



## **Harassment & Discrimination Policy Mount Saint Vincent University**

### **POLICY STATEMENT**

Mount Saint Vincent University (MSVU) is committed to providing and maintaining an environment that promotes the dignity of human beings. MSVU, with and through the Harassment & Discrimination Advisor, will take necessary steps to ensure the health, safety and security of any person covered by this Policy.

Employees and students must not harass or discriminate. This Policy prohibits harassment and discrimination and affirms that all members of the MSVU community have the right to participate in activities at MSVU without fear of discrimination or harassment.

This Policy affirms the necessity and importance of preventing discrimination and harassment through education and information within the MSVU community.

### **ARTICLE 1: PURPOSE & SCOPE**

1.01 **Purpose.** The purposes of this Policy are to:

- (a) Identify the characteristics of discrimination and harassment;
- (b) Increase awareness of and sensitivity to the impact discrimination and harassment have on members of the MSVU community;
- (c) Prevent discrimination and harassment; and
- (d) Provide fair procedures for handling complaints of discrimination and harassment when they do occur.

1.02 **Application of the Policy.** This Policy applies to all members of the MSVU community, including current and former students, faculty, staff, and visitors.

1.02.1 This Policy applies to incidents of discrimination or harassment that occur in the course of work, study or participation in MSVU-sponsored organizations, activities and programs, whether on-campus, off-campus or through the use of communications technologies.

1.02.2 Subject to Article 5.05 of this Policy, this Policy applies to allegations of discrimination or harassment by or against visitors to MSVU. Members of the MSVU community bear responsibility for informing invited visitors of this Policy.

1.03 This Policy is to be interpreted, administered and applied in accordance with its purpose and the requirements of procedural fairness and confidentiality.

1.04 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 correct employees and students in accordance with collective agreements or applicable University policies and procedures. This Policy is not intended to affect any right or obligation contained within any existing code of conduct, collective agreement, other approved employee agreement, or statute.

1.05 The MSVU community is committed to academic freedom and freedom of expression and association. The environment is one in which students, faculty and staff can engage in free enquiry and open discussion. This Policy is to be interpreted, administered and applied in a manner consistent with the responsible exercise of academic freedom.

1.06 Reasonable attempts should be made to resolve alleged cases of discrimination or harassment informally, before a formal complaint proceeds. Individuals with concerns about discrimination or harassment are encouraged to attempt to resolve their concerns in an expedient manner and at an informal level, as set out in Article 4 (Complaint Resolution Procedures) of this Policy.

1.07 Notwithstanding the existence of this Policy, every person continues to have the right to seek assistance from internal bodies such as unions or workplace organizations, Student Experience, the Students' Union, Human Resources, as well as external agencies such as the Nova Scotia Human Rights Commission or the police, even when actions are being taken under this Policy.

1.08 Any judgment exercised under this Policy is subject to the "reasonable person" test, which takes into account not only what the complainant and respondent experienced, knew, or understood about one another or the situation, but also what a reasonable person in each of their circumstances would or ought to have experienced, known, or understood.

## ARTICLE 2: DEFINITIONS

### 2.01 Discrimination

A person discriminates where they make a distinction (whether intentional or not), which:

- (a) Is based on one of the protected characteristics identified below;
- (b) Has the effect of imposing burdens, obligations or disadvantages on an individual or group, or has the effect of withholding or limiting access to opportunities, benefits or advantages available to other individuals or groups; and
- (c) Has no *bona fide* and reasonable justification.

The characteristics that are protected from discrimination under this Policy are: age; race, colour, religion or creed; sex, sexual orientation, gender identity or gender expression; physical or mental disability; an irrational fear of contracting an illness or disease; ethnic, national or Aboriginal origin; family status; marital status; source of income; political belief, affiliation or activity; and any other characteristic enumerated in the Nova Scotia *Human Rights Act*, as well as an individual's association with another individual or class of individuals having protected characteristics.

A program, policy or activity designed to ameliorate the conditions of disadvantaged individuals or groups is not a violation of this Policy.

### 2.02 Harassment

Harassment is an incident or series of incidents of vexatious or disrespectful comments, displays or behaviours that demean, belittle, humiliate, embarrass, degrade or attempt to exclude, which is known or ought reasonably to be known to be unwelcome or offensive and which adversely affects the employment or academic status of an individual. Harassment may be either deliberate or unintentional.

MSVU recognizes two forms of harassment defined below.

#### 2.02.1 Sexual Harassment

Sexual harassment is unwanted sexual attention which adversely affects the working or learning environment of a member of the MSVU community. Sexual harassment may include, but is not limited to:

- (a) Conduct, comment, gesture or contact of a sexual nature that is likely to cause offence or humiliation to any member of the MSVU community to whom such conduct, comment, gesture or contact is directed; or

- (b) Conduct, comment, gesture or contact of a sexual nature that may, on reasonable grounds, be perceived by a MSVU community member as placing a condition of a sexual nature on employment or opportunity for training, promotion, advancement or other reward; or retaliation for refusal to comply with a request of a sexual nature; or
- (c) Behaviour and remarks of a sexual nature, when such conduct has the purpose or effect of creating an intimidating, hostile or offensive environment.

