- Race
- Ancestry
- Religious Belief
- Physical Disability
- Age
- Marital Status
- Family Status
- Colour
- Place of Origin
- Mental Disability
- Sexual Orientation
- Source of Income
- Gender
- Gender Identity and Expression*

*Gender Identity and Expression is not currently enumerated in the *Act*. However the Alberta Human Rights Commission has interpreted the enumerated ground of gender to protect individuals from discrimination on the basis of gender identity and expression.

Discrimination is behavior which is may be rooted in prejudicial attitude. Discrimination is an act of differentiated treatment towards an individual as a member of a group or towards a group, which can disadvantage an individual or group. Discrimination often excludes an individual from a right or privilege to which he/she would otherwise be entitled.

Whether it is colleague to colleague, supervisor to subordinate, subordinate to supervisor, employee to student, student to employee, or student to student, discrimination introduces a disruptive element into Mount Royal's environment

which endangers the well-being and job performance or educational experience of the individual.

(3) Harrassment: It is is a discriminatory practice, in the provision of educational and employment opportunities and related support services, to harass an individual on a prohibited ground of discrimination. Harrassment occurs when:

- (a) submission to such conduct is made either explicitly or implicitly a term or condition of employment or of educational progress, and/or
- (b) submission to or rejection of such conduct is used explicitly or implicitly for employment or assessment decisions affecting that individual employee or student, and/or
- (c) such conduct has the effect of interfering with an employee's work performance or a student's educational experience, or creates an intimidating, hostile or offensive work or educational environment.

Harrassment is behavior that is known or thought reasonably to be known as unwelcome. Harrassment 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. It is the impact of behaviour on the complainant, subject to the reasonable person test, and not the intent of the repondent, that defines the comment or conduct as discrimination or harrassment.

(4) Sexual Harrassment: Sexual Harrassment at Mount Royal is defined as any unwanted sexual advances, requests for sexual favours, or other verbal or physical conduct of a sexual nature.

Sexual Harrassment is Discrimination on the basis of gender and is a contravention of the *Act*. Sexual Harrassment can include, but it is not limited to the following behaviours:

- (a) unwanted touching or patting,
- (b) suggestive remarks or verbal abuse,
- (c) compromising invitations,
- (d) demands for sexual favours, or
- (e) sexual assault.

Mount Royal recognizes that some of the above may also constitute a criminal offence under the *Criminal Code* of Canada. Pursuing a complaint under this Policy does not preclude an individual from reporting alleged criminal conduct to the appropriate authorities.

(5) Discriminatory Materials: Discrimination/sexual harrassment may also include the public display of discriminatory materials. Discriminatory materials will be considered to include those items which contravene either:

(a) The *Act*, which states, in part:

"No person shall publish issue or display or cause to be published, issued or displayed before the public any statement, publication, notice, sign, symbol, emblem or other representation that:

- (i) indicates discrimination or an intention to discriminate against a person or a class of persons, or
- (ii) is likely to expose a person or a class of persons to hatred or contempt because of the race, religious beliefs, colour, gender, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income or family status of that person or class of persons.", or

(b) The *Criminal Code* of Canada which makes it an offence to display obscene material or pictures and states in part:

"For the purposes of this Act, any publication, a dominant characteristic of which is the undue exploitation of sex, or of sex and any one or more of the following subjects, namely, crime, horror, cruelty, and violence, shall be deemed to be obscene."

For procedures regarding the handling of complaints concerning discriminatory materials, refer to [POL 1703, "Offensive/Discriminatory Materials Policy"](#).

(6) Complainant:

The person who alleges his/her rights under the *Human Rights Policy* have been violated. Administrators or managers, including the Diversity & Human Rights Advisor, may also initiate a complaint on behalf of the University when there is no specific complainant or no complainant willing to submit a signed formal complaint.

(7) Respondent:

The person alleged to have violated the *Human Rights Policy*. In the case of complaint of systemic discrimination related to an institutional policy or practice, the respondent shall be the policy sponsor or department head responsible for the practice.

(8) Complaint:

A statement by a complainant seeking recourse pursuant to this Policy.

(9) Competing rights:

In general, competing human rights involve situations where parties to a dispute claim that the enjoyment of an individual or group's human rights and freedoms, as protected by law, would interfere with another's rights and freedoms. This complicates the normal approach to resolving a human rights dispute where only

one side claims a human rights violation. In some cases, only one party is making a human rights claim, but the claim conflicts with the legal entitlements of another party or parties.

(10) 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 behaviour which is known or ought reasonably to be known as unwelcome. Personal harassment concerns that do not relate to one of the thirteen grounds referred to in this policy should be handled according to the Mount Royal's *Personal Harassment Policy (POL 1704)*.

(11) Systemic Discrimination:

Systemic discrimination (also referred to as substantive or institutional discrimination) is a pattern of behaviour, policies or practices that are part of an organization, and which create or perpetuate disadvantages related to one or more of the prohibited grounds of discrimination as set out in the *Act*. In many cases, systemically discriminatory policies and practices seem neutral on their face but when applied equally to all result in differential treatment to a particular group.

(12) Duty to Accommodate:

The duty to accommodate refers to the obligation of an employer or service provider to take measures to eliminate disadvantages to employees, prospective employees or clients that result from a rule, practice or physical barrier that has or may have an adverse impact on individuals or groups protected under this policy and the *Act*. Mount Royal has a duty to accommodate to the point of undue hardship. In the Mount Royal context, the University is both an employer and a service provider and clients mean any student or other member of the community wishing to make use of our services or facilities (e.g. public members of Recreation or individuals attending a play). The duty to accommodate recognizes that true equality means respecting individual's different needs.

For more information about academic accommodations for students experiencing disabilities, please refer to Mount Royal's *Academic Accommodation for Students Experiencing Disabilities Policy (POL 517)*.

(13) Undue Hardship:

Undue hardship refers to unreasonable and excessive challenges for the institution which may include but are not limited to:

- (i) the financial cost of the accommodation(s) will hurt the viability of the institution; and/or
- (ii) there is significant interference with the rights of others; and/or
- (iii) there are health and safety concerns; and/or
- (iv) the accommodation would compromise bona fide educational or occupational requirements

(14) Bona Fide Educational Requirement(s) ("BFER"):

Bona fide educational requirements are those requirements that a justifiable component of a program that may limit entry to, or completion of, a program or course.

(15) Bona Fide Occupational Requirement(s) ("BFOR"):

Bona fide occupational requirements are those requirements that are justifiable components of an occupation or specific job.

(16) Barrier:

Barrier is a structure, design, practice and/or criterion that prevents or impedes a person from accessing a facility or service.

