

ST. MARY'S UNIVERSITY COLLEGE
POLICY TYPE: HUMAN RESOURCES

POLICY TITLE: Campus Integrity and Human Rights Policy	POLICY NUMBER: 4B - 2007
APPROVAL DATE:	DATE REVIEWED:
RESPONSIBILITY: Board of Governors	AUTHORIZATION: Board of Governors
EFFECTIVE DATE: June 15, 2007	IMPLEMENTATION DATE: June 18, 2007

THE CAMPUS INTEGRITY AND HUMAN RIGHTS POLICY

FOUNDATION STATEMENT

St. Mary's University College (here and after referred to as the University College) is committed to a safe, healthy, productive work and learning environment that respects the freedom and inherent dignity of each and every member of this scholarly community. The maintenance of human dignity, of individuals and groups of individuals, is central to this policy. The University College is committed to a campus free of discrimination and harassment and is dedicated to the highest standards of human equality and academic freedom. The University College actively endorses these standards at every level of the institution and in all aspects of student, faculty and staff life while individuals or groups are acting in a capacity defined by their relationship with the University College. As well as promoting these values, those with supervisory responsibilities are expected to address and attempt to resolve human rights issues in a fair, just and expeditious manner. Nothing in the procedures pursuant to this policy denies or limits access to other avenues of redress available under the law including the Alberta Human Rights Commission or faculty association grievance.

RELATIONSHIP TO THE ALBERTA HUMAN RIGHTS CODE

The Supreme Court of Canada has stated that the provisions of human rights codes bind universities. Where the provisions of any policy, procedure or practice of the University College purport to require or authorize conduct that is in contravention of the Alberta *Human Rights, Citizenship and Multiculturalism Act* and the *Canadian Human Rights Act*, the provisions of these *Acts* shall prevail.

STATEMENT OF COMMITMENT

Achievement of an environment free of discrimination and harassment requires the cooperation and dedication of all members of the University College community. Expression of this commitment can take many forms including: participating in healthy debate and discussion; behaving in a manner that recognizes, values, and nurtures the diversity of the University College community and offering support to those who are subjected to discrimination or harassment. Members of the University College community who are aware of acts of discrimination or harassment are encouraged to take appropriate steps to stop the discriminatory or harassing behaviour.

Violations of human rights shall not be tolerated at St. Mary's University College. Discrimination and harassment based on grounds prohibited by the *Alberta Human Rights, Citizenship and Multiculturalism Act* and the *Canadian Human Rights Act* devalue and taint the environment of those covered by this policy. They erode the values and the integrity of the institution. The University College values:

- every student, employee, alumnus/a and volunteer;
- an environment, for individuals covered by this policy, that is safe, positive, respectful and conducive to the pursuit of excellence;
- equity, innovation, accountability and accessibility;
- the existence of a collegial governance structure;
- upholding the principles of the equality rights provisions of the *Canadian Charter of Rights and Freedoms*;
- meeting its obligations under the provisions of the *Alberta Human Rights, Citizenship and Multiculturalism Act* and *Canadian Human Rights Act*;
- the uniqueness and diversity of our students, employees and community;
- a partnership of students, employees and community.

ACADEMIC FREEDOM AND HUMAN RIGHTS

As outlined in the University College policy statement on academic freedom:

Freedom of inquiry and freedom of expression define the University College. The rights and obligations of academic freedom derive from the nature of academic life, and are consistent with the objectives of the University College as a community of scholars which pursues the highest academic standards, promotes intellectual and spiritual growth, recognizes ethical and moral implications both of methods and discoveries, maintains respect for the inherent dignity of individuals as persons, and lives in the tradition of Catholic belief and its rich scholarly heritage.

Specific principles of academic freedom include: freedom to teach and learn according to one's obligation, vision, and in accordance with the methods proper to each academic discipline; freedom to disseminate the fruits of study and research inspired by the scholarly obligation to pursue truth vigorously and honestly; and freedom to speak and write on issues in fulfillment of the obligations and legal rights of citizenship.

Correlative obligations include: respectful allowance for the exercise of these freedoms by others; proper acknowledgement of the contributions made by others to one's work; preservation of the confidentiality necessary in personal, academic, and administrative deliberations; and adherence in the course of one's conduct, utterances and work, to the by-laws, mission, educational philosophy and educational objectives of the University College.

Members have the freedom to exercise professional judgment in the acquisition of materials, and in ensuring that these materials are freely accessible to all for bona fide teaching and research purposes, no matter how controversial these materials may be.

