



Medicine Hat College Procedure **RESPECTFUL WORK AND LEARNING ENVIRONMENT COMPLAINT RESOLUTION**

Procedure #: PR-HR-01-01
Procedure Authorities: Director Human Resources and Human Rights Advisor
Executive Sponsor: Vice President, Administration and Finance
Approved by: Vice President, Administration and Finance
Effective Date: March 12, 2015

1. PURPOSE

This procedure will provide information to anyone subjected to Disrespectful Behaviour, Discrimination or Harassment, or those observing or receiving reports of Disrespectful Behaviour, Discrimination or Harassment, as defined in the MHC Policy: *Respectful Work and Learning Environment*. This procedure will outline the steps to be taken to resolve incidents as directed by the aforementioned policies. These procedures do not replace or modify individual rights guaranteed by law.

These procedures do not apply to student non-academic misconduct complaints. For these, please refer to *Student Non-Academic Misconduct Procedures*.

2. POLICIES

- HR-01 – Respectful Work and Learning Environment (the **Policy**)

3. DEFINITIONS

All capitalized terms used throughout these procedures that are not otherwise defined herein shall have the meanings ascribed to such under the Policy.

- **Applicable Laws:** means all federal, provincial and municipal laws, statutes, regulations, bylaws, order and instruments and all terms and conditions of any grant of approval, permission, authority or license of any court or governmental or self-regulatory authority that apply to a party and its operations and business.
- **Appeal:** An option available to Complainants and Respondents who are not satisfied with the resolution of a complaint.
- **College Executive:** means any College employee holding one of the following titles: president, vice-president or associate vice-president.
- **Complainant:** Is a person who comes forward with a complaint that they have experienced Disrespectful Behaviour, Harassment or Discrimination under the MHC Policy: *Respectful Work and Learning Environment*.

- **Complaint File:** a Complaint File contains all documentation regarding a complaint, including, but not limited to: Facilitator’s checklist, Complainant statements, Respondent statements, dates of meetings and discussions, time period extensions, requests for Mediation, agreement to Mediation, Complainant requests to proceed to a formal investigation, investigation report, resolution statement, Complainant requests to terminate the complaint, decision of the applicable vice-president and Internal Appeal Committee (if applicable), and correspondence to the Complainant(s) and Respondent(s) regarding sanctions and/or remedies.
- **Facilitator:** Is the person who, in their official capacity, will receive the complaint and will manage the complaint to resolution. Depending on the nature of the complaint, the Facilitator will differ. The following defines who the Facilitator will be:

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| For complaints based on the Protected Grounds as outlined in the MHC Policy: <i>Respectful Work and Learning Environment</i> (as set out under the <i>Alberta Human Rights Act</i> ¹) | Human Rights Advisor HumanRightsAdvisor@mhc.ab.ca |
| For complaints NOT based on the Protected Grounds as outlined in the MHC Policy: <i>Respectful Work and Learning Environment</i> (as set out under the <i>Alberta Human Rights Act</i> ²) | Human Resources Consultant or Human Resources Director HumanResourcesSupport@mhc.ab.ca |

- **Frivolous or Vexatious Complaint:** A complaint in which a Complainant makes allegations knowing them to be false or submits a complaint for a purely malicious or Vexatious purpose.
- **Internal Appeal Committee:** An ad hoc committee made up of three neutral Members of the College Community, who have been appointed by the President, and who have had no involvement with the complaint or direct relationship with either the Complainant or Respondent. This committee will receive Appeals of complaint rulings and make a final and binding College decision to resolve the complaint. However, Complainants always have the right to file a complaint with the Alberta Human Rights Commission.
- **MHC or the College:** means Medicine Hat College
- **Member:** means a Member of the Medicine Hat College Community
- **Mediation:** The attempt to settle a dispute through a neutral third party.
- **Medicine Hat College Community:** A Member of the Medicine Hat College Community, (Member(s), under the Policy and this procedure includes, but is not limited to the following:
 - (a) **Employee:** any person who is employed by MHC or who provides services to MHC under an employment contract.