(17) Universal Access/Universal Design:

Universal Access/Universal Design is an approach to the design of all products, processes, procedures, systems, structures and environments. The goal is to make these as usable as possible by as many individuals as possible, regardless of ability. "Universal" does not imply one solution for everyone; rather, it reflects an awareness of the unique nature of each individual as well as the need to accommodate differences. The aim is to create learning and working experiences to suit the individual and to maximize the individual's ability to progress.

C. PRINCIPLES

- (1)** Mount Royal recognizes the rights of individuals to participate fully in the life of the institution.
- (2)** Mount Royal promotes awareness, advocacy and learning partnerships amongst the whole of the Mount Royal community. In recognition of the diverse population it serves, Mount Royal is committed to providing a respectful, inclusive and barrier-free environment within the limits of undue hardship.
- (3)** This policy is intended to be supportive to Mount Royal's *Code of Personal Conduct* (see Appendix 4) and the related policies notes therein.
- (4)** Mount Royal recognizes the variety of rights enjoyed by members of the campus community, including rights that are unique to the campus environment, such as academic freedom. Notwithstanding the range of values and interests held by members of our community, international conventions, the *Canadian Charter of Rights and Freedoms*, provincial human rights legislation and legal decisions all recognize the paramount importance and unique status of human rights. In all cases, the rights of individuals as protected by the *Alberta Human Rights Act*, the Mount Royal *Personal Harassment Policy* and/or this Policy are superordinate to other rights and freedoms in the campus community, Academic freedom does

not imply the right to engage in any action that demeans the freedom or dignity of other individuals in the campus community.

- (5) 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. Individuals are entitled to have a support person accompany them to any meeting or interview relating to a matter arising under this Policy.
- (6) Diversity and Human Rights Services respects the sensitive nature of the information that individuals may provide. Such information will only be accessible by those within the University who need such information to properly manage the matters raised under this policy, or if required to do so by external agencies such as the Alberta Human Rights Commission. All records are maintained by the University in accordance with Alberta's *Freedom of Information and Privacy (FOIP) Act*. All members of the Mount Royal community involved in a human rights complaint are expected to maintain confidentiality.
- (7) Due to the inherent power in the supervisor-employee relationship and in the instructor-student relationship, managers, supervisors and faculty, even in social settings, are strongly discouraged from entering a sexual or romantic relationship with an employee or student. Managers, supervisors and faculty members must realize that where a professional power differential exists between two parties, it will be exceedingly difficult to defend against a complaint of sexual harassment by claiming mutual consent.
- (8) All members of the Mount Royal community have a responsibility for ensuring that the institution's learning and working environment is free from discrimination/harassment. All employees in a teaching or supervisory position bear a significant responsibility for promoting a learning and working environment free from discrimination/harassment. It is the responsibility of a manager, supervisor, instructor or faculty member to take immediate and appropriate action to report or deal with incidents of harassment of any type, whether brought to their attention or personally observed. Under no circumstances should a complaint be dismissed or downplayed nor should the complainant be told to deal with it personally. The expertise and assistance of the Diversity and Human Rights Services is available to all members of the Mount Royal community.
- (9) Mount Royal has a duty to provide reasonable accommodation up to the point of undue hardship.
- (10) Efforts at informal resolution will normally be made first in dealing with a complaint. (see guidelines and Procedures for Handling Complaints)
- (11) This Policy will be interpreted, administered, and applied in accordance with the principles of procedural fairness.
- (12) Members of the Mount Royal community have an obligation to participate in procedures under this Policy.
- (13) Frivolous, vexatious or malicious complaints of harassment may result in disciplinary action against the complainant, in accordance with the relevant

disciplinary procedure outlined in a collective agreement and/or Mount Royal policy.

- (14) Any party to a complaint may object to the participation of a person in the administration of this Policy on grounds of conflict of interest or reasonable apprehension of bias.
- (15) Nothing in this policy shall detract from the right of an employee or Student to make inquiries or register a complaint, at any time, as appropriate, through
 - A human rights complaint with the Alberta Human Rights Commission within one year of the alleged contravention of the Act,
 - Their own Associations' internal processes;
 - A complaint under the *Occupational Health & Safety Act*,
 - Criminal charges

D. SCOPE

This Policy applies to all employees (full-time, part-time, casual, contract employees), to all students (full-time, part-time, credit and non-credit) attending classes at Mount Royal. In general, the policy applies in employment and the provision of services, including educational settings inside and outside of the classroom and other services such as the Bookstore and Recreation. Persons present at Mount Royal who are not employees or students are also expected to abide by the provisions of this Policy. Such persons who violate the Policy may be asked to leave the premises.

E. RELATED LEGISLATION/POLICIES

Mount Royal recognizes its legal obligations and specifically operates in accordance with:

- Alberta Human Rights Act
- Alberta Freedom of Information and Protection of Privacy Act
- Health Information Act
- - In addition, this policy is supportive of the following Mount Royal policies:
 - Personal Harassment Policy
 - Academic Accommodation for Students Experiencing Disabilities Policy
 - Safe Disclosure Policy
 - Universal Access Policy

Published Procedures to this Policy

- Guidelines and Procedures for Handling Complaints
- Guidelines and Procedures for Handling Competing Rights

Part 17 - Health and Safety

Parent Policy: Human Rights Policy POL 1702

(formerly POL 590-3 and POL 960-6)

Guidelines and Procedures for Handling Complaints

Office of Accountability:	Student Affairs & Campus Life	Effective:	July 2013
Office of Administrative Responsibility:	Diversity and Human Rights Services	Last Reviewed:	April 2013
Approver:	President's Executive Committee (PEC)	Revised:	June 2013

A. PURPOSE

Mount Royal is committed to creating a supportive working and learning environment that is free from discrimination and harassment and will establish policy guidelines and a fair resolution process.

B. SUPPORT SERVICES

If at any time counselling is required, students may seek the counselling services of Mount Royal's Student Counselling Services (403.440.6362 in the Wellness Centre U-2015). Employees may seek counselling services through the Employee & Family Assistance Program (see Mount Royal's Human Resources website.)

C. GUIDELINES FOR INDIVIDUALS REQUESTING ACCOMMODATION

- (a) These guidelines do not apply to students who require academic accommodations related to a disability. Please refer to POL 517 *Academic Accommodation for Students Experiencing Disabilities Policy* and accompanying procedures
- (b) Individuals seeking accommodation under the *Human Rights Policy* may direct their request to the following individuals or departments:
 - (i) the Diversity & Human Rights Advisor;
 - (ii) Human Resources; and/or
 - (iii) the individual or department responsible for providing the requested accommodation. This may be a supervisor, a course instructor or a service provider (for example, Recreation, Residence Services, Advising, Facilities Planning, Registrar's Office).