2.02.2 Sexual harassment may or may not include sexual assault. As defined in the MSVU Policy Against Sexual Assault, sexual assault is any sexual activity without consent. Sexual assault may include kissing, fondling, touching, oral or anal sex, vaginal intercourse or other forms of penetration, without consent. Complaints of sexual assault will be addressed under the MSVU Policy Against Sexual Assault.

### **2.02.3 Personal Harassment**

Personal harassment is behaviour directed toward an individual or group that a reasonable person would consider would create an intimidating, humiliating, or hostile work or learning environment. Personal harassment may include, but is not limited to:

- (a) Physical assault;
- (b) Communication that is abusive or offensive, including threatening, yelling, ridiculing, or derogatory comment;
- (c) Behaviour that denies an individual or group their dignity and respect. This includes inappropriate behaviour that is directed toward an individual or group on the basis of a characteristic protected from discrimination under this Policy.

Personal harassment is not to be confused with:

- (a) Interpersonal conflict or disagreement;
- (b) The use of appropriate evaluation or discipline; or
- (c) Action where the harm by any objective standard is fleeting.

**ARTICLE 3: HARASSMENT & DISCRIMINATION ADVISOR**

3.01 MSVU will appoint a Harassment & Discrimination Advisor (“Advisor”) who shall report directly to the President. The Advisor will carry out the duties of the office in a fair and impartial manner, consistent with the duty of confidentiality set out in Article 10 (Confidentiality), and the requirements of procedural fairness.

3.02 The Advisor will act as a resource to staff, faculty and students and to the Harassment & Discrimination Policy Committee. As directed by the President, the Advisor will work with Human Resources and Student Experience to educate the MSVU community on all aspects of harassment and discrimination. The Advisor may also act as a resource to other committees, departments, unions or groups within the MSVU community as needed.

3.03 The Advisor will monitor the effectiveness of this Policy and will report annually to the President on the activities of the Harassment & Discrimination Office and will make recommendations, if any, on revision of this Policy.

3.04 The Advisor shall make recommendations to the Harassment & Discrimination Policy Committee, including regarding training, education, and proposed changes to the Policy.

3.05 The Advisor will co-ordinate support services, internally and externally, for those who have experienced harassment or discrimination.

3.06 The Advisor will maintain confidential records in accordance with Article 10 (Confidentiality), the MSVU’s policy on the management and retention of records, and applicable privacy legislation.

3.07 The Advisor will be responsible for facilitating informal resolution processes, including mediation, whenever possible, as set out in Article 4 (Complaint Resolution Procedures).

3.08 The Advisor will maintain a list of qualified, available and willing mediators from within and outside of the MSVU community.

3.09 The Advisor will maintain a list of qualified and available external investigators to conduct investigations when a formal complaint is made under Article 4 (Complaint Resolution Procedures), and to act on behalf of the Advisor in investigating and attempting to resolve Informal Complaints under Article 4 (Complaint Resolution Procedures) as may be required from time to time.

3.10 In carrying out their duties, the Advisor will disclose any actual or apparent bias or conflict of interest of which they are aware. The Advisor will not act with respect to any inquiry or complaint in which they may have an actual or perceived conflict of interest. The President shall appoint a replacement to carry out the duties of the Advisor in such cases.

3.11 The office of the Advisor will be reviewed every 4 years. The review will be coordinated through the office of the President and will receive recommendations from the Harassment & Discrimination Policy Committee.

#### **ARTICLE 4: COMPLAINT RESOLUTION PROCEDURES**

##### **Step 1: Personal Intervention**

4.01 An individual who believes they have experienced or who is aware of an incident of discrimination or harassment is encouraged to communicate their concerns directly with the person or group engaging in the discriminatory or harassing conduct or action.

4.02 The University recognizes that personal intervention may not be feasible in all cases, including, for instance, cases involving:

- (a) Concerns about the safety, security and well-being of the complainant, respondent or the MSVU community;
- (b) Imbalances of power; or
- (c) Individuals requiring support and assistance before determining whether personal intervention is appropriate.

4.03 An individual who believes that personal intervention is not feasible, or that personal intervention did not result in a satisfactory outcome, may proceed to Step 2 (Consultation).