Under the *St. Mary's University College Bylaws*, the ultimate responsibility for the educational policy of the University College rests with Academic Council. This includes, but is not limited to, academic issues relating to curriculum (course content, teaching practice and methods of evaluation). It is recognized that, although the Campus Integrity and Human Rights Policy does provide mechanisms for addressing complaints which may involve issues related to curriculum, nothing in this Campus Integrity and Human Rights Policy shall be interpreted so as to alter Academic Council's jurisdiction in educational policy.

The University College acknowledges that situations arise in which there is a perceived conflict between academic freedom and human rights. A violation of either right is of grave concern to the institution. With respect to the interplay of human rights protection and the practice of academic freedom, it is the position of the University College that, regardless of the subject matter, discussion of controversial issues in or out of the classroom is not a violation of this policy and its procedures.

Academic freedom entails the right of all members of the university college community - faculty, staff and students - to make statements that dispute conventional wisdom or prescribed doctrine thereby challenging the opinions and beliefs of others. At the same time, it must be emphasized that universities celebrate diversity and demand respectful allowance of the ideas, views, beliefs and opinions of others. All members of the community have the responsibility to respect the individual rights of every person. Academic freedom does not entail a right to deny equality to, or harass individuals on grounds protected by the *Alberta Human Rights, Citizenship and Multiculturalism Act*, *Canadian Human Rights Act*, *Canadian Charter of Rights and Freedoms* and this policy.

DEFINITION OF DISCRIMINATION AND HARASSMENT

Human rights law has defined discrimination and harassment as the wrongful exercise of power, authority or control over others, whether intended or not, based on the following grounds:

- physical and mental disability
- gender
- sexual orientation
- race
- colour
- ancestry
- place of origin
- ethnic origin
- citizenship
- religious beliefs
- age
- marital status
- family status

- socio-economic status
- source of income

FUNDAMENTAL TENETS

Employees and students are entitled to work and study in an environment free of discrimination and harassment. The University College has a legal obligation to provide a working and learning environment that is free of discrimination and harassment under the *Alberta Human Rights, Citizenship and Multiculturalism Act, Canadian Human Rights Act, Canadian Charter of Rights and Freedoms* and the *Occupational Health and Safety Act*.

All members of the University College community share responsibility for creating and maintaining an environment that is free of discrimination and harassment. Employees and students have a responsibility to respect the rights of others. The University College shall provide education and training to students and employees to ensure that they are aware of their responsibilities and this policy.

Freedom of expression is an integral part of education at St. Mary's University College. This policy is not intended to limit academic freedom as outlined in the University College Policy Statement on Academic Freedom. The frank discussion of controversial ideas, the pursuit and publication of controversial research, or the study and teaching of material with controversial content do not constitute harassment.

The potential for harassment increases in relationships where a power differential exists between or among employees or students. Individuals who have authority over others are responsible for ensuring that they do not abuse their power. Such relationships include, but are not limited to, those between faculty members, instructors, supervisors, advisors, tutors, coaches, or the chair or an area and their junior colleagues or students.

Presumption of innocence

Those named in concerns, disputes or formal complaints under this policy shall be presumed innocent until a formal decision to the contrary is reached under the terms of this policy.

Bad faith allegations

It is an offence for any person to make an allegation of discrimination or harassment in bad faith, or to initiate a procedure under this policy in bad faith, or to influence an ongoing procedure in bad faith under this policy. A written assertion that a bad faith allegation has been made shall be treated as a formal complaint under this policy. If such an allegation is substantiated, it shall be subject to the same consequences as complaints of discrimination or harassment.

Reprisals

It is an offence for any person to take reprisals against individuals because they have participated in a process using this policy. Written allegations of reprisals shall be treated as formal complaints and, if substantiated, shall be subject to the same consequences as complaints of discrimination or harassment.

Reconciliation

Wherever possible, St. Mary's supports reconciliation between the involved parties as part of the resolution process. The University College Mission Statement says: "St. Mary's University College is a Catholic, post-secondary, student-focused liberal arts and sciences teaching and research institution. Through the synthesis of faith and reason, the College invites and challenges all individuals of the community to become compassionate, thoughtful, resourceful members of society." The St. Mary's community believes that all relationships are sacred, and this belief is grounded in the principle of respecting the inherent dignity of each individual and the value of the community. In the spirit of these beliefs, St. Mary's supports and sustains processes that include and encourage reconciliation.