- (c) Individuals requesting accommodation may be required to provide relevant and appropriate documentation to support their request. For example, medical documentation may be required to provide accommodation for an employee experiencing a disability.
- (d) Individuals requesting accommodations shall work with Mount Royal personnel to determine reasonable accommodation(s) based on their unique circumstances.
- (e) The assistance of Diversity & Human Rights Services is available at any point in the accommodation process.
- (f) If an individual believes they have not been reasonably accommodated or that they have experienced discrimination, they may report their concern or complaint according to the process outlined below.

D. GUIDELINES FOR RESPONDING TO A REQUEST FOR ACCOMMODATION

- (a) Individuals requesting accommodation should be provided an opportunity to discuss their accommodation request in a private and confidential setting.
- (b) The assistance of Diversity & Human Rights Services is available at any point in the accommodation process.
- (c) Documentation may not be necessary in all cases. Before requesting documentation from an individual requesting accommodation, University personnel shall consult with Human Resources and Diversity & Human Rights Services (in the case of an employee requesting an accommodation) or Diversity & Human Rights Services (in the case of a student requesting accommodation).
- (d) All medical documentation related to employees requesting accommodation shall be kept in Human Resources, in accordance with the relevant legislation and Mount Royal privacy policies.
- (e) All medical documentation related to students requesting accommodation shall be kept in Accessibility Services, in accordance with the relevant legislation and Mount Royal privacy policies.
- (f) Mount Royal has a duty to provide reasonable accommodation up to the point of undue hardship. A request for accommodation based on any of the thirteen grounds enumerated in the *Human Rights Policy* shall not be denied without first consulting the appropriate University personnel, including the Diversity & Human Rights Advisory and/or University Legal Services to ensure Mount Royal is upholding its statutory obligations.

E. GUIDELINES FOR REPORTING A CONCERN OR COMPLAINT

Employees and students who believe they have been subjected to discrimination/harassment have a role to play in stopping such behavior, and may proceed by reporting a concern or complaint as soon as possible after the discrimination/harassment, but the right to report a complaint will exist up to six (6) months after the most recent alleged incident.

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

The complainant must ensure that the complaint is sincere and accurate. If a complaint is not valid and the complainant is found to have acted frivolously, vexatiously or maliciously, disciplinary action may be applied against the complainant. The confidential nature of the complaint shall be respected by all individuals involved in the complaint process.

F. PROCEDURES FOR HANDLING CONCERNS & COMPLAINTS

(1) Informal Procedure

- (a) If a complainant wishes to voice a concern or proceed with a complaint, they may take any of the following actions:
 - (i) express their concern immediately and directly to the person causing the discrimination/harassment, asking him/her to stop;
 - (ii) express their concern immediately and directly to their supervisor;
 - (iii) report the complaint to Diversity and Human Rights Services;
 - (iv) report the complaint to Confidence Line (see Mount Royal's website for further information and guidance).
- (b) Diversity and Human Rights Services shall arrange a meeting with the complainant as soon as possible to:
 - (i) hear the concern or complaint;
 - (ii) provide the complainant with a copy of Mount Royal's policy;
 - (iii) explain the policy and clarify what constitutes discrimination/harassment under the Policy;
 - (iv) identify and explain the formal and informal options available to the complainant for resolution;
 - (v) present the Confidentiality and Protection of Privacy Notice, and the Informed Notice and Consent Forms.
- (c) A representative of Diversity and Human Rights Services will explore with the complainant a number of informal ways by which to resolve the concern or complaint. These options may include but are not limited to:
 - (i) help the complainant prepare an oral or written message to the respondent;

- (ii) take forward policy or procedural concerns to the appropriate personnel;
 - (iii) provide a targeted presentation to a specific group which includes the respondent;
 - (iv) consult with appropriate members of the Mount Royal administration.
- (d) If appropriate, a representative of Diversity and Human Rights Services shall meet with the respondent to:
 - (i) inform the respondent that a complaint has been lodged against them;
 - (ii) provide the respondent with a copy of Mount Royal's policy;
 - (iii) explain Mount Royal's policy and clarify what constitutes discrimination/harassment under the policy;
 - (iv) identify and explain the formal and informal options available for resolution of the complaint;
 - (v) listen to the respondent and, as appropriate:
 - (1.1) discover that there was a misunderstanding between the complainant and the respondent and clarify the situation;
 - (1.2) educate the respondent, if necessary, with regard to what is considered to be inappropriate behaviour and receive assurance that such behaviour will not occur again. In the case of complaints related to systemic discrimination by Mount Royal, provide recommendations and advice about changes that should be made to ensure Mount Royal policies and/or practices align with this Policy and the *Alberta Human Rights Act*.
- (e) A representative of Diversity and Human Rights Services may offer mediation with the consent of both the complainant and the respondent;
- (f) Employees, officials and members of the Mount Royal community will have access to the minimum amount of information necessary to perform their duties or roles at Mount Royal. The information will be provided on a confidential basis and the recipient of the information shall be informed of the Confidentiality and Protection of Privacy Notice provisions of the Human Rights Policy. Any person breaching confidentiality may be subject to disciplinary sanction or other appropriate action.
- (g) The complainant and respondent are entitled to have a support person accompany them to any interviews related to this procedure.

- (g) Meetings off campus with representatives of Diversity and Human Rights Services are discouraged. All meetings should be held on campus (at the discretion of the Diversity and Human Rights Advisor). However, if an off campus meeting is held, a second individual, as appointed by the Diversity and Human Rights Advisor, must be present.
- (i) If, in the opinion of the Diversity and Human Rights Advisor, all attempts at informal resolution have failed or are deemed to be inappropriate, the complaint, with the agreement of the complainant, may be escalated to the Formal Procedure.
- (j) Administrators or supervisors, including the Diversity & Human Rights Advisor, shall initiate a complaint on behalf of the University when there is clear evidence of conduct that is in violation of this Policy and when there is no specific complainant or no complainant willing to submit a signed formal complaint. The processing of a University-initiated complaint may require that a case can be established without the cooperation or participation of the person(s) who are the subject of the discrimination or harassment if they refuse to cooperate.
- (k) If the complainant or respondent is not satisfied with the efforts of Diversity and Human Rights Services, either one or both of them may refer the matter to the Vice-President, Student Affairs and Campus Life (VP SACL).