##### **Step 2: Consultation**

4.04 An individual who believes they have experienced or who is aware of an incident of discrimination or harassment, where Step 1 (Personal Intervention) is not feasible or did not result in a satisfactory outcome, may proceed to Step 2 by consulting with one of the following:

- (a) their Supervisor, Administrator or Manager;
- (b) their Department Head, Director or Dean;
- (c) a representative of Human Resources or the Office of Student Experience;
- (d) the Manager of Campus Security; or
- (e) the Advisor.

4.05 A person consulted under Article 4.04 must deal with the issues of harassment and discrimination brought to their attention. Their options are to:

- (a) Speak directly to the individuals involved;
- (b) Assist and support the complainant(s) and/or respondent(s) to talk directly to the other individual(s);
- (c) Consult with the Advisor; or
- (d) Refer the complainant(s) and/or respondent(s) to the Advisor.

4.06 If an issue remains unresolved following consultation, the complainant or the supervisor, Department Head, Director, Dean, representative of Human Resources or Student Experience consulted may report the matter to the Advisor.

4.07 **Screening of Matters referred to the Advisor.** Whenever the Advisor is consulted about an allegation of discrimination or harassment or receives an informal or formal complaint under this Article, the Advisor shall explain the Policy to the individual and determine if the situation falls within the definition of personal harassment, sexual harassment or discrimination in the Policy.

4.08 If the Advisor concludes that the alleged conduct would not constitute a violation of the Policy, the Advisor will decide not to proceed any further under this Policy and will inform the individual of this decision. The Advisor shall direct the individual to seek recourse through other appropriate means, such as their supervisor, collective agreement, other applicable MSVU policy or procedure.

4.09 **Interim Measures.** Where the Advisor is consulted about an allegation of harassment or discrimination, and concludes that the Policy does apply to the alleged conduct, the Advisor shall consider the need for any interim measures. The following principles shall apply:

4.09.1 Where MSVU has reasonable cause to believe there is a risk to the health, safety or security of any member of the MSVU community, MSVU may take necessary steps at any stage in the complaint resolution procedure to ensure their health, safety and security, pending resolution of the issue.

4.09.2 Authority for implementing interim measures rests with the Dean, Director or Department Head, in consultation with the Advisor. In assessing the appropriateness of interim measures, the Advisor and Dean, Director or Department Head may consult in confidence with Human Resources or Student Experience, where necessary and appropriate.

4.09.3 Interim measures are precautionary and shall not be considered disciplinary; however, any violation of an interim measure may be subject to disciplinary action.

4.09.4 Any interim measure imposed may be subject to an appeal in accordance with the procedures set out in Article 7 (Appeal Process) of this Policy or in any collective agreement or other approved employment agreement.

### **Step 3: Informal Complaint Stage**

4.10 The Advisor shall endeavor to resolve allegations of discrimination or harassment brought to their attention informally where appropriate. Any individual who believes they have experienced or who is aware of an incident of discrimination or harassment may file an informal complaint with the Advisor.

4.11 Any informal resolution or mediated agreement reached by the parties is entirely voluntary. Neither the Advisor nor a mediator appointed pursuant to Article 4.14 has authority to impose conditions or sanctions upon any party.

4.12 An informal complaint shall not result in discipline or dismissal. No record of an informal complaint, informal resolution or mediated agreement will be entered into an employee or student file.

4.13 Options available to resolve an informal complaint will vary depending on the nature of the complaint, but may include:

- (a) Working directly with the individuals involved to help clarify perceptions, raise awareness of the impact of certain conduct, reconcile differences, or sort out misunderstandings – whether by bringing the parties together, or by effecting communication through the Advisor;
- (b) Mediation facilitated by the Advisor or another qualified mediator, in accordance with Article 4.14 (Mediation), below;
- (c) Education, training or coaching by the Advisor or another qualified individual;
- (d) Proceeding to Step 4 by having the complainant file a formal complaint;
- (e) Referrals to other sources of assistance, such as counsellors, police, union representatives, sexual assault centres or the Nova Scotia Human Rights Commission.

4.14 **Mediation.** At any time after an informal or formal complaint has been initiated, the parties may attempt to resolve the complaint through mediation. Mediation is a voluntary, confidential process for the resolution of a complaint, which is

facilitated by a neutral third party (the “mediator”). The mediator has no decision-making authority but assists the parties to arrive at a mutually satisfactory solution.

4.14.1 Both parties must agree to the mediation process and the format of the mediation.

4.14.2 A qualified mediator agreed upon by the parties will facilitate the mediation session(s). The Advisor may personally act as mediator, or may assist the parties in obtaining the services of another qualified mediator agreeable to the parties.

4.14.3 Any mediated resolution must be consistent with university policies, collective agreements, or other approved employment agreements.

4.14.4 Each party and the Advisor shall receive a copy of any agreement reached through mediation.

4.14.5 Either party may withdraw from the mediation process at any time. If mediation fails to resolve the complaint, either party may elect to pursue a formal complaint. If mediation begins after a formal complaint is filed, all timelines established under Article 4 (Complaint Resolution Procedures) will be frozen for the duration of the mediation process.