¹ *Alberta Human Rights Act*, RSA 2000, c A-25.5 (the *Human Rights Act*)

² *Alberta Human Rights Act*, RSA 2000, c A-25.5 (the *Human Rights Act*)

- (b) Student: any person enrolled in study at MHC.
 - (c) Volunteer: any person performing work for MHC in an unpaid capacity.
 - (d) Contractor: an individual or company (and its employees) who provides services to MHC under a service contract (i.e. a non-employee-employer relationship).
 - (e) Community Member: any person working in collaboration with MHC for a business or an academic purpose or external community Member.
- **Parties:** means the Complainant(s) and Respondent(s) under the Policy and this procedure.
 - **Procedural Fairness/Natural Justice:** Procedural fairness, also called natural justice, requires that a person receive a fair and unbiased hearing before a decision is made that will impact on their rights or interests. What constitutes a fair and unbiased hearing will vary from case to case according to circumstances.
 - **Respondent:** Is a person who is alleged to have committed acts or engaged in verbal comments which may constitute Disrespectful Behaviour, Harassment or Discrimination against the Complainant.
 - **Working Day:** are defined as any day from Monday to Friday when the College is open. Holidays and weekends are not considered Working Days.

4. GENERAL PRINCIPLES

- 4.1 Any Member of the Medicine Hat College Community who believes that they have been subjected to Disrespectful Behaviour, Discrimination or Harassment may lodge a complaint.
- 4.2 A complaint must be made no later than ninety (90) calendar days from the date of the incident, barring exceptional circumstances. However, we encourage complaints to be filed as close to the incident date as possible. Please note: The Alberta Human Rights Commission will receive complaints made within one year from the date of the alleged contravention of the *Human Rights Act*.
- 4.3 Any Member of the Medicine Hat College Community making a complaint may request assistance from any of the following: supervisor, manager, director, associate vice-president, vice-president, human resources consultant, human rights advisor, counsellor, faculty association executive, union representative, division dean, associate dean, department chair, or program coordinator.
- 4.4 If at any point, a Member is unsure how to proceed, they may contact the human rights advisor, the director of human resources, or a human resources consultant directly to receive advice and guidance in understanding the MHC Policy: *Respectful Work and Learning Environment* and these procedures.
- 4.5 In some circumstances, the College may be obligated to investigate a complaint if it becomes aware of a serious violation of the College's Policy: *Respectful Work and*

Learning Environment. In these cases, the College will take action as it deems appropriate.

5. RULES OF PROCEDURE FAIRNESS

Throughout this process, all Parties involved shall be entitled to fair treatment which shall include:

- (a) Reasonable notice of any meeting at which attendance is requested.
- (b) As a Respondent, reasonable notice of the filing of a complaint and of its nature and substance so as to be able to respond to it.
- (c) To bring evidence to the attention of the decision-maker.
- (d) Consider whether there are any obstacles or factors which might hinder a person's ability to respond to an allegation or complaint, or to make a submission on any matter, and otherwise make appropriate allowances so that a person's submission or response will be taken into consideration.
- (e) Resolution procedures only allow designated representatives to accompany the Parties (i.e. faculty association representative or AUPE³ representative).
- (f) A decision must be made without bias or the appearance of bias.
- (g) Act only on relevant information or evidence.
- (h) Decision-makers must give genuine and proper consideration to the particular merits of a person's case before reaching their decision, and must not take into account facts or considerations unrelated to the matter at hand when making a decision.

6. COMPLAINANT'S AND RESPONDENT'S RIGHTS THROUGHOUT THE RESOLUTION PROCESS

6.1. Complainant's

- (a) To file a complaint and have it dealt with in a timely fashion without fear of Reprisal.
- (b) To have a recognized representative from either of the following accompany them during the process: Faculty Association or AUPE³.
- (c) To make sure that no record of the complaint is placed on the Complainant's personnel file, as long as it was made in good faith and was not Frivolous or Vexatious.
- (d) To be informed about the process and progress of the complaint.
- (e) To be informed of the type of corrective measures, as appropriate, that will result from the complaint, and to receive fair treatment.
- (f) To be informed of the potential other avenues for complaints to be raised either via internal procedures, through the Alberta Human Rights Commission or the courts.

6.2. Respondent's

- (a) To be informed of the filed complaint.
- (b) To be given a written statement of the official allegations, and to respond to them.
- (c) To have a recognized representative from any of the following accompany them during the process: Faculty Association, or AUPE³.
- (d) To be informed that the process could result in a record on a personnel file.

³ Alberta Union of Provincial Employees (AUPE)

- (e) To be informed about the process and progress of the complaint, and to receive fair treatment.

7. RECOMMENDATIONS TO COMPLAINANTS AND RESPONDENTS

- (a) Parties may seek advice and guidance from Facilitators at any time.
- (b) Parties are encouraged to keep their own notes regarding details of the complaint such as, the behaviors, when and where incidents occurred, responses and the names of any possible witnesses.
- (c) Direct interaction between Complainants and the Respondents during the resolution complaint process is not recommended.