(2) Formal Investigation

- (a) If the complaint is referred to the formal procedure, the Diversity and Human Rights Advisor will request that the complainant describe their complaint on the Discrimination/ Harassment Complaint Form (Appendix 5) and submit to the VP SACL. If the VP SACL is responsible for the policy or practice, if the complaint is directed at the VP SACL, or if there is any conflict of interest on the part of the VP SACL, the complaint shall be referred to the Provost & Vice President, Academic.
- (b) On receipt of the written complaint, the VP SACL will send a copy to the named respondent. If there is a complaint of systemic discrimination related to an institutional policy or practice, the respondent shall be the policy sponsor or department head responsible for the practice.
- (c) The VP SACL may employ any means deemed appropriate in the circumstances, subject to the principles of procedural fairness, to manage the complaint. Such means may include, but are not limited to the following:
 - (i) implement educational or other relevant training or development for individuals or groups;
 - (ii) confirm interpretation and/or application of an existing policy or practice;

- (iii) recommend revisions to policies or practices;
 - (iv) refer the matter to mediation or other alternative dispute resolution processes; and/or;
 - (v) refer the matter to investigation.
- (d) If the VP SACL refers the matter to investigation, they will designate an investigator (internal or external) and inform the complainant and the respondent of the identity of the investigator.
- (e) The complainant or the respondent may object to the designated investigator on the grounds of conflict of interest or a reasonable apprehension of bias. An objection shall be substantiated in writing and submitted to the VP SACL within five (5) business days of being informed of the identity of the investigator. The decision as to whether the objection is substantiated rests with the VP SACL and is final.
- (f) The investigator will investigate the complaint and any matters arising from and relating to the complaint (e.g., retaliation). The investigator may:
- (i) interview or request written submissions from the complainant and/or the respondent and/or any other parties with relevant information;
 - (ii) gather documents relevant to the complaint; and/or
 - (iii) employ any other means appropriate in the circumstances, subject to the principles of procedural fairness, to investigate the complaint.
- (g) In some cases, complaints involving the same parties may be alleged under this Policy and Mount Royal's Personal Harassment Policy. In these cases, separate investigations are not necessary. The investigator shall be instructed to investigate allegations under both policies.
- (h) The complainant and respondent are entitled to have a support person accompany them to any interviews related to the investigation.
- (i) Upon completion of the investigation, the investigator shall submit a report to the VP SACL. The VP SACL shall send a report of the findings of fact to the complainant and to the respondent.
- (j) Within ten (10) business days of delivery of the investigator's report to the VP SACL, the complainant and the respondent may submit a written response to the findings of fact to the VP SACL.
- (k) Upon review of the investigator's report and any written responses, the VP SACL will determine if the complaint is upheld or dismissed.

- (l) If the complaint is upheld, the VP SACL shall authorize a remedy, which may include sanctions and/or other appropriate course of action.
- (m) The VP SACL will inform the complainant and the respondent of the decision in writing.
- (n) All written records concerning the formal procedure of human rights complaints will be kept in a separate confidential file maintained in the Diversity & Human Rights Services office. The information may be disclosed as required by law.
- (o) Only the determination, including any relevant remedy, of the VP SACL may become part of a student or employee record.

(3) Appeal of Findings of Fact

- (a) The complainant or respondent may appeal to the President findings of facts made by the VP SACL on the following grounds only:
 - (i) that the investigator made a fundamental procedural error seriously prejudicial to the appellant; or
 - (ii) the appellant has evidence to present that could not reasonably have been presented earlier.
- (b) Sanctions and/or any other course of action taken as a result of the findings of facts are not subject to appeal. However, if discipline was imposed, employees may follow the grievance process set out in their relevant collective agreements. Students who are disciplined under the authority of this Policy may appeal their discipline under the appeal processes set out in the Code of Student Conduct.
- (c) A notice of appeal shall describe:
 - (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 fifteen (15) business days following the date on which the VP SACL's decision was sent to the appellant.

- (d) The evidence for the appeal may include the notice of appeal and any relevant notes, transcripts, or reports of the investigation. However, the President may also:
 - (i) affirming the finding of fact made by the VP SACL;
 - (ii) setting aside the finding of fact made by the VP SACL and modifying the finding of fact; or
 - (iii) directing a new investigation, conducted by a new investigator. If a new investigation is ordered, the President shall manage the process according to the process set out in these procedures under F(2).

G. WORK, STUDY AND LIVING ENVIRONMENT REVIEW

The Division Head, in consultation with the relevant chair or department head, may initiate a review of the work, study and living environment in a department or unit in which multiple accusations of discrimination or harassment have been reported to Diversity and Human Rights Services. The purpose of such a review is to assist in the creation and maintenance of a healthy work, study and living environment, to enhance and improve the environment through education and awareness of issues of harassment and discrimination, and to facilitate ongoing productivity and creativity in the workplace.

- (1) The Division Head may delegate responsibility for conducting a review to any internal or external person(s).
- (2) Any statements provided during a review shall be treated as confidential and shall not be used in any subsequent complaint proceedings without the consent of the individual who provided the statement.
- (3) A review under this section is not a prerequisite to initiating a complaint and shall not prevent any individual from proceeding with such a complaint.
- (4) A written report of the review may be provided to the Division Head and may include recommendations which are consistent with the purposes of a review. Any such written report shall be treated as confidential. The Division Head, in consultation with the relevant chair or department head, shall determine:
 - (a) To whom the report is provided;
 - (b) What portion(s) of the report are to be provided;
 - (c) Which, if any, of the recommendations shall be followed.
 - (d) The Division Head shall consider the impact of the recommendations and will ordinarily consult with the affected department or unit and will give the department or unit the opportunity to respond to the recommendations.

- (e) The Division Head shall arrange for the implementation of those recommendations identified for action in consultation with appropriate personnel.

H. CONSULTATIONS

- (1) Members of the Mount Royal community, or those with concerns relating to a member of the Mount Royal community or a Mount Royal sanctioned program, event or activity, may consult with the Office of Diversity & Human Rights for information, advice, support and referrals relating to matters of accommodation, discrimination or harassment.
- (2) Such individuals may consult with the Office of Diversity & Human Rights anonymously. However, any information provided to the Office anonymously or in a consultation-only capacity will not be independently substantiated, further investigated or acted upon by the Office unless the Diversity & Human Rights Advisor determines that it would be appropriate to do so and initiates a complaint under section F (1)(j) above.

