



Complaint Procedure Guide – Policy M17

Respectful College & Sexual Violence Education & Prevention Policy Procedures Established: July 2024

1. Introduction: Commitment to Respond

- 1.1. Addressing interpersonal conflicts within the College community is crucial to preventing continued or more serious cases of disrespect, harassment, or sexual violence. All members of the College Community are encouraged to seek assistance as early as possible when these issues arise. Behavior perceived as disrespectful may be unintentional and can often be remedied through education.
- 1.2. This guide outlines the procedures to be followed when disclosures and/or complaints relating to respectful college or sexual violence are received by the college.

2. Initial Complaint Reporting

2.1. Who to Contact

The Respectful College Coordinator is the primary contact for ensuring issues relating to the Respectful College Police M10, and the Sexual Violence, Education, and Prevention Policy M14, are managed appropriately. Any person who believes they have experienced disrespect, discrimination, harassment, bullying, or sexual violence should contact the Respectful College Coordinator if they would like to pursue a complaint or other resolution options:

- ▶ Confidential phone line: (204) 725-8733
- ▶ College extension: 204 725-8700 ext. 6646
- ▶ Email: respect@assiniboine.net

- 2.1.1. If the Respectful College Coordinator is the complainant or the respondent, the Director, Human Resources will designate someone to assume the duties of the Respectful College Coordinator.
- 2.1.2. If the President is the complainant or the respondent, the Chair of the Board of Governors shall assume the duties of the administration of this policy.
- 2.1.3. Complainants will need to provide details of their allegations to the Respectful College Coordinator.

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2.2. Reporting Responsibilities

- 2.2.1. Any member of the College community who has witnessed another individual or group being disrespected, harassed, or subjected to sexual violence should notify the Respectful College Coordinator or their supervisor.
- 2.2.2. Staff members who receive any allegations of disrespect, discrimination, harassment, bullying, or sexual violence should contact the Respectful College Coordinator regarding the allegations as soon as reasonably possible.

2.3. Timelines:

- 2.3.1. It is important to report complaints promptly to ensure quick resolution and effective investigation. The complaint should submit their written complaint to the Respectful College Coordinator as soon as possible but ideally within 1 year of the alleged incident(s).
 - ▶ **NOTE: Allegations** of sexual violence have no deadline for filing a formal complaint. Individuals affected by sexual violence are encouraged to come forward whenever they are reasonably able to do so.
 - ▶ **Extensions:** In exceptional circumstances, the Director, Human Resources may extend the time limit for reporting complaints that do not involve sexual violence.

3. Resolution Options

The Respectful College Coordinator can explain the various resolution options available, including:

- 3.1. Addressing Concerns Directly
- 3.2. Informal Resolution
- 3.3. Formal Complaint and Investigation
- 3.4. Recourse with External Agencies

3.1. Addressing Concerns Directly

In many circumstances, someone may simply want objectionable comments or conduct to stop. Some individuals may feel comfortable dealing with disrespectful behaviour on their own.

Wherever is reasonably possible, complainants are encouraged to communicate directly (in writing

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or verbally) to the offending person. The complainant may choose to professionally address the concerns directly and:

- ▶ let the individual know that their behaviours or comments are offensive and may be contrary to Assiniboine Policy
- ▶ ask that they stop the offensive behaviours immediately.

The Respectful College Coordinator can provide coaching, information or guidance to anyone who would like to first attempt to manage the situation directly.

3.2. Informal Resolution

A complainant may choose to have the matter addressed through mediation options. This option:

- ▶ must be agreed upon by the complainant and the respondent,
- ▶ provides a means of obtaining information, voicing the concern, and developing a way of addressing the situation with assistance
- ▶ aims to find a resolution mutually agreeable to the parties
- ▶ recognizes that disrespectful or harassing behaviour may result from misunderstanding
- ▶ is encouraged, but not required
- ▶ may consist of separate and/or joint interviews, written communication or other resolution techniques agreed upon by both the complainant(s) and respondent(s)
- ▶ shall be initiated within 30 days from the date of receipt of the complaint, and concluded within 90 days, unless all parties agree to extend the process due to ongoing progress
- ▶ may result in a mutually acceptable resolution signed by all parties involved

The complainant(s) or respondent(s) may decide to halt the informal process at any time. A complainant may still pursue a formal complaint if the informal process is stopped prior to a resolution.