#### **Step 4: Formal Complaint Stage**

4.15 Any member of the MSVU community who believes they have experienced or who is aware of an incident of discrimination or harassment may submit a formal complaint to the Advisor.

4.16 A complainant may initiate a formal complaint at any time. A formal complaint is recommended where informal measures under Step 3 (Informal Complaint Stage) are not feasible, or have not resulted in a satisfactory resolution.

4.16.1 At the discretion of the President in consultation with the Advisor, complaints of discrimination or harassment against a student may be dealt with either under the formal complaint procedures in this Policy, or under the formal judicial process set out in the Non-Academic Discipline Policy.

4.17 The complainant shall make a formal complaint in writing to the Advisor, or as otherwise directed by the Advisor. The complainant should include a detailed account of the alleged conduct that forms the basis of the complaint.

4.18 At any point during the formal complaint process, the parties may, by mutual agreement, suspend the formal complaint process and request mediation in accordance with Article 4.14 of this Policy.

4.19 If a complaint on the same issue is being dealt with through another forum (e.g., grievance, Nova Scotia Human Rights Commission, criminal investigation), the Advisor may suspend the formal complaint process and hold all time periods for the processing of the complaint in abeyance pending the outcome in the other forum, if the Advisor considers it to be in the best interests of the MSVU community to do so.

#### **4.20 Formal Complaint Procedure**

4.20.1 As soon as possible, and within 5 days of receiving the formal complaint, the Advisor shall initiate an investigation by appointing an external investigator (“Investigator”) and providing a copy of the complaint to the Investigator.

4.20.1.1 In selecting an Investigator, the Advisor shall have regard to the knowledge and experience of the Investigator relative to the nature of the complaint, as well as to any budget allocated to the investigation by the President.

4.20.1.2 The Investigator shall conduct the investigation in accordance with the requirements of procedural fairness, ensuring each party’s right to know, understand and respond to evidence and allegations.

4.20.1.3 Where the employment of one or more respondent(s) is governed by a collective agreement between MSVU and the MSVU Faculty Association or CUPE Local 3912, the Advisor shall provide the Dean (or University Librarian) with a copy of the complaint. The investigation under this Article shall constitute a delegation of the authority of the Dean (or University Librarian) to the external investigator to investigate allegations that might lead to discipline of a Faculty member, under Article 34.7 of the Collective Agreement between MSVU and the MSVU Faculty Association (2015-18) or Article 20.4 of the Collective Agreement between MSVU and CUPE Local 3912 (2012-16).

4.20.2 Immediately upon appointing an Investigator, the Advisor shall notify the complainant(s) and respondent(s) in writing of the appointment and that an investigation into the complaint has been initiated. At the same time, the Advisor shall deliver a copy of the complaint to the respondent(s), and the president of any union representing the respondent(s).

4.20.3 The Investigator may interview any witness(es) identified by the Investigator(s) as likely to have relevant knowledge.

4.20.4 Within 10 days from receiving notice of the complaint, the respondent(s) may provide the Investigator with a written response to the complaint. The Investigator shall immediately transmit a copy of any response received to the complainant(s).

4.20.5 Within 15 days of delivering notice of the complaint to the respondent(s), the Investigator shall meet separately with the respondent(s) and complainant(s) to review all documents related to the allegation(s), the investigation activities, and evidence gathered. The parties may be accompanied by a support person in the meeting. The respondent(s) and complainant(s) shall have an opportunity to present a verbal or written response or to provide other information related to the complaint. The parties at this stage may attempt to resolve the complaint in a manner acceptable to all concerned.

4.20.6 The complainant(s) and respondent(s) shall have a further opportunity to provide a written response to the information received during the meeting referred to in Article 4.20.5, within 2 days of that meeting. Any response received shall be shared with the opposite party.

4.20.7 Within 10 days of the meeting referred to in Article 4.20.5, the Investigator shall submit a final report of the investigation ("Investigation Report") to the President, with copies to the Dean (or University Librarian), Advisor, complainant(s), respondent(s) and president of any union representing the respondent(s). The Investigation Report will contain a:

- (a) Summary of the background of the complaint including a description of the allegations and response;
- (b) Summary of the process followed;
- (c) Summary of the evidence gathered;
- (d) Copy of any pertinent documentation;
- (e) Discussion of the allegations relating to the evidence gathered, including any opinion as to whether or not the allegations have been proven on a balance of probabilities;
- (f) Description of any mitigating or aggravating circumstances affecting either party; and
- (g) Recommendations for remedial action or sanctions.

4.20.8 In the event the Investigation Report contains a recommendation to impose discipline on one or more respondent(s), such respondent(s) may provide the President with a written response within 5 days of receipt of the Investigation Report, to be taken into account by the President in making their decision under Article 6 (Remedies and Sanctions).

