



Medicine Hat College Policy STUDENT NON-ACADEMIC MISCONDUCT

Policy #:	SD-04
Policy Authority:	Registrar
Executive Sponsor:	Associate Vice-President, Student Development
Approved by:	President
Effective Date:	September 28, 2015
Next Mandatory Review Date:	September 28, 2020
Frequency of Review:	Every five (5) years

1. POLICY OBJECTIVE

This Policy sets out principles and standards of conduct applicable to Medicine Hat College (MHC) students in order to ensure an environment conducive to effective learning and scholarship activities.

Additionally, MHC has a responsibility to ensure the protection of its assets and to regulate the use of its facilities.

This Policy does not apply to:

- Academic misconduct which is covered under a separate policy (see MHC Academic Calendar).

2. POLICY SCOPE

This Policy applies to all MHC students and includes behaviour both inside and outside the classroom as well as interactions face-to-face, by telephone, or electronic communications. This Policy also applies to students both on and off College Premises while engaged in College-approved activities. Such activities include, but are not limited to: sporting events, meetings, field studies/trips, study/work abroad programs or academic competitions.

3. BACKGROUND INFORMATION

This Policy was previously covered by statements in the MHC Academic Calendar. This Policy supersedes respective statements in the Academic Calendar.

4. DEFINITIONS

- **Actions of Violence:** Acts of violence are covered under Canada's Criminal Code, RSC 1985, c. C46. In addition, the *Alberta Occupational Health and Safety Code* (2013) defines Acts of Violence as "*the threatened, attempted or actual conduct of a person that causes or is likely to cause physical injury*".

- **Appeal:** An option available to Students who are not satisfied with the investigation outcome.
- **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 government or self-regulatory authority that apply to a party and its operations and business.
- **Bullying:** Bullying is usually seen as acts or verbal comments that could 'mentally' hurt or isolate a person in a work and learning environment. Sometimes, bullying can involve negative physical contact as well. Bullying usually involves repeated incidents or a pattern of behaviour that is intended to intimidate, undermine, offend, degrade or humiliate a particular person or group of people. It has also been described as the assertion of power through aggression.¹ The College considers all forms of Hazing to be included in this definition.

Bullying behaviour does not include:

- (a) Expressing differences of opinion;
 - (b) Offering constructive feedback, guidance, or advice about work-related or learning-related behaviour;
 - (c) Reasonable action taken by a Member of the Medicine Hat College Community relating to the management and direction of workers or the place of employment (e.g., managing a worker's performance, taking reasonable disciplinary actions, and assigning work); or
 - (d) Reasonable action taken by employees engaged in classroom management and providing directions to students related to the educational environment.
- **College Premises:** includes official MHC campuses, including student residences, as well as locations where approved College sporting events, meetings, field studies/trips, study/work abroad programs or academic competitions are taking place.
 - **Cyber-bullying:** Also known as "Internet bullying" or "digital bullying", refers to Harassment that takes place using an electronic medium. Cyber-bullying can occur through electronic communications, including but not limited to e-mail, instant messaging, text messaging, chat rooms, online voting booths, or other electronic means.
 - **Discrimination:** Discrimination is defined as any unjust practice or behavior, whether intentional or not, based on and which negatively affects or could negatively affect a Member of the Medicine Hat College Community, as defined in this Policy. Discrimination often leads to Harassment, and/or unequal and unfair treatment.

The *Human Rights Act* prohibits Discrimination on the basis of several Protected Grounds. Complaints on these specific grounds may be referred

¹ Canadian Centre for Occupational Health and Safety,
<http://www.ccohs.ca/oshanswers/psychosocial/bullying.html>

directly to the Alberta Human Rights Commission at any time by the Complainant.

- **Dismissal:** To be removed from MHC for up to one year. To return to MHC an application for admission must be submitted. MHC reserves the right to deny readmission or to implement certain conditions of admission, which if violated, may result in immediate dismissal.
- **Electronic Communications:** Includes, but is not limited to, communication through devices and equipment such as cell phones, computers, and tablets as well as communication tools including social media sites, text messages, chat, email, and websites.
- **Expulsion:** To be removed from MHC and be denied reentry to MHC at any time.
- **Frivolous or Vexatious Complaint:** A complaint that is made while known to be false or a complaint made for a purely malicious or Vexatious purpose.
- **Harassment:** Harassment is defined as conduct or comment, based on the Protected Grounds, as set out in the *Human Rights Act*², that a reasonable person would find unwelcome, or a reasonable person ought to know would be unwelcome, and has the effect of interfering with an individual's work or educational performance or creates an intimidating, hostile or offensive work or educational environment. Harassment need not be intentional, and may occur during one incident, or over a series of incidents.