8. TIME CONSTRAINTS

Facilitating effective timelines are essential in this process to ensure resolution takes place as quickly as possible. A Facilitator may grant reasonable extensions of time periods set out in this complaint procedure.

It is encouraged that when an incident of Disrespectful Behaviour, Discrimination or Harassment occurs that the Complainant be accountable to take immediate action on advising someone who they trust, including, but not limited to supervisor, manager, director, associate vice-president, vice-president, human resources consultant, human rights advisor, counsellor, faculty association executive, union representative, division dean, associate dean, department chair, program coordinator, or inform a Facilitator within ninety (90) Working Days of the incident or most recent incident.

Complaints may be withdrawn at any time, however, the College may nonetheless be legally required to proceed with an investigation.

9. INFORMATION PRIVACY, CONFIDENTIALITY AND SECURITY

Members should handle the collection, use and distribution of all information in ways that respects individual privacy, protects MHC's interests and complies with all applicable privacy legislation, including but not limited to the *Freedom of Information and Protection of Privacy Act*.

The College will make every effort to ensure that any complaint made is kept in confidence except as necessary to investigate and to respond to any legal and/or administrative proceedings arising under the policies or this procedure. Complainants, Respondents, and witnesses are expected to maintain confidentiality.

Records should be retained or destroyed according to MHC's record retention practices. Members must not alter, distort, conceal, or destroy any document, record, or object for the purpose of impeding or obstructing any investigation conducted by MHC or any government or regulatory agency.

10. CONFLICT OF INTEREST

Should the nature of a complaint place a Facilitator responsible for acting under these procedures in a conflict of interest as defined by the College’s Policy: *Conflict of Interest*, a College Executive who has no involvement in the situation will be responsible for identifying an alternate conflict Facilitator.

When the Respondent is a College Executive, the complaint will normally be referred to an external investigator who shall fulfill all the responsibilities of the Facilitator.

If there is any potential for real or perceived conflict of interest regarding the President’s role in the resolution of a complaint, the President will be excused from the proceedings and the Board of Governors will determine who will act in the President’s capacity.

11. PROCEDURES

| Action | Responsible |
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| ADVICE AND GUIDANCE IN RESOLVING A COMPLAINT | |
| <p>A Complainant may seek advice and guidance from any of the following: supervisor, manager, director, associate vice-president, vice-president, human resources consultant, human rights advisor, counsellor, faculty association executive, union representative, division dean, associate dean, department chair, or program coordinator.</p> <p>At any point, a Complainant may seek advice and guidance from any of the Facilitators: human rights advisor, human resources director or human resources consultant.</p> <p>The Facilitator will discuss with the Complainant the potential courses of action to resolve concerns or a complaint.</p> <p>Such courses of action may include:</p> <ul style="list-style-type: none"> • Informal consultation with a Facilitator; • Written complaint under this procedure, followed by investigation and/or Mediation; • Available alternative support measures such as counselling or employee assistance program services; • Support through their association or union; • Grievance under a collective agreement; • Complaint to the Alberta Human Rights Commission; • Civil or criminal action. | <p>Complainant</p> <p>Facilitator</p> |
| STEP ONE: INFORMAL COMPLAINT RESOLUTION | |
| <p>The College strongly recommends that, initially, provided the Complainant is willing and able to do so, that they approach the Respondent on an informal basis to identify the conduct of concern and explain to the Respondent that it is unwelcome.</p> | <p>Complainant</p> |