#### **4.21 Withdrawal by Complainant**

A complainant may choose not to participate in the formal complaint process or may choose to withdraw from that process at any time; however, non-participation or withdrawal does not automatically preclude or end the complaint. The Advisor may elect to proceed with the complaint if, after consultation with the Investigator (if applicable), the Advisor determines it would be in the best interests of the MSVU community, and the Advisor shall advise the complainant and respondent(s) of this decision.

#### **4.22 Time Limits**

4.22.1 Any complaint under this Policy must be brought within twelve (12) months of the date of the action or conduct complained of, or within twelve (12) months of the last instance of the action or conduct if the action or conduct is ongoing.

4.22.2 In exceptional circumstances, the Advisor may extend the timeline for bringing a complaint by no more than twelve (12) months if the complainant has established, in the opinion of the Advisor, that it is in the interests of the MSVU community to do so, having regard to the causes for the delay and any prejudice to the complainant or the respondent(s).

### **ARTICLE 5: ALTERNATIVE PROCEDURES FOR RESOLVING COMPLAINTS**

#### **5.01 Changes to Complaint Resolution Procedures**

Depending on the nature of the complaint, it may be necessary in some cases for the Advisor to amend the complaint resolution procedures or timelines outlined in this Policy. In making such changes, the Advisor shall respect the requirements of procedural fairness, including each party's right to know, understand and respond to allegations.

#### **5.02 Complaints involving a Supervisor, Department Head, Director or Dean**

A complaint of discrimination or harassment involving a Supervisor, Department Head, Director, or Dean shall be made to the Advisor.

#### **5.03 Complaints involving the Harassment & Discrimination Advisor**

A complaint of discrimination or harassment involving the Advisor shall be made to the President or their designate.

**5.04 Complaints against the University President**

A complaint of discrimination or harassment involving the President shall be made to the Chair of the Board of Governors of MSVU. In any complaint involving the President, all powers exercised by the President under this Policy shall be exercised instead by the Board of Governors. The Board of Governors may appoint an external advisor to exercise the duties and functions of the Harassment & Discrimination Advisor in relation to the complaint.

**5.05 Complaints against Former Employees, Former Students, or Visitors**

Allegations of discrimination or harassment against a former employee, former student, or visitor to MSVU should be reported to the Advisor. Article 4 (Complaint Resolution Procedures) of this Policy does not apply to allegations of discrimination or harassment against a former employee, former student, or visitor; however, such complaints will be dealt with by MSVU as unacceptable behaviour and may result in suspension of privileges such as access to campus, or other appropriate action.

**5.06 Complex or Systemic Issues of Discrimination or Harassment**

Allegations of harassment involving a large number of individuals; or allegations of entrenched or institutionalized practices, systems or structures that exclude or limit opportunities for individuals or groups on the basis of a protected characteristic (as defined in Article 2.01), should be reported to the Advisor. In the absence of an individual complainant, the Advisor may recommend that a Dean, Director or Department Head initiate a complaint. Alternatively, in consultation with Human Resources or Student Experience, the Advisor may recommend that MSVU initiate a systemic review of the relevant work or learning environment.

**ARTICLE 6: REMEDIES AND SANCTIONS**

6.01 The final decision on what remedial action or sanction is required will be determined by the President within 10 days of receipt of the Investigation Report.

6.02 If a respondent is a member of a bargaining unit, any formal determination of disciplinary action shall be made in accordance with relevant provisions of the applicable collective agreement as they relate to discipline, suspension or discharge.

6.03 Where there is no collective agreement or in the case of a student, the President shall send written notice of the determination of remedial or disciplinary action to the appropriate Dean, Director or Department Head, or Associate Vice-President of Student Experience, as well as to the respondent. Discipline will be appropriate to the offence and relevant circumstances of the case.

**ARTICLE 7: APPEAL PROCESS**

7.01 A complainant or respondent may appeal the President's decision.

7.02 In the case of unionized employees with collective agreements providing grievance and arbitration procedures for disciplinary decisions made under this Policy, the right of grievance and arbitration of discipline shall serve as the appeal process.

7.03 In all situations other than those identified in Article 7.02, the appeal process under Article 7.04 shall apply.

7.04 Appeals shall be limited to the following grounds:

(a) Unreasonableness of the decision (a decision is "reasonable" as long as it falls within the acceptable range of outcomes defensible in light of the facts and the law); or

(b) Denial of procedural fairness.

7.04.1 All appeals must be submitted in writing to the President, specifying the grounds of the appeal, within 10 days of receipt of the final decision provided under Article 6 (Remedies and Sanctions).

7.04.2 The President shall select an Appeals Committee composed of two administrative officers and one non-administrative employee or student, who had no previous involvement in the complaint resolution process giving rise to the appeal.