Part 17 - Health and Safety

Parent Policy: Human Rights Policy POL 1702 (formerly POL 590-3 and POL 960-6)

Guidelines and Procedures for Competing Rights¹

Office of Accountability:	Student Affairs & Campus Life	Effective:	July 2013
Office of Administrative Responsibility:	Diversity and Human Rights Services	Last Reviewed:	April 2013
Approver:	President's Executive Committee (PEC)	Revised:	June 2013

¹ These Guidelines are based, with permission, on the Ontario Human Rights Commission's Policy on Competing Rights. It was developed based on international human rights principles, case law, social science research and consultation with community partners and stakeholders. The framework has been recognized by the Supreme Court of Canada.

A. PURPOSE

Mount Royal is committed to creating a supporting working and learning environment that is free from discrimination and harassment. In Mount Royal's increasingly diverse and complex community, individuals and groups may encounter situations of tension and conflict when they try to enjoy or exercise their rights, interests or values. At times, these rights, interests or values may be in conflict, or may appear to be in conflict, with other rights, interests or values. Depending on the circumstances, for example, the right to be free from discrimination based on religion or sexual orientation or gender may be at odds with each other or with other rights, laws and practices. How do you resolve a situation where a professor's guide dog causes a severe allergic reaction in a student?

The courts have said we must go through a process on a case-by-case basis to search for solutions to attempt to reconcile competing rights and accommodate individuals and groups. This pursuit can be challenging, controversial and sometimes dissatisfying to one side or the other. It is the responsibility of all members of the Mount Royal community to make efforts to better understand the nature of one another's rights and obligations and demonstrate mutual respect for the dignity and worth of all.

These Guidelines and Procedures set out a process to analyze and reconcile competing rights that emphasizes specific objectives and considerations. For example, everyone involved should:

- Respect one another's dignity
- Encourage mutual recognition of interests, rights and obligations
- Facilitate maximum recognition of rights, wherever possible

- Help parties to understand the scope of their rights and obligations
- Address stigma and power imbalances and help to give marginalized individuals and groups a voice
- Encourage cooperation and shared responsibility for finding agreeable solutions that maximize enjoyment of rights
-

There are many situations in which rights, interests and values seem to conflict or compete. When evaluating situations of competing rights, human rights and other legal rights will usually hold a higher status than interests and values. In some circumstances, interests and values may represent reasonable limits on rights.

B. DEFINITIONS

- (1) **Competing rights:** Competing human rights involve situations where parties to a dispute claim that the enjoyment of an individual or group's human rights and freedoms, as protected under the *Alberta Human Rights Act* (the Act) and the *Mount Royal Human Rights Policy*, would interfere with another's rights and freedoms. This complicates the normal approach to resolving a human rights dispute where only one side claims a human rights violation. In some cases, only one party is making a human rights claim, but the claim conflicts with the legal entitlements of another party or parties.

While many situations may at first appear to involve competing rights, one must recognize that not all claims will be equal before the law; some claims have been afforded a higher legal status and greater protection than others. For example, international conventions, the Canadian Charter of Rights and Freedoms, provincial human rights legislation and legal decisions all recognize the paramount importance and unique status of human rights.

Other non-human rights-related rights may also be protected in legislation, but may not have the same status as human rights. Claims may also be based on interests or values held by individuals or groups. While there are many situations in which rights, interests and values may seem to conflict or compete, when evaluating situations of competing rights, human rights and other legally codified rights will usually hold a higher status than interests and values. These guidelines are meant mainly to be a tool for resolving situations where there is a conflict of human rights and rights that are legally protected.

- (2) **Human Rights:** Human rights are inalienable, indivisible, universal entitlements codified in international and domestic law. In Canada, they are protected and interpreted through:
- a. The Canadian *Charter of Rights and Freedoms* (*Charter*)
 - b. Provincial-territorial human rights legislation (e.g., *Alberta Human Rights Act*)
 - c. Decisions of tribunals and courts
 - d. Human rights commission policy statements, interventions and other mandated functions
 - e. International law/instruments (ratified treaties, treaty body comments/decisions, international and other jurisdictional court decisions)

- (3) **Legal Entitlements:** For the purposes of these guidelines, legal entitlements are non-human rights-related rights that are also codified in legislation (e.g., *Occupational Health and Safety Act*; *Freedom of Information and Protection of Privacy Act (FOIP)*).
- (4) **Interests:** An interest is a matter in which someone has a personal concern, share, portion or stake. Interests may be a societal and/or individual. Although interests are not legal rights, they are sometimes misunderstood and misclassified as such. In some cases, an interest could be elevated to the status of a right, if it is validated by a legal body. For example, a court or tribunal could find that an interest is bona fide (genuine) and reasonable in the circumstances: "the best interest of the child" have been given a high legal status and used by courts and tribunals to determine a wide range of issues involving children.
- (5) **Values:** Values are moral principles, standards and/or things that a person (or group) believes are vital for achieving "the good" or excellence in any sphere of life. Generally, values are subjective and not legally actionable in and of themselves. Understanding the individual or social values that may underlie a human rights claim will help parties and may inform its ultimate disposition.
- (6) **Examples of competing rights situations:** A competing human rights situation exists when legally protected rights are present in both claims, and at least one of the claims connects to human rights law. Based on this definition, allegations of competing human rights scenarios might include:
- a. Human right v. human right: Related to any of the *Alberta Human Rights Act's* 13 protected grounds; the competing grounds could involve the same or different grounds.
EXAMPLE: A professor's guide dog is affecting one of her students, who has a severe allergy to dogs. Both individuals might make human rights claims on the ground of a physical disability.
 - b. Human right v. other legislated right: Related to any of the Act's 13 protected grounds and a right conferred by an act of a provincial legislature or federal parliament.
EXAMPLE: A student makes a recording of a classroom lecture and discussion as an academic accommodation related to her/his disability. A classmate claims his/her privacy rights under *FOIP* are infringed as a result of the recording.
 - c. *Charter* right v. *Charter* right: Related to the rights and freedoms protected under the *Charter*.
EXAMPLE: A religious-based college refuses to allow a pro-choice group onto its campus. The college claims its freedom in religion, as protected by the *Charter*, while the group claims its freedom of expression, also protected by the *Charter*.

C. PRINCIPLES

- (1) No rights are absolute. Rights must be interpreted contextually and be balanced against the rights of others.