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| <p>If the Complainant is willing and able to do so, it is recommended they discuss their complaint with someone who can support them and may be able to resolve the issue rather than going through the Complaint Resolution Process. They could contact any of the following: supervisor, manager, director, associate vice-president, vice-president, human resources consultant, human rights advisor, counsellor, faculty association executive, union representative, division dean, associate dean, department chair, or program coordinator.</p> <p>If the Complainant is unable or not comfortable taking direct action to remedy the situation, the Complainant is encouraged to contact the appropriate Facilitator to discuss the complaint. This is referred to as Initiating the Complaint Resolution Process.</p> <p>Additionally, if the Complainant's request to the Respondent is unsuccessful, or does not result in a positive change of sufficient magnitude, a Complainant may meet with a Facilitator to commence Step Two of the Complaint Resolution Process.</p> | <p>Complainant</p> |
| <p>STEP TWO: FORMAL RESOLUTION PROCESS</p> | |
| <p>If there is no resolution of a complaint through Step One, the Complainant may file a complaint.</p> <p>A Complainant initiates the formal complaint process by meeting with a Facilitator and completing a written Complainant's statement.</p> <p>Within fifteen (15) Working Days of receipt of the complaint the Facilitator will provide a copy of the Complainant's statement to the Respondent and request that the Respondent complete a Respondent's statement. The Respondent should submit their statement to the Facilitator within fifteen (15) Working Days of receiving the Complainant's statement.</p> <p>The Facilitator will provide the Complainant with a copy of the Respondent's statement or will notify the Complainant that the Respondent has not submitted a statement. The Complainant, within fifteen (15) Working Days of receiving the notification, shall respond to the Facilitator with a decision on how they wish to proceed: (1) request to withdraw the complaint, or (2) request the Facilitator initiate an investigation.</p> | <p>Complainant / Respondent</p> <p>Facilitator</p> |

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| STEP THREE: COMPLAINT RESOLUTION INVESTIGATION | |
| <p>Within fifteen (15) Working Days of receiving a Complainant’s request to initiate an investigation, a Facilitator will commence an investigation. Witnesses or individuals with relevant information may be interviewed. The objective of the investigation is to determine if the allegations are substantiated.</p> <p>Upon completion of an investigation, the Facilitator may recommend dismissal of the complaint if it is the Facilitator’s opinion that the evidence indicates that no Disrespectful Behaviour, Harassment or Discrimination has occurred. The recommendation of the Facilitator will be in writing and will be provided to both the Complainant and the Respondent and will be placed on the complaint file. A Complainant who disagrees with the Facilitator’s recommendation of dismissal may continue with the complaint process via the Appeal Process.</p> <p>If the allegations are substantiated, the Facilitator could, if both Parties are agreeable, work with the Parties to develop a mutually acceptable resolution. A resolution agreement would then be written and signed by both Parties to signify agreement. Copies will be given to both Parties.</p> <p>At any time during this step either one of the Parties may request Mediation. A request for Mediation should be directed to the Facilitator within this step.</p> | <p>Complainant / Respondent</p> <p>Facilitator</p> |
| OUTCOME OF INVESTIGATION--REPORT | |
| <p>Upon completion of the investigation, a written report outlining the decision will be provided to both the Complainant, Respondent and the applicable vice-president.</p> <p>The report will include, but is not limited to:</p> <ul style="list-style-type: none"> i. the allegation; ii. an account and analysis of all relevant information obtained on the allegations of the complaint; and iii. the conclusions reached and the basis for them. | <p>Facilitator</p> <p>Applicable Vice-President</p> |

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| <p>The report may be accompanied by all records created or received by the Facilitator in the course of the investigation.</p> | |
| REMEDIES AND SANCTIONS FOR RESOLUTION | |
| <p>Where there is found to be any violation of the MHC Policy, the applicable vice-president may impose remedies that include, but are not limited to the following:</p> <ul style="list-style-type: none"> • provision of a written apology from the Respondent to the Complainant ; • initiation of a program of education in the Medicine Hat College Community to address the areas of concern; or • any other appropriate action. <p>Where there is found to be any violation of the MHC Policy, the applicable vice-president may impose sanctions on the Respondent that include, but are not limited to the following:</p> <ul style="list-style-type: none"> • a direction to cease and desist the behavior(s); • a reprimand in verbal or written form; • a direction to participate in a program of education and/or counseling as a condition of continued employment or contract; • attendance at sensitivity or other form(s) of training; • a restriction of access to specified areas of the College; • a suspension for a defined period (with or without pay for staff and faculty); or • any other appropriate sanctions commensurate with the severity of the incident or repeated offences. <p>Respondents must comply with the remedies and sanctions while failure to comply or observe remedies and sanctions may lead to further sanctions. The College has a responsibility to ensure that Respondents comply with the remedies and sanctions.</p> <p>Where the College is found to be engaging in a discriminatory practice as defined in the Policy, it shall immediately cease and desist such practice and take reasonable measures to ensure that the practice will not occur in the future.</p> <p>Where any individual or group is found to have made a Frivolous, or Vexatious complaint for the purpose of harming another individual or group, appropriate sanctions</p> | <p>Applicable Vice-President</p> |