Given the nature and the severity of the allegations, the Respectful College Coordinator may decide that informal resolution options are not sufficient and that a full investigation is necessary.

3.3. Formal Complaint and Investigation

The formal complaint and investigation process is used to ensure that all formal complaints of discrimination, harassment, personal harassment (bullying) or sexual violence are resolved by due process. See full details of this process, in Section 4.

3.4. Recourse with External Agencies

A person who believes they have been a victim of harassment, discrimination or sexual violence has access to remedies at law.

Filing a complaint, under Assiniboine internal complaint mechanisms does not prevent anyone from filing a complaint and/or grievance with:

- ▶ Manitoba Government and General Employees' Union
 - **Note:** The Supreme Court of Canada has confirmed that labour arbitrators retain exclusive jurisdiction over Human Rights matters that arise, in their essential character, from the interpretation, application, or alleged violation of the Collective Agreement.
- ▶ The Manitoba Human Rights Commission
 - hrc@gov.mb.ca
 - 1-888-884-8681
- ▶ Manitoba Workplace Health and Safety or
 - wshcompl@gov.mb.ca
 - 1-855-957-SAFE (7233)
- ▶ under the Criminal Code.
 - For further information about these avenues, you may contact your local police/RCMP.

4. Formal Complaint & Investigation Process

The following due process is used to address formal complaints and outlines the investigation process.

Before a formal complaint is made and an investigation commences, it is important to know that this process is:

- ▶ **Voluntary:** Complainants are not compelled to proceed with a complaint and have the right to withdraw it at any time.
- ▶ **An Institutional Response May be Required:** Depending upon the nature and the severity of the allegations the College may find it necessary to proceed with an investigation as an institutional response, even if the Complainant withdraws it.

4.1. Documentation & Receipt of a Formal Complaint

The complainant must provide a written account of their allegations, that is signed and dated as a true statement. The written allegations should include:

- the particulars of the allegations, including dates, times and nature of the concerning behaviour
- the name and, if available, contact information of the respondent
- names and, if available, contact information of witnesses
- copies of any physical evidence such as emails, images, texts, etc.
- any other relevant information, including but not limited to steps (if relevant) already taken to resolve the matter.

4.2. Initial Complainant Interview

The Respectful College Coordinator will interview the complainant to obtain further clarifying and relevant details about the allegations.

- ▶ A summary of the complainant's allegations, in line with Assiniboine policy, will be prepared by the Respectful College Coordinator for the complainant's review and signature if deemed acceptable.
- ▶ Based on this preliminary information, the Respectful College Coordinator will determine whether the allegation(s), if substantiated, would breach Assiniboine policy and warrant the investigative process.

4.3. Respondent Notification

The Respectful College Coordinator will notify the respondent they have received a formal complaint, which is proceeding to an investigation. The respondent will be provided with a copy of the initial complaint and the signed summary of allegations referred to above. The Respectful College Coordinator may redact information that is in the original complaint if it is not relevant to the allegations to be investigated.

4.4. Respondent Response:

Respondents will be given a reasonable timeframe to read the complaint and provide a written response to the allegations within a reasonable timeframe.

4.5. Respondent Interview:

The Respectful College Coordinator will meet with the respondent(s) after receiving their written response to the complaint.