- (2) There is no hierarchy of human or *Charter* rights. When the protected rights of two individuals or groups come into conflict a balance must be achieved that fully respects the importance of both sets of rights.
- (3) Rights may not extend as far as claimed. For example "customer preference" or "business or economic interests" are not considered a valid competing right involving discrimination under human rights legislation.
- (4) The full context, facts and constitutional values at stake must be considered. This includes a balancing of individual and group rights and recognition of society's underlying values on human rights and equality. Mount Royal recognizes the variety of rights enjoyed by members of the campus community, including rights unique to the campus environment, such as academic freedom. Notwithstanding the range of values and interests held by members of our community, international conventions, the Canadian *Charter of Rights and Freedoms*, provincial human rights legislation and legal decisions all recognize the paramount importance and unique status of human rights. In all cases, the rights of individuals as protected by the Alberta *Human Rights Act*, the Mount Royal *Personal Harassment Policy* and/or the *Human Rights Policy* are superordinate to other rights and freedoms in the campus community. Academic freedom does not imply the right to engage in any action that demeans the freedom or dignity of other individuals in the campus community.
- (5) The extent of interference must be considered (only actual burdens on rights trigger conflicts) If the interference is minor or trivial, the right is not likely to receive much, in any, protection. Speculation that a rights violation may occur is not enough -- there must be evidence, and not just an unsupported assumption, that the enjoyment of one right will have a harmful effect on another.
- (6) The core of a right is more protected than its periphery. The private exercise of a right is generally given more protection than the public exercise of a right.
- (7) Aim to respect the importance of both sets of rights.
- (8) Statutory defences may restrict rights of one group and give rights to another. Human rights and constitutional laws contain exceptions that allow differential treatment in certain circumstances.
- (9) As in non-competing rights situations, efforts at informal resolution will normally be made before a formal process is initiated.

D. PROCEDURES FOR HANDLING COMPLAINTS

(1) Informal Procedure

- a. Many competing rights situations can be resolved quickly through an informal process. Individuals or parties who have a concern related to competing rights may take any of the following actions:

- (i) express concerns immediately and directly to the individual or party related to the competing rights situation in an attempt to directly resolve the issue;
 - (ii) report the situation to Diversity and Human Rights Services; and/or
 - (iii) report the situation to Confidence Line.
- b. Upon receiving an inquiry or complaint, Diversity and Human Rights Services shall arrange a meeting with the individual(s) or party/ies as soon as possible to:
 - (i) hear the concern;
 - (ii) provide the individual(s) or party/ies with a copy of Mount Royal's policy and these Guidelines;
 - (iii) explain the policy and the framework for resolving competing rights;
 - (iv) identify and explain the formal and informal options available to the complainant for resolution;
 - (v) present the Confidentiality and Protection of Privacy Notice, and the Informed Notice and Consent Forms.
- c. A representative of Diversity and Human Rights Services will facilitate a process between the individuals or parties to explore a possible resolution to the conflict.
- d. When necessary, the representative of Diversity and Human Rights Services may provide relevant information concerning a complaint to appropriate Mount Royal officials. Anyone receiving such information shall be informed of the Confidentiality and Protection of Privacy Notice provisions of the Human Rights Policy.
- e. Meeting individuals outside of Mount Royal is discouraged. All meetings should be held on campus (at the discretion of the Diversity and Human Rights Advisor). However, if an off campus meeting is held, a second individual, as appointed by the Diversity and Human Rights Advisor, must be present.
- f. If, in the opinion of the Diversity and Human Rights Advisor, all attempts at informal resolution have failed or are deemed to be inappropriate, the complaint may be raised to the formal procedure.

(2) Formal Procedure

- a. If the conflict is referred to the formal procedure, the Diversity and Human Rights Advisor will refer the issue to the Vice-President, Student Affairs and Campus Life (VP SACL).
- b. The VP SACL will ensure the framework for addressing competing rights situations, as laid out in these Guidelines, is followed. The VP SACL may delegate the process to any individual or individuals as s/he deems appropriate.
- c. All relevant parties will be informed in writing of the decision.

E. FRAMEWORK FOR ADDRESSING COMPETING RIGHTS SITUATIONS

(1) Stage One: Recognizing competing rights claims

Step 1: What are the claims about?

Parties should include facts, their perceptions about what happened, and views about the potential rights, values and/or interests that may underlie the situation.

"Hearing directly from the people affected is crucial to developing effective and responsive ways to resolve tensions between or among rights claims. Those who experience a denial of their rights have a unique perspective on why that is the case and appropriate remedies."² - Patricia Hughes

Step 2: Do claims connect to legitimate rights?

- a. Do claims involve individuals or groups rather than operational interests?
 - Organizations must distinguish between claims that solely affect business operations from competing claims that affect the rights of other individuals and groups. Claims that affect business operations alone are properly considered within the scope of the duty to accommodate and are not competing human rights claims. A request for accommodation may turn out to be a competing rights situation if, while dealing with the accommodation request, it turns out that the rights of another person or group might also be affected.
 -
- b. Do claims connect to human rights or other legal entitlements:
- c. Do claims fall within the scope of the right when defined in context?
 - For example, breadth of the right to freedom of expression as it relates to communicating offensive language will vary depending on the context. For example, in media commentary, the right might be interpreted very broadly, but in a classroom or workplace it may be interpreted more narrowly.
 -

Step 3: Do claims amount to more than minimal interference with rights?

There is no conflict unless there is sufficient interference with, burden or intrusion on a right. Where the impact on one right is minimal or insignificant, that right must give way to the other.³

If there is a substantial interference with the rights in question, continue to Stage 2.

(2) Stage Two: Reconciling competing rights claims

Reconciliation is a process for exploring options to reduce or eliminate interference and allow full or at least "substantial" exercise of the rights of all parties within the given context. Often, reconciliation will involve changing

conditions or adjusting how one or both parties enjoy their rights. This may look like a multi-party human rights accommodation process involving secondary changes such as altering schedules, working conditions, activity locations and so on.

Step 4: Is there a solution that allows enjoyment of each right?

Step 5: If not, is there a "next best" solution?

- a. If the reconciliation process does not lead to an ideal solution, there is still a duty to explore options that least impair or compromise a right.
- b. Consider principles together with the full context in mind.
- c. Any limitation of a right should consider human rights values, including respect for human dignity, inclusion of all, community and social harmony and the collective interests of minority or marginalized groups.

(3) Stage Three: Making Decisions

- a. Decisions must be consistent with human rights and other laws, court decisions, human rights principles and have regard for MRU policy.
- b. All parties have a shared responsibility to act in good faith, show dignity and find solutions for everyone involved.
- c. Where a situation is particularly complex or contentious, it may be appropriate to consult legal counsel.
- d. At least one claim must fall under the Alberta *Human Rights Act* to be actionable at the Alberta Human Rights Commission.

F. APPEAL PROCESS

Decisions made by the VP SACL are final and binding.

² Patricia Hughes, "Competing Rights Policy: The Law Commission of Ontario Approach," *Canadian Diversity*, Volume 8:3, Summer 2012 at 54.