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| <p>may be imposed. This concept is not to be confused with a complaint made in good faith that is found to be without merit.</p> | |
| <p>INTERNAL APPEALS</p> | |
| <p>Within fifteen (15) Working Days, either one of the Parties may Appeal the decision to the Internal Appeal Committee on one (1) or more of the following grounds:</p> <ul style="list-style-type: none"> (a) alleged bias of the decision-maker; (b) alleged breach of the principles of natural justice and/or procedural fairness; or (c) the availability of substantial new evidence previously unavailable to the decision-maker. <p>An Appeal Committee will consist of three (3) Members of the Medicine Hat College Community and appointed by the President. Internal Appeal Committee Members will not have been involved with the complaint. Appeals must be in writing, articulating one (1) or more of the grounds stated above and must be submitted to the President, or designate within fifteen (15) Working Days of receipt of the decision, and any remedies or sanctions.</p> <p>The decision of the Internal Appeal Committee is final and binding. However, the Complainant always retains the right to file a complaint with the Alberta Human Rights Commission if they feel the complaint falls within the Protected Grounds.</p> | <p>Complainant and/or Respondent</p> <p>President, Internal Appeal Committee</p> |
| <p>EXTERNAL RESOLUTION—ALBERTA HUMAN RIGHTS COMMISSION</p> | |
| <p>A Complainant also has the right to contact the Alberta Human Rights Commission to file a complaint of Discrimination based on the Prohibited Grounds defined under the <i>Human Rights Act</i>. In the case of alleged Harassment, a Complainant also has the right to take legal action or, if circumstances warrant, a charge may be filed with the police.</p> <p>In the event that the Complainant decides to pursue the complaint through the Alberta Human Rights Commission, the College will be notified by the Commission. No further action shall be taken by the College on the complaint pending the findings of the Alberta Human Rights Commission.</p> <p>In the event that the Complainant decides to pursue legal civil action through the courts, or to file charges with the police, they shall advise the Facilitator. No further action</p> | <p>Complainant</p> <p>Complainant</p> |

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| <p>shall be taken by the College on the complaint pending the outcome of court action.</p> | |
| DOCUMENTATION | |
| <p>Upon the initiation of the complaint process, there will be a complaint file relating to the complaint which may be referred to in the case of future related concerns.</p> <p>The complaint file may contain the following documents: Facilitator’s checklist, Complainant statements, Respondent statements, dates of meetings and discussions, time period extensions, requests for Mediation, agreement to Mediation, Complainant requests to proceed to a formal investigation, investigation report, resolution statement, Complainant requests to terminate the complaint, decision of the applicable vice-president and Internal Appeal Committee (if applicable), and correspondence to the Complainant(s) and Respondent(s) regarding remedies and/or sanctions.</p> | Facilitator |
| STORAGE OF COMPLAINT FILES | |
| <p>Complaint files will be stored in two different locations depending on the nature of the complaint:</p> <ul style="list-style-type: none"> • For complaints based on the Protected Grounds as outlined in the MHC Policy: <i>Respectful Work and Learning Environment</i> (as set out under the <i>Alberta Human Rights Act</i>⁴), files will be held in the human rights advisor’s office. • For complaints NOT based on the Protected Grounds as outlined in the “Respectful Work and Learning Environment Policy” (as set out under the <i>Alberta Human Rights Act</i>⁵), files will be held in the human resources office. <p>When complaints have been investigated and resolved without remedies or sanctions, no documentation will be held on any file.</p> <p>Where a complaint is dismissed as a Frivolous or Vexatious Complaint, no record of that complaint shall be retained in the Respondent’s file.</p> <p>Only where there is found to be a violation of the MHC Policy, and remedies or sanctions are applied, will any documentation be placed on Complainants’ and Respondents’ personnel files.</p> | Facilitators |

⁴ *Alberta Human Rights Act*, RSA 2000, c A-25.5 (the *Human Rights Act*)

⁵ *Alberta Human Rights Act*, RSA 2000, c A-25.5 (the *Human Rights Act*)

| ANNUAL REPORT | |
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| An annual report including relevant statistics regarding complaints will be prepared and provided to the Vice-President, Administration and Finance, who will, via the President, present it to the Board of Governors. | Human Resources Director and Human Rights Advisor |

12. ADDITIONAL INFORMATION

- <http://albertahumanrights.ab.ca/>
- *Student Non-Academic Misconduct*
- *Code of Conduct*
- *Conflict of Interest*
- *Workplace Violence*

ORIGINAL COPY SIGNED

Wayne Resch
Vice-President, Administration and Finance

March 12, 2015

DOCUMENT HISTORY

March 2015 Procedure approved