In the context of the above definition, examples of Harassment include, but are not limited to:

- (a) Sexual Harassment
- (b) verbal or physical abuse;
- (c) Bullying, ridicule, threats, intimidation, or practical jokes that result in awkwardness or embarrassment;
- (d) offensive signs or images;
- (e) derogatory remarks, jokes, innuendo or taunts;
- (f) a pattern of Disrespectful Behaviour, while not directed at any one individual, is severe enough to prevent an environment conducive to working or learning; and
- (g) objectionable and unwanted behaviour with no legitimate educational or work related purpose, which:
 - (i) constitutes misuse of authority or abuse of an unequal institutional power relationship;
 - (ii) implies that submission to, or rejection of, such conduct is used explicitly or implicitly as a condition for employment, or education, or assessment decisions affecting the individual;
 - (iii) has the effect of interfering with an individual's or group's

² Alberta Human Rights Act, RSA 2000, c A-25.5

work performance or educational experience; or constitutes a clear pattern of mistreatment that is known, or should reasonably have been known, to be severe enough to have the effect of creating an intimidating, humiliating, hostile, or offensive educational or work environment.

- **Hazing:** Hazing is defined as any activity expected of anyone as an explicit or implicit condition of initiation or entry to, affiliation with, or continuing association or membership with a group or organization that humiliates, degrades, abuses, threatens or endangers another regardless of the person's willingness to take part.
- **MHC or the College:** Means Medicine Hat College
- **Member:** Means a Member of the Medicine Hat College Community
- **Medicine Hat College Community:** A Member of the Medicine Hat College Community, (Member(s), under this Policy 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;
 - (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); and
 - (e) **Community Member:** any person working in collaboration with MHC for a business or an academic purpose or external community member.
- **Protected Ground:** Race, religious belief, colour, gender, sexual orientation, physical disability, mental disability, marital status, family status, source of income, age, ancestry, place of origin or as otherwise set out in the *Alberta Human Rights Act*³.
- **Reprisals or Retaliation:** Adverse action taken against an individual for invoking this Policy or for participating or cooperating in an investigation under this Policy or for associating with someone who has invoked this Policy or participated in the Policy's Procedures.
- **Sexual Harassment:** Sexual harassment is any unwelcome behaviour of a sexual nature, which has the effect of interfering with a person's work or educational performance, or creates an intimidating, hostile or offensive work or educational environment such as unwanted sexual advances, unwanted requests for sexual favours, and other unwanted verbal or physical conduct or contact of a sexual nature. It may be a single incident or a series of incidents.

Examples of sexual harassment include, but are not limited to:

³ *Alberta Human Rights Act*, RSA 2000, c A-25.5

- (a) unwanted sexual solicitation, especially that of a repeated, persistent, or abrasive nature;
 - (b) sexually-oriented or gender-based remarks and/or behaviour directed towards an individual or group that may be perceived by a reasonable person to create a negative psychological and emotional environment for work and/or study environment;
 - (c) remarks, jokes, or innuendos about sex where the speaker has been advised, or should otherwise be aware, that such comments are offensive or demeaning or where they are by their nature offensive or demeaning.
 - (d) leering or other offensive or sexually suggestive or obscene gestures;
 - (e) derogatory or degrading remarks used to describe or which are directed toward another of one sex;
 - (f) the display or distribution (either mechanically or through the use of electronic media and e-mails) of sexually explicit or otherwise offensive material (Note that an exception to this is where the material is used for educational or academic purposes.);
 - (g) refusing to work with people because of their sex;
 - (h) advances, invitations, or propositions of a sexual nature or repeated invitation after previous requests have been refused;
 - (i) persistent unwanted contact or attention after the end of a consensual relationship;
 - (j) any explicit or implicit advances, invitations or propositions of a sexual nature which might, on reasonable grounds, be perceived as placing a condition on a person's employment, work assignment, compensation or benefits or on any opportunity for training, promotion or career development;
 - (k) unwanted physical contact, including touching, patting, rubbing, or pinching;
 - (l) verbal abuse or threats of a sexual nature;
 - (m) indecent exposure, stalking or sexual assault; and
 - (n) any implied or expressed promise of reward or threat of consequence for complying or not complying with a sexually oriented request.
- **Student Non-Academic Misconduct:** Means behaviour on College Premises that violates explicitly stated College rules and regulations, or Applicable Laws. In addition to possible consequences under this Policy, serious acts of misconduct that are criminal in nature will be turned over to the appropriate authorities outside the College. Student misconduct consists of, but is not limited to:
 - (a) Actions of Violence;
 - (b) proffering false identification or documentation;
 - (c) theft, malicious destruction, damage or injury to property;
 - (d) violations of any College policies, procedures or regulations;
 - (e) any behaviour defined as Discrimination or Harassment;
 - (f) Sexual Harassment;
 - (g) misuse or abuse of College services, programs or facilities;
 - (h) possession, use or suspected use of any illegal substance;
 - (i) unauthorized entry into, or use of College facilities;
 - (j) failure to comply with directions of Members of the Medicine Hat College Community within the purview of their authority when carrying out their normal duties;