7.04.3 The Appeals Committee shall determine if the appeal is well founded. The determination of the Appeals Committee shall be based only on the information that was before the Investigator and the President, with the exception of new information addressing an issue of procedural fairness.

7.04.4 Within 2 days of the appointment of the Appeals Committee, the Committee shall provide notice of the appeal to any individual having a direct interest in the outcome ("interested party").

7.04.5 The appellant and interested party may provide information or make representations to the Appeals Committee, within 5 days of receiving notice of its appointment. The Appeals Committee shall immediately transmit a copy of any information or representations received to all parties.

7.04.6 The appellant and interested party shall have an opportunity to comment on any information shared under Article 7.04.5, within 2 days of receipt.

7.04.7 Decisions of the Appeals Committee shall be made by majority vote within 5 days of receiving any comments under Article 7.04.6. The Appeals Committee may confirm the decision of the President, or allow the appeal and lift the sanction or remedial action. The decision of the Appeals Committee shall be final and binding.

**ARTICLE 8: REPRISALS**

8.01 All members of the MSVU community have the right to consult the Advisor about this Policy, or any issue or allegation of harassment or discrimination.

8.02 Reprisal or threat of reprisal against any individual who seeks to consult with the Advisor or to exercise any other right under this Policy – including any complainant, respondent or witness in an informal or formal complaint process – may be considered harassment and a violation of this Policy.

**ARTICLE 9: MALICIOUS COMPLAINTS**

9.01 Complaints that are deliberately and maliciously filed in order to damage the reputation of an individual or group may be considered harassment and a violation of this Policy. Such complaints are not to be confused with complaints made in good faith that are ultimately found to be without merit.

**ARTICLE 10: CONFIDENTIALITY**

10.01 All information, communications, records and documents created or obtained as a result of inquiries or complaints made under this Policy will be kept in a confidential file in the office of the Advisor.

10.02 All members of the MSVU community involved in a complaint are expected to maintain the confidentiality of all information, communications, records and documents related to the case unless otherwise agreed to in advance by the parties.

10.03 The exceptions to confidentiality are:

- (a) Where disclosure is necessary to carry out the procedures outlined in this Policy effectively;
- (b) Where disclosure is necessary to assess the need for or implement interim measures in accordance with Article 4.09 of this Policy;

- (c) Where disclosure is necessary to undertake any disciplinary or remedial actions resulting from a complaint under this Policy;
- (d) Where disclosure is required by law;
- (e) Where disclosure is required to respond to an extra-University administrative, quasi-judicial or judicial process.

An individual making disclosure in accordance with this section shall not disclose more information than is required to fulfill the objective of the disclosure.

10.04 Any unauthorized breach of confidentiality may be treated as a violation of this Policy.

**ARTICLE 11: HARASSMENT & DISCRIMINATION POLICY COMMITTEE**

11.01 A Harassment & Discrimination Policy Committee (Committee) shall be appointed by the constituency groups listed below.

11.02 The Harassment & Discrimination Policy Committee shall be composed of the following:

- (a) One representative and an alternate from the student body
- (b) One representative from the Administration
- (c) One representative from each of the employee unions and employee groups on campus as follows:
  - i. Managers & Professional Administrators
  - ii. Canadian Union of Public Employees
  - iii. International Union of Operating Engineers (custodial/steam plant)
  - iv. International Union of Operating Engineers (security)
  - v. Mount Saint Vincent University Faculty Association
  - vi. Nova Scotia Government & General Employees Union
- (d) Resource: The Advisor

11.03 Appointment to the Committee shall normally be for a term of 2 years, recognizing that each constituency group has its own recommendation process. A

member may be renewed for up to 2 additional terms. If a member cannot complete their term, another representative from the member's constituency group will be appointed to the Committee in accordance with established procedures. Every effort will be made to reflect the diversity of the MSVU community in the composition of the Committee. A Chair for the Committee shall be elected from the membership at the first meeting of each academic year, which should be called by the Chair or in the absence of the Chair, the President. The Chair is eligible for re-election as long as they remain on the Committee.

11.04 Committee members will carry out their duties in a confidential, fair and impartial manner.

11.05 The Committee shall be responsible for:

- (a) Maintaining communication between the various MSVU constituency groups and the Committee;
- (b) Participating in ongoing Committee meetings and activities;
- (c) In consultation with the Advisor, monitoring the effectiveness of the Policy and recommending changes as needed to the Board of Governors through the Advisor and the President;
- (d) Formally reviewing the Policy and recommending changes to the Board of Governors every 4 years;
- (e) In consultation with the Advisor, Human Resources, Student Experience, and unions and employee groups, proposing ongoing education and awareness programs related to this Policy throughout the MSVU community;
- (f) In consultation with the Advisor, Human Resources, Student Experience, and unions and employee groups, proposing ongoing training and outreach on issues of discrimination and harassment.

