

POLICY NAME	POLICY ON HARASSMENT AND DISCRIMINATION
Approving Body	Board of Governors
Initial Approval Date	Senate: December 7, 2005 Board of Governors: December 12, 2005
Date of last review	May 20, 2021
Date of next review	2024-2025 academic year
Executive Sponsor	Provost and Vice-Principal (Academic)
Related Documents	Procedures Related to the Policy on Harassment and Discrimination

STATEMENT OF PRINCIPLE

McGill University is committed to excellence in teaching, learning, and research and to fostering a community founded upon the fundamental dignity and worth of all of its members. The University recognizes that such excellence can only flourish in an equitable environment in which all members of the University, at all levels, regardless of the nature of their work or area of study are free from Harassment and Discrimination. The University is also committed to establishing clear and effective processes and resources for preventing and responding to Harassment and Discrimination.

McGill acknowledges that, while Harassment and Discrimination can affect all members of the University community, members of underrepresented groups experience a disproportionate risk and impact in regard to these forms of misconduct, especially Discrimination. The University further recognizes that members of underrepresented groups may experience intersecting forms of systemic discrimination or barriers on grounds, for example, of gender, sexual orientation, gender identity and expression, race, religion, Indigenous identity, ethnicity, disability or class.

Acts of Harassment and Discrimination are University offences subject to disciplinary measures.

STATEMENT OF RESPONSIBILITY

The University shall take measures aimed at creating and maintaining an environment free from Harassment and Discrimination.

The University shall take reasonable action to prevent Harassment and Discrimination, and, whenever it becomes aware of such behaviour, to put an end to it. Nothing in this Policy relieves administrators from the responsibility of addressing situations of inappropriate behaviour in accordance with good management practices, regardless of whether a specific Report under this Policy has been received.

Nothing in this Policy relieves the University from its obligations under the *Labour Standards Act of Quebec*.

The University, through a designated office, shall strive to provide all members of the University an environment that is free of Harassment and Discrimination through the effective application and administration of this Policy. This will include offering educational initiatives aimed at raising awareness about and preventing harassment and discrimination and at informing the community about this Policy and the University's processes related to this Policy, which may result in mediation or investigation of Reports.

Particular onus is placed on those in positions of academic and administrative authority (e.g., Deans, Chairs and Directors, Managers) to be aware of this Policy and its Procedures, including what constitutes Harassment—and Discrimination and how Reports of Harassment and Discrimination can be addressed. They are also required to implement and use appropriate and active management practices consistent with the achievement of the goals of this Policy.

Each Member of the University Community shares responsibility for respecting the dignity of, and giving fair treatment to, all members of the University community. Moreover, each person is responsible for promoting and maintaining an equitable environment free from Harassment and Discrimination, as defined in Section 1.

Section 1 – DEFINITIONS

1. For the purpose of this Policy:

1.1 “Advisor”, so identified, means a Member of the University Community, or a local union representative, who has agreed to act in an advisory capacity. Advisors are not paid for their services.

1.2 “Assessor” means a person responsible, in accordance with this Policy, to investigate Reports. An Assessor is normally an employee of the University who works within the OMR. The University may, when it deems necessary, refer a Report made under this Policy to an Assessor external to the University who has the necessary skills to conduct a competent, fair investigation under this Policy.

1.3 “Days” means calendar days.

1.4 “Discrimination” means discrimination prohibited by law and includes any action, behaviour, or decision based on race, colour, sex, gender identity or expression, pregnancy, family status, sexual orientation, civil status, age (except as provided by law), religion, political conviction, language, ethnic or national origin, social condition, a disability or the use of any means to palliate a disability, which results in the exclusion or preference of an individual or group within the University community. This includes both the actions of individual members of the University and systemic institutional practices and policies of the University.

1.5 “Harassment” means any vexatious behaviour by one Member of the University Community towards another Member of the University Community, in the form of repeated hostile or unwanted conduct, verbal comments, actions or gestures, that affect the dignity or psychological or physical integrity of a Member of the University Community and that result in a harmful environment for such an individual. Within the employment relationship, a single serious incidence of such behaviour that has a lasting harmful effect on such an individual may also constitute Harassment.

1.6 “Member of the University Community” means

- i) anyone holding office under the University Charter and Statutes;
- ii) an appointee or employee of the University; or

iii) a student as defined in Section 1 of the Code of Student Conduct and Disciplinary Procedures.