³ *Syndicat Northcrest v. Amselem*, 2004 SCC 47, note 16 at para. 84; *Bruker v. Marcovitz*, [2007] 3 S.C.R. 607, note 52.

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Appendix 1

Diversity and Human Rights Services Definitions For The 13 Prohibited Grounds For Discrimination or Harassment Based on the definitions provided by the Alberta Human Rights Commission ¹

The *Act* prohibits discrimination in the following areas:

- Statements, publications, notices, signs, symbols, emblems or other representations that are published, issued or displayed before the public;
- Goods, services, accommodation or facilities customarily available to the public;
- Tenancy;
- Employment practices;
- Employment applications or advertisements;
- Membership in trade unions, employers' organizations or occupational associations.
-

The *Act* provides protection from discrimination in the above areas under the following grounds. The descriptions below are not legal definitions. For more information about protected grounds, contact the Alberta Human Rights Commission.

RACE - belonging to a group of people related by common heritage.

ANCESTRY - belonging to a group of people related by a common heritage.

RELIGIOUS BELIEF - system of belief, worship and conduct (includes Native Spirituality).

PHYSICAL DISABILITY - any degree of physical disability, deformity, malformation or disfigurement that is caused by injury, birth defect or illness. This includes, but is not limited to, epilepsy, paralysis, amputation, lack of physical coordination, visual, hearing and speech impediments and physical reliance on a guide dog, wheelchair or other remedial appliance or device.

AGE - Age is defined in the *Act* as "18 years or older." Persons who are 18 years or older can make complaints on the ground of age in all of these areas:

- statements, publications, notices, signs, symbols, emblems or other representations that are published, issued or displayed before the public;
- employment practices;
- employment applications or advertisements;
- membership in trade unions, employers' organizations or occupational associations.
-

Age is *not* a protected ground in the following areas:

- tenancy;
- goods, services, accommodation or facilities that are customarily available to the public.

•
Persons *under* the age of 18 can make complaints on all grounds *except the ground of age*.

MARITAL STATUS - the state of being married, single, widowed, divorced, separated or living with a person in a conjugal relationship outside marriage.

FAMILY STATUS - being related to another person by blood, marriage or adoption.

COLOUR - colour of a person's skin. This includes, but is not limited to, racial slurs, jokes, stereotyping, and verbal and physical harassment.

PLACE OF ORIGIN - place of birth.

GENDER - being male, female or transgender. The Ontario Human Rights Commission offers a helpful definition of gender identity: "Gender identity is linked to a person's sense of self, and particularly the sense of being male or female. A person's gender identity is different from their sexual orientation, which is also protected under the [Ontario *Human Rights*] Code. People's gender identity may be different from their birth-assigned sex, and may include:

Transgender: People whose life experience includes existing in more than one gender. This may include people who identify as transsexual and people who describe themselves as being on a gender spectrum or as living outside the gender categories of 'man' or 'woman.'

Transsexual: People who were identified at birth as one sex, but who identify themselves differently. They may seek or undergo one or more medical treatments to align their bodies with their internally felt identify, such as hormone therapy, sex-reassignment surgery or other procedures.

Intersex: People who are not easily classified as "male" or "female", based on their characteristics at birth or after puberty. This word replaces the inappropriate term "hermaphrodite."

Crossdresser: A person who, for emotional and psychological well-being, dresses in clothing usually associated with the "opposite" sex.

Trans: An umbrella term used to describe individuals who, to varying degrees, do not conform to what society usually defines as a man or a woman."²

Also protected under gender are pregnancy and sexual harassment.

MENTAL DISABILITY - any mental disorder, developmental disorder or learning disorder regardless of the cause or duration of the disorder.

SEXUAL ORIENTATION - The *Act* includes protection from differential treatment based on a person's actual or presumed sexual orientation. While the Commission lists homosexual, heterosexual and bisexual identities, Mount Royal recognizes the spectrum of sexual identities beyond those listed by the Commission and protects individuals from treatment based on those various identities.

SOURCE OF INCOME - lawful sense of income. The protected ground of source of income includes any income that attracts a social stigma to its recipients, for example, social assistance, disability pension, and income supplements for seniors. Income that does not result in social stigma would not be included in this ground.

In addition to the areas and grounds described above, the *Act* protects individuals in the area of equal pay. When employees of any gender perform the same or substantially similar work, they must be paid at the same rate.

¹ Protected areas and grounds under the *Alberta Human Rights Act* information sheet, Alberta Human Rights Commission, February 2012

² Ontario Human Rights Commission website: <http://www.ohrc.on.ca/en/gender-identity>

Human Rights Policy POL 1702

Appendix 2

Diversity and Human Rights Services Confidentiality and Protection of Privacy Notice

As a party to this discrimination/harassment complaint you have confidentiality and privacy rights and responsibilities.

Confidentiality

Mount Royal's Human Rights Policy 1702 contains explicit confidentiality provisions. It provides that:

1. all recorded information is provided in confidence.
2. all information, oral or written, created, gathered, received or compiled through the course of a complaint is to be treated as confidential by both the respondent and complainant, their representatives, witnesses and officials designated by this policy.
3. either party to a complaint may discuss the case in confidence with her/his supervisor, support person and/or representative of her/his constituency organization.
4. information concerning a complaint may be provided to appropriate Mount Royal officials on a need-to-know basis.
5. any person informed of an allegation of discrimination/harassment on a need-to-know basis will be informed of its disposition.
6. confidentiality is subject to any limits or disclosure required by law.
7. any person breaching confidentiality may be subject to disciplinary sanction.

Freedom of Information and Protection of Privacy

Records are created in the course of resolving discrimination/harassment complaints. Such records contain highly personal and sensitive information. As Mount Royal records they are subject to Alberta's *Freedom of Information and Protection of Privacy (FOIP) Act*. The provisions of the *FOIP Act* regulate collection, manner of collection, accuracy, retention, protection, use and disclosure of personal information.

Collection of Personal Information Notification

The personal information gathered throughout the discrimination/harassment resolution process is collected under the authority of the *Post-Secondary Learning Act* and Alberta's *Freedom of Information and Protection of Privacy Act* section 33(c). The information will be used to redress and resolve complaints, evaluate the effectiveness of the program, identify educational priorities and prepare an annual report of aggregate statistics. Your personal information is protected by Alberta's *Freedom of Information and Protection of Privacy Act* and can be reviewed upon request. If you have any questions about the collection or use of this information, contact the Diversity and Human Rights Advisor, Room U216(C), (403) 440-8675.