11.06 The administrative support will be provided by the President's Office.

Approved by the HRGC: September 19, 2016  
Approved by the Board: September 29, 2016  
Reviewed by the HRGC: March 19, 2016  
Approved by the Board: April 18, 2016  
Approved by the Board: April 18, 2018 (no changes)

**Harassment & Discrimination Policy  
Mount Saint Vincent University**

## APPENDIX A: GLOSSARY

### **Advisor**

A Harassment & Discrimination Advisor reporting directly to the President, who acts as a resource to staff, faculty and students on all aspects of harassment and discrimination. The Advisor coordinates internal and external resources for the resolution of harassment and discrimination complaints in accordance with this Policy, monitors the effectiveness of this Policy, and makes recommendations to the Harassment & Discrimination Policy Committee.

### **Complainant**

Any individual who believes they have experienced discrimination or harassment, or who is aware of an incident of discrimination or harassment, and who seeks recourse under this Policy.

### **Days**

Business days. Weekends, statutory holidays, and other day in the academic calendar when MSVU is scheduled to be closed, are not included in calculating timelines referred to in this Policy.

### **Discrimination**

Discrimination is a distinction (whether intentional or not), which

- (a) is based on a recognized protected characteristic;
- (b) has the effect of imposing burdens, obligations or disadvantages on an individual or group; and
- (c) for which there is no *bona fide* or reasonable justification.

### **Formal complaint**

A complaint of discrimination or harassment that is made in writing to the Advisor, is subject to investigation by an external investigator, and, if substantiated, may result in discipline or dismissal.

### **Harassment**

An incident or series of incidents of vexatious or disrespectful comments, displays or behaviours (whether intentional or not) that demean, belittle, humiliate, embarrass, degrade or attempt to exclude, which are known or ought reasonably be known to be unwelcome or offensive, and which adversely affects the employment or academic status of an individual.

### **Informal complaint**

A complaint of discrimination or harassment that is dealt with through a voluntary and confidential process (such as facilitated conversations, mediation, training or coaching) agreed to by both parties, which does not result in any finding of wrongdoing or any discipline or dismissal.

**Interim measure**

A precautionary, non-disciplinary step taken by the MSVU to ensure the health, safety, and security of any member of the MSVU community, pending the resolution of an allegation of discrimination or harassment.

**Investigator**

An individual independent of MSVU who is qualified to conduct workplace investigations relating to harassment and discrimination, and who is retained by the Advisor to inquire into a formal complaint, make findings as to violations (if any) of the Policy, and recommend remedial actions or sanctions to the President.

**Mediation**

A voluntary, confidential process facilitated by a neutral third party (the “mediator”), to assist the parties to a complaint of harassment or discrimination to arrive at a mutually satisfactory resolution of the complaint.

**Mediator**

A neutral third party (whether external or internal to MSVU), who is qualified in mediating disputes of harassment or discrimination, and who is acceptable to all parties to a complaint. Mediators have no decision-making authority but assist the parties to arrive at a mutually satisfactory resolution to a complaint.

**MSVU community**

All individuals who study, work, teach, instruct, conduct research, administrate, supervise, volunteer, provide resources, services, or support to MSVU or otherwise participate in MSVU-sponsored organizations, activities or programs, whether on-campus, off-campus or through the use of communications technologies.

**Personal harassment**

A type of “harassment” involving abusive or offensive behaviour that creates an intimidating, humiliating or hostile work or learning environment.

**Protected characteristic**

The characteristics protected from discrimination. They are: age; race; colour; religion; creed; sex; sexual orientation; gender identity; gender expression; physical or mental disability; an irrational fear of contracting an illness or disease; ethnic, national or Aboriginal origin; family status; marital status; source of income; political belief, affiliation or activity; any other characteristic enumerated in the Nova Scotia *Human Rights Act*; as well as an individual’s association with another individual or class of individuals having protected characteristics.

**Reasonable person test**

An approach that takes into account not only what the complainant(s) and respondent(s) to a complaint of discrimination or harassment actually experienced, knew or understood

about one another or the situation, but also what a reasonable person in each of their circumstances would or ought to have experienced, known or understood.

**Respondent**

Any individual against whom an allegation or complaint of discrimination or harassment has been made pursuant to this Policy.

**Sexual assault**

Any sexual activity without consent, as defined in the MSVU Policy Against Sexual Assault. Sexual assault may include kissing, fondling, touching, oral, or anal sex, vaginal intercourse or other forms of penetration, without consent. "Sexual harassment" may or may not include sexual assault.

**Sexual harassment**

A type of "harassment" that involves unwanted sexual attention (such as conduct, comments, gestures or conduct of a sexual nature), which adversely affects the working or learning environment.