1.7 “Office for Mediation and Reporting” or “OMR” means a University office dedicated to overseeing the prevention and resolution of Reports of Harassment and Discrimination, charged with the independent and impartial oversight and resolution of all Reports filed under this Policy. The OMR also shall have responsibility for education and awareness-raising as established by Section 5.

1.8 “Procedural Fairness” means a process: (i) based on impartiality and absence of bias; (ii) where the parties are informed of the allegations made against them; (iii) that includes a meaningful opportunity to defend against such allegations, including the right to be given sufficient notice of interviews or meetings where they are expected to present evidence or their perspective on the facts or on evidence gathered as part of the process; and (iv) leading to a decision that includes a sufficiently detailed explanation of the grounds on which it is based in such a way that the parties can understand the basis on which it is made.

1.9 “Report” means an allegation of Harassment or Discrimination filed with the OMR by a Member of the University Community or by a person who is an employee or holds an appointment with an institution where students of the University are trained and which is, directly or indirectly, a party to an affiliation agreement with the University, against a Member of the University Community in accordance with this Policy.

1.10 “Reporter” means a Member of the University Community, or a person who is an employee or holds an appointment with an institution where students of the University are trained and which is, directly or indirectly, a party to an affiliation agreement with the University, who considers that they are the object of Harassment and/or Discrimination as defined by the Policy, and who has filed a Report against another Member of the University Community in accordance with this Policy.

1.11 “Respondent” means a Member of the University Community against whom a Report has been filed in accordance with this Policy.

1.12 “University Context” means an occurrence:

- i) on University premises;
- ii) within the context of a University-sponsored program or event or activity whether on-campus or off-campus (e.g., University-sponsored competitions or field trips/studies); or
- iii) off-campus, including online or in social media, where the conduct has consequences that may be reasonably seen to adversely affect:
 - the safety of students, faculty or staff while on campus or while participating in a University-sponsored program, event or activity;
 - or
 - the right of a Member of the University Community to use and enjoy the University’s learning or working environment.

1.13 All references to the Provost include a delegate.

Section 2 – SCOPE AND JURISDICTION

2.1 This Policy shall apply to all members of the University community where the alleged Harassment or Discrimination occurred in a University Context and where each party is a Member of the University Community at the time a Report is filed and at the time the incidents alleged in the Complaint occurred.

2.1.1 An exception to Section 2.1 is made for a Report brought by a former student against a Respondent who exercised academic authority over that student. Such a Report may be brought after the student's graduation or withdrawal from the University within the delay set by Section 2.2 if the Respondent is a member of the University Community when the Report is filed and at the time of the incident(s) alleged in the Report.

2.2 This Policy does not apply where the most recent incident occurred more than 24 months prior to the initiation of a Report.

2.3 This Policy does not and cannot apply to the internal affairs of corporations associated with McGill University but legally independent from it, such as student societies (PGSS, SSMU, student faculty associations, etc.) or staff unions and associations (AGSEM, AMURE, AMUSE, MAUT, MUNACA, MUNASA, SEU, etc.). Such corporations have independent legal rights and obligations, and are responsible for their own actions, including actions of their officers and members acting in respect of the corporation.

2.4 Nothing in this Policy precludes either party from exercising any internal or external recourse available.

2.5 This Policy is to be interpreted in a manner that is consistent with the goals set out in the "Statement of Principle," as well as with the provisions of the *Civil Code of Québec*, the *Quebec Charter of Human Rights and Freedoms*, and *Quebec's Labour Standards Act*.

Section 3 – OBJECTIVES

3.1 This Policy shall have as its objectives:

- i) prevention of Harassment and Discrimination by means of education and other proactive efforts to promote awareness about equity among members of the University community, including the nature of Harassment and Discrimination.
- ii) ensuring that the University's policies and procedures foster an environment free of Harassment and Discrimination, including by striving to identify, prevent, and address systemic and structural forms Harassment and Discrimination.
- iii) ensuring that [Procedures](#) are in place to address Reports of Harassment and Discrimination.

Section 4 – RIGHTS OF THE PARTIES

4.1 Throughout a process conducted under this Policy, the parties may be accompanied by an Advisor.

4.2 Throughout a process conducted under this Policy, parties may request reasonable accommodation facilitating participation in such process if the lack of accommodation would be a source of discrimination.

