



HUMAN RIGHTS POLICY

Policy Type:	Management	Initially Approved:	June 27, 2013
Policy Sponsor:	VP, Student Affairs and Campus Life	Last Revised:	June 27, 2013
Administrative Responsibility:	Diversity and Human Rights Services	Review Scheduled:	April 2018
Approver:	Board of Governors		

Policy Summary: Mount Royal University's Human Rights Policy outlines the policies and procedures pertaining to how the University will mitigate and investigate Discrimination and Harassment Complaints on grounds that are protected by the Alberta Human Rights Act.

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, the Code of Conduct Policy, or Collective Agreements and should be taken to the appropriate supervisor or Association or Human Resources office.

B. 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.

C. POLICY STATEMENT

1. PRINCIPLES

1.1 Mount Royal recognizes the rights of individuals to participate fully in the life of the institution.

- 1.2 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.
- 1.3 This Policy is intended to be supportive to Mount Royal's Code of Conduct Policy and the related policies noted therein.
- 1.4 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.
- 1.5 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.
- 1.6 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 Act*. All members of the Mount Royal community involved in a Human Rights Complaint are expected to maintain confidentiality.
- 1.7 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.
- 1.8 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 Diversity and Human Rights Services is available to all members of the Mount Royal community.
- 1.9 Mount Royal has a duty to provide reasonable accommodation up to the point of Undue Hardship.

- 1.10 Efforts at informal resolution will normally be made first in dealing with a Complaint. See Guidelines and Procedures for Handling Complaints.
- 1.11 This Policy will be interpreted, administered, and applied in accordance with the principles of procedural fairness.
- 1.12 Members of the Mount Royal community have an obligation to participate in procedures under this Policy.
- 1.13 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.
- 1.14 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.
- 1.15 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. a Human Rights Complaint with the Alberta Human Rights Commission within one year of the alleged contravention of the Act;
 - b. their own Association's internal processes;
 - c. a Complaint under the *Occupational Health and Safety Act*;
 - d. criminal charges.

D. DEFINITIONS

- (1) **Barrier:** is a structure, design, practice and/or criterion that prevents or impedes a person from accessing a facility or service.
- (2) **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.
- (3) **Bona Fide Occupational Requirement(s): (BFOR)** Bona Fide Occupational Requirements are those requirements that are justifiable components of an occupation or specific job.
- (4) **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.

- (5) **Complainant:** the person who alleges his/her rights under the Human Rights Policy have been violated. Administrators or managers, including the Diversity and 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
- (6) **Complaint:** a statement by a Complainant seeking recourse pursuant to this Policy
- (7) **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.

(8) Discriminatory Materials:

Discrimination/Sexual Harassment 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 the Offensive/Discriminatory Materials policy.

(9) 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.

- (10) Harassment:** 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. Harassment 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.
- Harassment is behavior that is known or thought reasonably to be known as unwelcome. 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. It is the impact of behaviour on the Complainant, subject to the reasonable person test, and not the intent of the Respondent, that defines the comment or conduct as Discrimination or Harassment.
- (11) 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).
- (12) 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 the Mount Royal's Personal Harassment policy.
- (13) Policy:** means the Human Rights Policy

- (14) **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
- (15) **Sexual Harassment:** Sexual Harassment 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 Harassment is Discrimination on the basis of gender and is a contravention of the Act. Sexual Harassment 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.
- (16) **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.
- (17) **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.
- (18) **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.

(19) University: means Mount Royal University

E. RELATED POLICIES

- Academic Accommodation for Students Experiencing Disabilities Policy
- Code of Conduct Policy
- Code of Student Conduct Policy
- Offensive/Discriminatory Materials Policy
- Personal Harassment Policy
- Safe Disclosure Policy
- Universal Access Policy

F. RELATED LEGISLATION

- *Alberta Freedom of Information and Protection of Privacy Act*
- *Alberta Health Information Act*
- *Alberta Human Rights Act*
- *Alberta Occupational Health and Safety Act*
- *Canadian Charter of Rights and Freedoms*

G. RELATED DOCUMENTS

- Academic Accommodation for Students Experiencing Disabilities Procedures
- Appendix 1 - Academic Accommodation for Students Experiencing Disabilities Policy: Authority for Academic Accommodation Decisions
- Appendix 2 - Academic Accommodation for Students Experiencing Disabilities Policy: Examples of Academic Accommodations by Type and Level
- Appendix 3 - Academic Accommodation for Students Experiencing Disabilities Policy: Flowchart – Faculty/Instructional Staff Receiving Accommodation Request
- Appendix 4 - Academic Accommodation for Students Experiencing Disabilities Policy: Flowchart – Student Requesting Accommodation
- Appendix 5 - Academic Accommodation for Students Experiencing Disabilities Policy: Sample of a Course Syllabus Statement
- Human Rights Policy: Guidelines and Procedures for Handling Complaints
- Appendix 1 - Human Rights Policy: Definitions for the Thirteen Grounds for Discrimination or Harassment Based on the Definitions Provided by the Alberta Human Rights Commission
- Appendix 2 - Human Rights Policy: Confidential and Protection of Privacy Notice
- Appendix 3 - Human Rights Policy: Informed Notice
- Appendix 4 - Human Rights Policy: Code of Personal Conduct
- Appendix 5 - Human Rights Policy: Human Rights Complaint Form
- Appendix 6 - Human Rights Policy: Competing Rights Framework
- Appendix 7 - Human Rights Policy: Flow Chart for Competing Rights Conciliation

- Collective Agreement between the Board of Governors of Mount Royal University and the Mount Royal Faculty Association
- Collective Agreement between the Board of Governors of Mount Royal University and the Mount Royal Staff Association
- Offensive/Discriminatory Materials Policy: Handling Offensive/Discriminatory Complaints Procedures

H. REVISION HISTORY

Date (mm,dd,yyyy)	Description of Change	Sections	Author (Position Title)	Approver (Position Title)
06/27/2013	NEW			