**Supervisor**

An individual who is in a position of authority and who exercises a supervisory role with respect to others, including administrators, deans, directors and managers.

**Systemic discrimination**

Entrenched or institutionalized practices, systems or structures that exclude or limit opportunities for individuals or groups on the basis of a protected characteristic.

**Union**

A bargaining agent within the meaning of the *Trade Union Act*, which acts on behalf of employees in collective bargaining or as a party to a collective agreement with MSVU.

**Visitors**

Individuals other than faculty, staff or students, who attend campus or participate in MSVU-sponsored organizations, activities or programs. Visitors may include individuals staying in the residences, members of MSVU committees, contractors, volunteers, and others providing services or engaged in business on campus.

**APPENDIX B: CHART OF TIMELINES FOR THE FORMAL COMPLAINT PROCEDURE AND APPEAL PROCESS**

<b>Timeline*</b>	<b>Step in the Formal Complaint Procedure</b>	<b>Reference to the Policy (Article)</b>
Day 0	<ul style="list-style-type: none"> <li>Formal written complaint submitted to the Harassment &amp; Discrimination Advisor</li> </ul>	4.15
	<ul style="list-style-type: none"> <li>If complaint is against a student, it may be referred to Non-Academic Discipline Policy</li> </ul>	4.16.1
Day 5	<ul style="list-style-type: none"> <li>Advisor appoints an external Investigator</li> </ul>	4.20.1
	<ul style="list-style-type: none"> <li>Advisor provides a copy of the complaint to the Investigator</li> </ul>	
	<ul style="list-style-type: none"> <li>Advisor provides a copy of the complaint to the Dean or University Librarian (if complaint against faculty or librarian)</li> </ul>	4.20.1.3
	<ul style="list-style-type: none"> <li>Advisor notifies complainant(s) and respondent(s) in writing of appointment of Investigator and commencement of investigation</li> </ul>	4.20.2
	<ul style="list-style-type: none"> <li>Advisor delivers a copy of the complaint to the respondent(s) and union representative (if applicable)</li> </ul>	
Day 15	<ul style="list-style-type: none"> <li>Respondent(s) provides a written response to the complaint</li> </ul>	4.20.4
	<ul style="list-style-type: none"> <li>Investigator provides a copy of the response to the complainant(s)</li> </ul>	
Day 20	<ul style="list-style-type: none"> <li>Investigator meets separately with respondent(s) and complainant(s) to review investigation process and information gathered</li> </ul>	4.20.5
Day 22	<ul style="list-style-type: none"> <li>Complainant(s) and respondent(s) may provide Investigator with follow-up response</li> </ul>	4.20.6
	<ul style="list-style-type: none"> <li>Any follow-up response is shared with opposite party</li> </ul>	
Day 30	<ul style="list-style-type: none"> <li>Investigator submits Investigation Report to the President</li> </ul>	4.20.7
	<ul style="list-style-type: none"> <li>Copies of Investigation Report sent to Dean or University Librarian (if applicable), Advisor, complainant(s), respondent(s), union representative (if applicable)</li> </ul>	
Day 35	<ul style="list-style-type: none"> <li>Respondent(s) may respond to Investigation Report if it contains a recommendation for discipline</li> </ul>	4.20.8
Day 40	<ul style="list-style-type: none"> <li>President issues decision on remedies or sanctions, if any</li> </ul>	6.01
Any time prior to final decision	<ul style="list-style-type: none"> <li>Complaint may be referred to mediation by mutual agreement of the parties</li> </ul>	4.18
	<ul style="list-style-type: none"> <li>Complaint process may be suspended and held in abeyance pending the outcome in a forum external to the University</li> </ul>	4.19
<b>Timeline*</b>	<b>Step in the Appeal Procedure</b>	<b>Reference to the Policy (Article)</b>
Day 50	<ul style="list-style-type: none"> <li>Respondent or complainant may appeal President's decision</li> </ul>	7.04.1
Day 52	<ul style="list-style-type: none"> <li>Appeals Committee sends notice of appeal to interested parties</li> </ul>	7.04.4

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Day 57	<ul style="list-style-type: none"> <li>• Appellant and interested party provide information or submissions to the Appeals Committee</li> </ul>	7.04.5
	<ul style="list-style-type: none"> <li>• Appeals Committee provides any information or submissions received to the opposite party</li> </ul>	
Day 59	<ul style="list-style-type: none"> <li>• Appellant and interested party provide comments to the Appeals Committee on information submitted by the opposite party</li> </ul>	7.04.6
Day 64	<ul style="list-style-type: none"> <li>• Appeals Committee issues final decision</li> </ul>	7.04.7

\*Note that all timelines flow from the completion of the previous step in the formal complaint procedure or appeal process. If any step is completed *before* or *after* the deadline in the Policy, the above timelines will be accelerated or delayed accordingly.