Section 5 – PROMOTION OF AWARENESS

5. In pursuit of the objectives described in Section 3, the University, principally through the OMR, shall take measures to provide education, guidelines and the dissemination of information relating to such

matters as the meaning and impacts of Harassment and Discrimination, strategies for advancing equity, how to report Harassment and Discrimination, and support resources for members of the University community who experience Harassment and/or Discrimination. Education and awareness initiatives about this Policy shall be pursued in accordance with Appendix 1.

Section 6 – RESPONDING TO REPORTS

6.1 Reports shall be filed with the OMR, whose staff shall have qualifications and expertise relevant to: preventing and responding to Harassment and Discrimination; mediation; investigations; and advancing equity, diversity, and inclusion in learning and employment contexts.

6.2 Reports shall be resolved by mediation or by an investigation, following the [Procedures](#) that accompany this Policy.

6.2.1 Mediation shall be conducted by a qualified, impartial mediator appointed by the University. In most instances, the mediator will be a full-time member of the OMR staff, but the University may refer a Report to an external mediator where circumstances warrant.

6.2.2 Investigations shall be conducted by a qualified, impartial Assessor appointed by the University for this purpose. In most instances, the Assessor will be a full-time member of the OMR staff, but the University may refer a Report to an external Assessor where circumstances warrant, for example, where there is a conflict of interest, where one of the parties is a staff member in the OMR, or where one of the parties is a member of the University's senior administration.

6.3 Unless required to disclose information for the purpose of investigating allegations of Harassment and/or Discrimination, or in the context of internal or external recourses such as grievances or similar complaints, the parties, witnesses and their advisors shall respect the privacy of the parties and shall maintain the confidentiality of information shared with or by them in the context of a mediation or investigation process under this Policy. Parties are, however, permitted to share relevant information about these processes for the purposes of accessing health and counselling services, academic and/or workplace accommodations, or advising in connection with University policies and procedures.

6.4 Subject to the [Procedures](#) that accompany this Policy, the parties, witnesses, and any University employee contacted by an Assessor because they may have information or material relevant to an investigation have a duty to reply promptly to the Assessor and to participate in, and cooperate with, the investigation. Where the [Procedures](#) do not provide otherwise, parties, witnesses, and any University employee contacted by an Assessor must reply to the Assessor within no more than 5 Days.

Immediate Measures

6.5 Where the OMR is of the view that there may be a risk to the security of Reporter during a process conducted under this Policy, OMR staff shall consult with the appropriate University authorities (e.g., the relevant Faculty Dean or Dean of Students, Security Services, and/or Legal Services) about the implementation of immediate measures necessary to protect the Reporter.

6.6 Immediate Measures shall be implemented in accordance with the [Procedures](#) that accompany this Policy.

Decisions and Measures Following an Investigation

6.10 Upon the completion of an investigation, the Assessor shall submit a report to the Provost with a copy to the Reporter and the Respondent. The submission of the report by the Assessor to the Provost concludes the investigation.

6.11 The Assessor's report shall contain the findings of relevant facts, an articulation of the reasons leading the Assessor to a conclusion and the Assessor's conclusion as to whether or not the evidence is sufficient to find, on a balance of probabilities, that Harassment and/or Discrimination occurred. The report may also include a recommendation as to whether disciplinary and/or administrative measures should be taken, including a description of the impact of the Harassment and/or Discrimination on the Reporter.

6.12 The Provost may seek further information or clarification from the Assessor who investigated the Report before making a final decision.

6.13 If, following an investigation, an Assessor's report determines that the evidence is insufficient to find that Harassment and/or Discrimination has occurred, the Provost shall, within 15 Days of receipt of the investigative report, confirm to the parties in writing that the matter is closed. Nevertheless, in such cases, the Provost may, on the basis of conclusions and recommendations in the Assessor's report, refer the matter, with a copy of the report, to the appropriate University disciplinary authority to determine whether disciplinary or administrative measures are warranted on grounds other than Harassment or Discrimination. The Provost shall copy the parties on this correspondence with the appropriate University disciplinary authority.

6.14 If the Assessor's report determines that the evidence is sufficient to find that Harassment and/or Discrimination has occurred, the Provost will, within 15 Days of receipt of the Assessor's report, refer the matter, with a copy of the report, to the appropriate University disciplinary authority to determine disciplinary and/or administrative measures warranted. The Provost shall copy the parties on this correspondence with the appropriate University disciplinary authority.