- (k) conduct which may cause injury to a person and/or damage to College property and/or the property of any member of the College community;
 - (l) making Frivolous or Vexatious complaints;
 - (m) failure to comply with sanctions under this Policy; and
 - (n) possession or use of firearms or other weapons (including replica weapons), explosives or incendiary devices without the written consent of campus security.
- **Student Non-Academic Misconduct Appeal Committee:** An ad hoc committee formed by the Associate Vice-President, Student Development. The committee will comprise of the following:
 - Associate Vice-President, Student Development
 - a student recommended by the Students' Association (from a different program than, and unknown to the accused),
 - one neutral College administrator or faculty member recommended by the Associate Vice-President, Student Development
 - **Activity Supervisor:** The person in the position of responsibility when the misconduct occurs (in that moment, in that setting, including but not limited to, classrooms, laboratories, shops, and other assigned teaching/learning/activity settings. For example, a faculty member, coach, teaching assistant, or resident assistant.
 - **Suspension:** To be removed from class for a period of time.

5. PRINCIPLES

- 5.1 MHC is committed to providing and maintaining a respectful work and learning environment.
- 5.2 Behaviour defined as Student Non-Academic Misconduct in this Policy will not be tolerated and will be subject to disciplinary action up to and including suspension, dismissal or expulsion.
- 5.3 MHC will act to safeguard the security and safety of all Members of the Medicine Hat College Community.
- 5.4 MHC will act to safeguard College property including but not limited to facilities and equipment.
- 5.5 Lack of awareness of the regulations, cultural differences, mental health issues and/or impairment by alcohol or drugs are not a defence for prohibited behaviours.
- 5.6 Complaints will be dealt with following the procedures outlined in PR-AC-03-01: *Student Non-Academic Misconduct*.
- 5.7 All Members who feel they have been subject to a violation that constitutes a human rights violation may have it addressed by the MHC human rights advisor, and always retain the right to make application to the Alberta Human

Rights Commission. Please refer to MHC Policy HR-01: *Respectful Work and Learning Environment* and the MHC Procedure PR-HR-01-01: *Respectful Work and Learning Environment Complaint Resolution* for information on how to make a human rights complaint.

- 5.8 Members who witness Student Non-Academic Misconduct in common areas of the College or feel that they cannot manage the observed misconduct in the location that they are responsible for must report the incident directly to Campus Security.
- 5.9 Members who witness or are subject to Student Non-Academic Misconduct behaviour have the right to bring their concerns forward and have them addressed without fear of Reprisal or Retaliation.
- 5.10 MHC will make every effort to ensure that any complaint is treated confidentially except as necessary to investigate and to respond to any legal and/or administrative proceedings arising under this Policy. The College will ensure that the collection, use and disclosure of any personal information associated with the complaint shall comply with the *Freedom of Information and Protection of Privacy Act (Alberta)* and other Applicable Laws.
- 5.11 Complaints will be dealt with in a fair, unbiased and timely manner and determination of whether an offence has occurred will be based on the balance of probability.
- 5.12 Disciplinary action will be communicated in writing.
- 5.13 Frivolous or Vexatious complaints may lead to discipline, up to and including Suspension, Dismissal or Expulsion.
- 5.14 Attempt should be made to resolve issues in an informal manner. When issues are resolved informally, the outcome will not be held on the student's official record and may not affect the student's standing.
- 5.15 Students have a right to Appeal sanctions resulting from a Student Non-Academic Misconduct complaint following the process outlined in the procedures, PR-AC-03-01: *Student Non-Academic Misconduct*.