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4.6. Investigation of the Complaint

- 4.6.1. **Responsibility:** The Respectful College Coordinator is responsible for conducting the formal investigation, except where the use of an external investigator is deemed necessary.
- 4.6.2. **Investigation Process:** The Respectful College Coordinator will interview the complainant(s), respondent(s), and any witnesses or persons involved in the situation.
 - ▶ The complainant(s) and respondent(s) may bring a support person of their choice to the interview, as long as their support person is not a potential witness.
- 4.6.3. **Identification of Witnesses:** Both the complainant(s) and respondent(s) may suggest people to be interviewed. The Respectful College Coordinator will determine who is interviewed.
- 4.6.4. **Non-participation of Respondent:** In cases where the respondent(s) refuse to participate, the Respectful College Coordinator will emphasize the importance of gathering information from both parties. If the respondent(s) continue to decline participation, the investigation will proceed with a note of their refusal.
- 4.6.5. **Non-participation of a Witness:** If a witness refused to participate in the proceedings, it will also be noted in the investigation file, and the investigation will continue.
- 4.6.6. **Evidence Collection:** All parties of an investigation will be asked to provide relevant physical evidence such as photographs, emails, texts, performance evaluations, etc.
- 4.6.7. **Access to Information:** College computer accounts/messages, social media messages and other documents or sources of information may be accessed during the investigation.
- 4.6.8. **Concerns:** Concerns regarding the investigation process may be submitted in writing to the Director, Human Resources, during the informal or formal complaint resolution.
- 4.6.9. **Judicial Fairness:** All processes will adhere to the principles of natural justice, due process of law, and the respective collective agreement between the College and the Manitoba Government and General Employees' Union (MGEU).
- 4.6.10. A fair and comprehensive process takes precedence over expediency in reaching a resolution. Efforts will be made to address matters promptly while ensuring a thorough investigation.

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- 4.6.11. **Voluntary Early Resolution:** During the investigation process, if there is evidence suggesting a potential for resolution and both the complainant and respondent agree, the investigation may be temporarily halted for a voluntary resolution.
- 4.6.12. The Respectful College Coordinator will coordinate a meeting with the complainant(s), respondent(s), and relevant managers (where and when appropriate) to discuss the preliminary findings. The goals of meetings will be to achieve a mutually agreed upon resolution to the issue.
- 4.6.13. When an agreement is reached and the matter is agreed to be resolved, both the complainant(s) and respondent(s) will voluntarily sign a statement outlining the agreed upon terms of the settlement.
- 4.6.14. The Respectful College Coordinator will prepare a summary report for the relevant Manager(s) and/or the Director, Human Resources, and/or the Vice-President, Academic.

4.7. Investigation Assessment: Determination of Findings

- 4.7.1. When a full investigation is required the Respectful College Coordinator will complete an Investigation Assessment Report (IAR) that summarizes and analyzes the evidence gathered.
- 4.7.2. Confidentiality of witnesses will be preserved, in accordance with Section 9 of this procedures guide.
- 4.7.3. The IAR will assess the credibility of witnesses and based on a balance of probabilities, determine whether the evidence is sufficient to substantiate the allegations.
- 4.7.4. Possible investigation outcomes:
- ▶ **Substantiated Allegations:** Evidence supports a breach of policy.
 - An appropriate course of action is recommended for the Manager, which may include a letter or progressive discipline.
 - ▶ **Insufficient Evidence:** Evidence does not support a breach of policy.
 - An appropriate course of action or resources may still be recommended to help prevent future allegations or to support the complaint and the respondent's future interactions.

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- ▶ **Malicious Intent:** Evidence clearly supports that the allegations were unfounded and made with the intent to harm the respondent.
 - In these rare cases, appropriate discipline would be applied to the complainant for making a malicious complaint.
- ▶ **Inconclusive Evidence:** Evidence is insufficient to make a conclusion about the allegations.
 - An appropriate course of action may be recommended to mitigate future concerns and support the complainant and respondent in future interactions.

4.8. Notification and Discussion of the Investigation Results

- 4.8.1. The Respectful College Coordinator will review the investigation results with the relevant Managers, and/or the VP Academic (in cases involving students) and/or the Director, Human Resources (in cases involving employees).
- 4.8.2. Managers, in collaboration with the Director, Human Resources and/or the VP Academic, will decide on the need for remedial action, pursuant to the appropriate discipline policy.
- 4.8.3. The relevant Managers and the Director, Human Resources or the Vice-President Academic will meet with the complainant and respondent separately to review the report and discuss the findings.
- 4.8.4. In cases of substantiated complaints, the relevant manager will continue to meet with the individual in alignment with the relevant policy.
- 4.8.5. Only substantiated complaints and the resulting remedial action will be documented and retained on the individual's academic or personnel file.