6.15 The University disciplinary authority shall not reinvestigate the facts of the case. The Assessor's report will be used by the disciplinary authority for the purpose of determining what disciplinary and/or administrative measures are warranted.

6.16 The appropriate University disciplinary authority is:

- a.** in the case of a student, the disciplinary officer as defined in the *Code of Student Conduct and Disciplinary Procedures*;
- b.** in the case of a member of academic staff, the Dean of the Faculty in which the staff member is appointed, or the Dean's delegate;
- c.** in the case of a member of the administrative or support staff, the staff member's immediate supervisor;
- d.** in the case of a Vice-Principal, the Principal; and

- e. in the case of the Principal, the Chair of the Board of Governors.

6.17 Upon being referred a copy of the investigative report from the Provost, the appropriate University disciplinary authority will determine appropriate disciplinary and/or administrative measures and will oversee the administration of such measures.

6.18 When making decisions as to appropriate disciplinary and/or administrative measures, the University disciplinary authority must apply principles of Procedural Fairness and consider:

- a. the impact of Harassment and/or Discrimination on the Reporter;
- b. The impact that Harassment and/or Discrimination can have on learning and work environments;
- c. The principle of progressive discipline or gradation in sanctions;
- d. The nature and severity of the incident;
- e. The University's role as an educational institution;
- f. The requirements set by applicable University regulations (e.g., the *Code of Student Conduct and Disciplinary Procedures* and the *Regulations Relating to the Employment of Academic Staff* in the case of tenure-track and tenured academic staff), collective agreements; and
- g. Any other relevant factors.

6.19 Disciplinary outcomes, in the case of a student, are described in the *Code of Student Conduct and Disciplinary Procedures* may include, but are not limited to:

- a. an admonishment
- b. a reprimand
- c. conduct probation and associated conditions (e.g., cease and desist communication)
- d. suspension
- e. expulsion

6.20 Disciplinary outcomes, in the case of an employee described in regulations of the University and collective agreements and may include, but are not limited to:

- a. letter of reprimand
- b. suspension without pay
- c. dismissal from the University

6.21. Administrative measures include, but are not limited to:

- a. education and training
- b. counselling or mentoring
- c. supervision/oversight of the teaching/learning/work environment concerned
- d. limitation or elimination of supervisory privileges over undergraduate or graduate students, teaching assistants, or research assistants
- e. "no contact" or "no communication" directives
- f. structural measures, such as a review of a policy or procedure or the requiring of an academic unit (e.g., Department, School, Institute, or Centre) or administrative unit (i.e., office or area that does not deliver academic programs, e.g., Residences, Facilities, Human Resources, Athletics & Recreation) to undergo a climate or other review organized and led by one or more persons with relevant expertise from outside the unit concerned, with a view to improving the working and/or learning environment in that setting.

6.22 Once the appropriate University disciplinary authority has determined the disciplinary and/or other measures to be imposed, the University disciplinary authority shall provide the Provost and the OMR, within 30 days, with written confirmation that the disciplinary process is complete and that the process abided by the requirements of this Policy and any other applicable regulation, policy, or collective agreement. The OMR shall communicate this information regarding the completion of the disciplinary process to the Reporter forthwith. At that point, the matter is closed and no further action in relation to the Report may be taken under this Policy.

6.23 In the event that the University disciplinary authority does not implement the Assessor's recommendation about disciplinary and/or administrative measures, reasons must be provided to the Provost in writing.

6.24 Nothing in this Policy derogates from the University's authority to take measures to address structural or systemic concerns raised by the findings set out in an Assessor's report. University measures that are taken to address structural or systemic concerns (e.g., review of a policy or procedure, compulsory training for all members of a unit, implementation of an equity committee for the unit) may be shared with the Reporter provided that this does not compromise any individual's privacy rights.

Section 7 – PROTECTION OF THE PARTIES

7.1 No action shall be taken by the University or a Member of the University Community against the Reporter, the Respondent, or a witness in an investigation. This does not abridge the University's right to take disciplinary or other appropriate measures in the case of intentionally false Reports.