6. RESPONSIBILITIES

- 6.1 Members of the MHC Community will
 - (a) ensure they understand and comply with this Policy;
 - (b) not make any complaints of Student Non-Academic Misconduct that are Frivolous or Vexatious;
 - (c) not retaliate against anyone who has made a complaint, given evidence or assisted anyone else in making a complaint;
 - (d) report any incidents of Student Non-Academic Misconduct to the Activity Supervisor or Campus Security; and
 - (e) cooperate when requested, in the investigation and/or resolution of complaints under this Policy.

6.2 Students will:

- (a) not engage in behaviour that constitutes Student Non-Academic Misconduct;
- (b) ensure they understand and comply with this Policy;
- (c) not make allegations of Student Non-Academic Misconduct that are Frivolous or Vexatious complaints;
- (d) report any complaints about other students to the Activity Supervisor for resolution;
- (e) not retaliate against anyone who has made a complaint, given evidence or assisted anyone else in making a complaint;
- (f) cooperate when requested, in the investigation and/or resolution of complaints under this Policy; and

6.3 Activity Supervisors will:

- (a) ensure they are aware of their own responsibilities under this Policy and the procedure PR-AC-03-01: *Student Non-Academic Misconduct*;
- (b) If safe to do so, act immediately upon any observed or reported incident/situation involving Student Non-Academic Misconduct;
- (c) treat each situation that could constitute Student Non-Academic Misconduct as a serious matter;
- (d) make every effort to resolve the matter immediately and informally as long as there is no threat of harm to themselves, others present or the student in question;
- (e) contact Campus Security for any incidents as required;
- (f) inform all Parties that there are to be no reprisals against any Member making a complaint or participating in an investigation;
- (g) ensure Parties are aware of their rights and options;
- (h) provide support to Students who are experiencing the effect of Student Non-Academic Misconduct; and
- (i) consult with your supervisor (i.e. chair, associate dean, dean) if the situation cannot be resolved between Parties.

6.4 Deans are:

- (a) responsible for being aware of their own responsibilities under this Policy and the Procedure;
- (b) responsible for responding to complaints when referred to them;
- (c) authorized to Suspend a student from classes when warranted; and
- (d) responsible for referring complaints to the Registrar for investigation.

6.5 The Registrar is:

- (a) responsible for being aware of their own responsibilities under this policy and procedure;
- (b) responsible for responding to complaints when referred to them;
- (c) responsible for investigating complaints of Student Non-Academic Misconduct;
- (d) responsible for determining, using the balance of probability, what actions are to be taken based upon the investigation;
- (e) authorized to impose penalties and sanctions, up to and including Dismissal or Expulsion from MHC; and

- (f) responsible for documenting and informing Parties of the outcome of the investigation.

6.6 The Associate Vice-President, Student Development will chair an adhoc Student Non-Academic Misconduct Appeal Committee.

6.7 Campus Security will respond to incidents when requested by the Supervisor, or if they themselves observe Student Non-Academic Misconduct.

6.8 Students' Association will:

- (a) help students understand the Policy and applicable Procedures;
- (b) be available to support students; and
- (c) recommend a student representative to sit on the Appeal Committee.

7. APPLICABLE LEGISLATION/REGULATIONS

Alberta Human Rights Act, RSA 2000, c A-25.5

Freedom of Information and Protection of Privacy Act (Alberta)

Canada's Criminal Code, RSC 1985, c. C46

Alberta Occupational Health and Safety Act, RSA 2013

8. RELATED POLICIES

HR-01: *Respectful Work and Learning Environment*

Student Rights and Responsibilities (Academic Calendar)

7.28: *Code of Conduct*

7.29: *Conflict of Interest*

9. RELATED PROCEDURES

PR-SD-04-01: Student Non-Academic Misconduct

PR-HR-01-01: Respectful Work and Learning Environment Complaint Resolution

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Denise Henning
President and CEO

September 28, 2015

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Irlanda Price
Associate Vice-President, Student
Development

September 28, 2015

DOCUMENT HISTORY

September 2015 Policy approved (Supersedes Academic Calendar)