Note: Respecting confidentiality, specific remedial actions or other measures implemented will not be disclosed to the complainant.

5. Appeals

- 5.1. Students may appeal any disciplinary action taken by the college as a result of the formal resolution process in accordance with the college's "Academic and Disciplinary Appeals Policy."
(A1)

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- 5.2. Bargaining Unit College staff may grieve any disciplinary action taken by the College resulting from a complaint of disrespectful behavior as provided for within the collective agreement.
- 5.3. Notwithstanding the above, complaints of disrespectful behaviour may be processed as grievances.
- 5.4. Excluded staff may appeal any action taken by the college resulting from a complaint investigated under this procedure directly to the President or to the Board of Governors if the President is the respondent.
- 5.5. College clients may appeal any action taken by the college resulting from an investigation directly to the President.

6. No Reprisals

- 5.6. The College prohibits any form of reprisal against individuals who file complaints or participates in investigations.
- 5.7. Any alleged reprisal shall be promptly reported immediately, in writing, to the HR Director (staff) or VP Academic (students)
- 5.8. Retaliatory actions against complainants, respondents, or witnesses will be treated as harassment and addressed accordingly.

7. False or Misleading Complaints

- ▶ If an investigation determines that a complaint was intentionally false or malicious, disciplinary action may be taken against the complainant.

Note: An unsubstantiated case does not automatically mean the complaint was false or misleading.

8. Monitoring and Remediation

- ▶ Follow-up is crucial for resolution.
- ▶ Relevant managers will develop a monitoring plan and conduct periodic follow-up over at least a six-month period from the resolution date.

9. Confidentiality and Records

- 9.1. Confidentiality must be distinguished from anonymity. Complainants must be willing to be identified to respondents for a remedy to be sought. Anonymity will never be offered to complainants or witnesses.
- 9.2. Confidentiality will be maintained to protect the parties involved from unsubstantiated claims and harmful gossip. Intentional or unnecessary breaches of confidentiality may result in disciplinary action.
- 9.3. To the extent that the parties choose to initiate proceedings or make comments outside the College's internal complaint procedures, confidentiality cannot be guaranteed.
- 9.4. Information collected and retained may be subject to release under Manitoba's ***Freedom of Information and Privacy Protection Act, The Human Rights Code*** or rules governing court and arbitral proceedings.
- 9.5. Investigations that find a substantiated breach of policy, will be documented on the Respondent's personnel/student file. This may include disciplinary actions and/or non-disciplinary corrective action, such as letters of direction or remedial action plans.
- 9.6. Where an investigation finds no breach, but it is determined that education, counselling and monitoring is appropriate for the complainant and/or respondent, documentation of the complaint and the remedy recommended along with steps taken will be filed on the appropriate personnel/student file.
- 9.7. If an investigation fails to find sufficient evidence to substantiate the allegations and no further action is recommended, no documentation will be placed on the personnel/student file without the written consent of the complainant(s), unless the complaint has been found to be false or misleading.

10. Relevant Legislation

Sexual Violence, Awareness & Prevention Act Section
Colleges Act
Manitoba Human Rights Code
Manitoba Workplace Safety and Health Act and Regulations
Freedom of Information and Protection of Privacy Act

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11. Related Policies, Procedures, and Documents

- Collective Agreement Article 7 "No Discrimination/Respectful Workplace
- Collective Agreement Article 14 "Conduct of Employees"
- Collective Agreement Article 47 "Grievance Procedure"
- Student Conduct, Behaviour and Discipline Policy A02
- Academic and Disciplinary Appeals Policy A01
- Respectful College Policy M10
- Sexual Violence Education & Prevention Policy M14
- Workplace Violence Policy M13
- Progressive Discipline Human Resources Policy HRG 6
- Conflict of Interest Commitment Policy HRP 18

July 8, 2024

Date

A handwritten signature in blue ink, appearing to be "M. Li", written over a horizontal line.

President

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