7.2 Should a party feel that there has been a failure to comply with the Provost's decision, or should a concern related to the original Complaint arise following the Provost's decision (e.g., recurrence of behavior described in the Complaint), the matter may be referred to the Senior Equity and Inclusion Advisor. The Senior Equity and Inclusion Advisor shall address the matter with the Provost, who shall decide on the need for subsequent measures, including referral to the relevant disciplinary officer for disciplinary or administrative measures.

Section 8 – ACADEMIC FREEDOM AND INCLUSIVENESS

8.1 Although Members of the University community are expected to conduct themselves responsibly and respectfully in view of the University's commitment to equity and inclusiveness, this Policy shall not abridge the University's Statement on Academic Freedom.

8.2 Prohibitions against Harassment and Discrimination do not extend to statements or materials used as part of courses that are relevant and appropriately related to the subject matter of such courses.

Section 9 – ANNUAL REPORT

9.1 The Provost shall report annually to Senate and the Board of Governors on the application of this Policy.

Section 10 – POLICY REVIEW AND OVERSIGHT

10.1 This Policy shall be reviewed at least every three years by a working group, comprising:

- i) the Provost or delegate (as Chair).

- ii) one representative each of MAUT, MUNASA, MUNACA, AGSEM, AMURE, AMUSE, MCLIU, SEU, SSMU, PGSS, MACES, MCSS and JBSCE;
- iii) a representative of the OMR; and
- iv) an Equity Education Advisor.

10.2 There shall be an annual meeting convened by the Provost or delegate of the working group identified in 9.1 to review the operation of this Policy. These annual meetings will review:

- i) the University’s efforts to meet the objectives of this Policy articulated in Section 3 (i.e., prevention and education, fostering an environment free of Harassment and Discrimination, and establishing effective procedures to address incidents and Reports), and means of enhancing such efforts; and
- ii) the circumstances under which Reports have been withdrawn, and the nature of Reports that have resulted in informal or formal resolutions. This review process will be anonymous, with the working group not having access to any nominative or identifying information regarding any party to a Report under this Policy.

10.3 At the annual meeting referred to in Section 10.2, the working group may request to meet one or more of the Assessors or mediators who carried out work under this Policy to discuss the processes of their work in a manner that preserves the privacy of any party or witness involved with a file arising under this Policy.

10.4 The working group may request that representatives from particular University units (e.g., Student Services, University Residences, Human Resources) or stakeholder associations (e.g., Dr. Kenneth Melville Black Faculty and Staff Caucus, Black Students’ Network, Queer McGill, Indigenous Students’ Alliance) provide input or written submissions where this would be helpful to inform decisions about the Policy implementation and review.

Legislative History:		
<i>Approved:</i>		
Senate	December 7, 2005	Minute 5
Board of Governors	December 12, 2005	Minute 7
<i>Amendments:</i>		
Senate	December 2, 2009	Minute 3.1
Executive Committee	December 7, 2009	Minute 5.1.2
Senate	December 4, 2013	Minute IIB4
Executive Committee	January 16, 2014	Minute 11.1
Senate	May 15, 2017	Minute IIB3
Board of Governors	May 25, 2017	Minute 18.3
Senate	February 20, 2019	Minute 3
Executive Committee	March 28, 2019	Minute 6.2
Senate	May 12, 2021	Minute IIB3
Board of Governors	May 20, 2021	Minute 14.1

Appendix 1: Implementation of Section 5

- Delivery, across the campuses, of equity education through multiple formats, such as: in-person facilitated sessions delivered by a diverse team of skilled equity education advisors, events that recognize, commemorate and celebrate the presence of diverse groups at McGill, the development and delivery of equity, anti-Harassment, and anti-Discrimination education materials and modules, both online and in print, and the construction and maintenance of a website that advises the McGill community of our rights and responsibilities vis-à-vis a safe, respectful and inclusive campus climate for all, as well as the vehicles available to any member of the McGill community who feels that they may be the target of Harassment or Discrimination.
- Promotion of the Policy through regular communications across the campuses.
- Regular information/training sessions to the Academic Leadership Forum (ALF), at the orientation sessions for new academic administrators and for new faculty members, at Management Forum, etc.
- Training sessions for managers, provided by HR and the Office of the Provost and Vice-Principal (Academic).
- Collaboration with units engaged in related areas (e.g. Graduate and Postdoctoral Studies, Office of the Ombudsperson, Office of the Dean of Students, Student Services, Legal Services) to make available resources better known.