**Human Rights Policy
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Appendix 3

Diversity and Human Rights
Informed Notice

Informed Notice

I acknowledge that I have read the Confidentiality and Protection of Privacy Notice

Signature

Date

Collection of Personal Information Notification

The personal information gathered throughout the discrimination/harassment resolution process is collected under the authority of the *Post-secondary Learning Act* and Alberta's *Freedom of Information and Protection of Privacy Act*, section 33(c). The information will be used to redress and resolve complaints, evaluate the effectiveness of the program, identify educational priorities and prepare an annual report of aggregate statistics. Your personal information is protected by Alberta's *Freedom of Information and Protection of Privacy Act* and can be reviewed upon request. If you have any questions about the collection or use of this information, contact the Diversity and Human Rights Advisor, Room U216(C), (403) 440-8675.

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Appendix 4

Diversity and Human Rights Services
Mount Royal University
Code of Personal Conduct

“Our vision towards a respectful Mount Royal Community”

This Code of Personal Conduct applies to all members of the Mount Royal Community – including all students, faculty, support staff, managers, administrators, volunteers, visitors, contractors, etc.

The intent of this Code is that the behaviour of all members of the Mount Royal Community will reflect:

- “ Respect for the dignity of all persons
- “ Fair and equitable treatment of all persons
- “ Personal and professional integrity
- “ Respect for academic freedom
- “ Respect for personal and Mount Royal property
- “ Respect for diversity

Adherence to this Code is supported by the following Mount Royal policies:

- “ Human Rights Policy (1702)
- “ Non-Academic Misconduct Policy (590-1) --
[notes:///872563FD0058432C/BF25AB0F47BA5DD785256499006B15A4/AD3F8B806F7EEE4D87257332006AB7CC](https://872563FD0058432C/BF25AB0F47BA5DD785256499006B15A4/AD3F8B806F7EEE4D87257332006AB7CC)Code of Student Conduct (513)
- “ Offensive/Discriminatory Materials Policy (1703)
- “ Personal Harassment Policy (1704)
- “ Integrity of Student Work (510)
- “ Academic Accommodations for Students Experiencing Disabilities (517)
- “ Academic Freedom (580)
- “ Research (585)

**Human Rights Policy
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Appendix 5

Diversity and Human Rights Services
Human Rights Complaint Form

Collection of Personal Information Notification

The personal information gathered throughout the discrimination/harassment resolution process is collected under the authority of the *Post-secondary Learning Act* and Alberta's *Freedom of Information and Protection of Privacy Act*, section 33(c). The information will be used to redress and resolve complaints, evaluate the effectiveness of the program, identify educational priorities and prepare an annual report of aggregate statistics. Your personal information is protected by Alberta's *Freedom of Information and Protection of Privacy Act* and can be reviewed upon request. If you have any questions about the collection or use of this information, contact the Diversity and Human Rights Advisor, Room U216(C), (403) 440-8675.

Private and Confidential

Time/Date: _____

Complainant

Name: _____ Status: Student ___ Management ___ Faculty ___ Staff ___ Other ___

MRU ID#: _____

University Department/Worksite: _____

Job Title: _____

Phone: _____ Email: _____

Respondent

Name: _____ Status: Student ___ Management ___ Faculty ___ Staff ___ Other ___

University Department/Worksite: _____

Job Title: _____

Phone: _____ Email: _____

Details of Complaint

Description of Alleged Discrimination

Date(s) of incident or time frame and location of incident

Has this complaint been reported previously? If so, to whom and what actions were taken?

Resolution Requested

Complainant Signature

Date _____

Human Rights Policy POL 1702

Appendix 6

Competing Rights Framework (Used with permission from the Ontario Human Rights Commission)

STAGE	GOALS	ANALYSIS	ORGANIZATIONAL PROCESS		LEGAL PRINCIPLES	DEFINITIONS	
			Quick resolution	Full process			
RECOGNIZING RIGHTS	Mutual recognition of interests & rights promotes mutual dignity & respect Helps frame rights Gives marginalized a voice Diminishes power imbalances Reduces stigma Rights & obligations awareness Maximum recognition of rights Encourages spirit of cooperation	<ol style="list-style-type: none"> What are the claims about? Do claims connect to legitimate rights & interests? <ol style="list-style-type: none"> Individuals or groups rather than operational interests? Human rights or legal entitlements? Context of claim falls within scope of right or interest? Amounts to more than minimal interference with right? 	<ul style="list-style-type: none"> Inquire into each claimant's story Values, beliefs, interests, feelings, context Determine whether informal or formal process appropriate <p>If claimants understand their rights, recognize each other's claims as legitimate & demonstrate dignity & respect for each other, then...</p> <p>Frame issues together</p>	<p>BEFORE DISPUTE RESOLUTION</p> <p>Analyze situation: Could policy development help? Negotiation or conciliation? Internal or external conciliator?</p> <p>Identify parties & inform them of situation, roles & responsibilities & consequences of not participating ...</p>	<p>No rights are absolute No hierarchy of rights Right may not extend as far as claimed Must consider full context/facts & constitutional values at stake Rights defined in relation to one another & extent of interference Core more protected than periphery Usually no "bright lines" Courts have drawn some lines for particular case types Statutory defences may also restrict rights Aim to respect importance of both sets of rights Search for "constructive compromises" (procedural duty)</p>	<p>Some claims may have higher legal status than others...</p> <p>Values: individual/social moral principles & standards; may reflect in/inform law or claim; not legally actionable</p> <p>Interests: individual/social concerns or stakes; may elevate to legal entitlement if bona fide & reasonable in circumstances or satisfies legal limit or exemption</p> <p>Legal entitlements: codified in law or interpreted through court or tribunal decision</p> <p>Human rights: inalienable, indivisible, universal legal entitlements; include limits & exemptions; usually have higher status than other legal entitlements; both have higher legal status than interests, values, beliefs</p>	
	RECONCILING RIGHTS	Claimants & organization engage in shared responsibility to find agreeable solutions	<ol style="list-style-type: none"> Is there a solution that allows enjoyment of each right? If not, is there a next best solution for one or both rights? 	Explore/discuss & attempt to reach mutually agreeable solutions that are ideal or next best	<p>CONDUCT DISPUTE RESOLUTION</p>		
	MAKING DECISIONS	Organizations take responsibility for: Corporate liability Substantive & procedural duties Policies Training Protection from litigation	Must be consistent with human rights and other law, court decisions, human rights principles At least one claim must fall under Alberta Human Rights Act to be actionable at Alberta Human Rights Commission	Internal decision	Internal appeal		
			External appeal/complaint/decision at tribunal or higher court				

**Human Rights Policy
POL 1702**

Appendix 7

Flow Chart for Competing Rights Conciliation
(Used with permission from the Ontario Human Rights Commission)