PROCESS

The University College recognizes that there are a number of methods for dealing with incidents of discrimination or harassment. These methods include education, informal resolution including mediation, as well as such formal mechanisms such as investigation, disciplinary action, or application of grievance procedures and/or appeals. This policy gives members of the University College community a process for ensuring that a work and study environment free of discrimination and harassment is maintained. This policy is not intended to affect any other legal rights members of the University College community have in relation to discriminatory or harassing behaviour.

The University College is committed to treating all alleged instances of discrimination and harassment seriously and to investigate them in a prompt, efficient and effective manner according to established policy so as to provide a remedy and to prevent re-occurrence.

When appropriate and if necessary, The University College may initiate corrective action against individuals who engage in discriminating or harassing behaviours. If the harassment involves physical or sexual assault, which are criminal offences, the police shall be the appropriate resource.

The University College may take corrective action in those situations where the allegations of discrimination and harassment are fraudulent or malicious or made in bad faith. An unsubstantiated complaint that was made in good faith should not result in negative consequences to the complainant.

Complaints of harassment may be made about a variety of behaviours ranging from a single discriminatory remark or action to a criminal offence such as physical or sexual assault. The point at which behaviour crosses the line and becomes serious enough to meet technical definitions for harassment shall vary, depending on the circumstances. Even when a complaint does not meet technical definitions, corrective action may still be required to restore a positive and productive environment for working or learning.

To determine whether conduct constitutes a form of harassment all of the relevant factors shall be considered including the nature, frequency, location, context, seriousness, and duration of the behaviour in question. To qualify as harassment the situation or complaint shall normally need to involve a series of unwanted remarks, behaviours or communications. In exceptional circumstances a serious, isolated incident may be sufficient to constitute harassment.

Behaviours that are reasonably enacted, such as those listed below, are not consistent with definitions of harassment:

- day to day management functions and activities such as work assignments, performance management and discipline;
- assessment of work or academic performance, even if adverse;
- demands for academic excellence or a reasonable quality of work performance; and
- the debate or critique of ideas or materials, or the presentation of controversial or unpopular material or opinions that are related to a course of study or discussion.

Confidentiality

Confidentiality is preferred and shall usually lead to the best outcome for the parties concerned. Therefore, parties to a concern, dispute or formal complaint, including witnesses called during a fact-finding procedure and any other persons involved in addressing the matter, have a responsibility to maintain confidentiality. Lifting of confidentiality subsequent to resolution of a concern, dispute or formal complaint is subject to negotiation and agreement by the parties during the resolution process. Breaches of confidentiality at any stage shall be considered a serious offence and may result in disciplinary action. However, where any member of the University College or visitor to the University College may be at risk, information pertaining to health and safety may be reported to the appropriate authority at any stage during the process. Further, where confidentiality has been breached, a right of public response may be requested through the appropriate University College authority for decisions regarding conflict of interest and/or bias.

Supervisory Responsibilities: Records

Those with supervisory responsibilities must ensure that accurate and complete records are kept in a confidential file specific to the case. When the process is terminated or completed, all documentation pertaining to the case shall be transferred to secure storage. They must ensure that concerns that have been raised or resolved as unsubstantiated do not become part of any performance review or other evaluation of the individuals concerned unless permission has been given.

Initially, both parties must be informed of the existence of this policy and these procedures, and the steps to be followed must be outlined. When this is done, it is important that the person with supervisory responsibilities follow up with both parties to determine how they wish to proceed. There are three options that those with supervisory responsibilities should consider to manage human rights concerns. The Campus Integrity and Human Rights Coordinator can be consulted in assessing these options.

All employees and students of the University College must be informed of the existence of this policy and the relevant procedures.

CAMPUS INTEGRITY AND HUMAN RIGHTS PROCEDURES

Fairness for all parties involved in a single or repeat complaint is essential.

Campus Integrity and Human Rights Coordinator The President of the University College shall appoint a Campus Integrity and Human Rights Coordinator. Information or clarification of University College policies and procedures on integrity and human rights may be obtained from the Campus Integrity and Human Rights Coordinator. The Campus Integrity and Human Rights Coordinator sits on the Campus Integrity and Human Rights Committee and may be contacted through the Main Office. The mandate of the Campus Integrity and Human Rights Coordinator is to:

- act as a member of the Campus Integrity and Human Rights Committee, providing advice and information on policies and procedures relating to integrity, human rights, abuse, discrimination and harassment to members of the University College community;
- hear complaints from and work with those involved in order to address the alleged discrimination or harassment;
- identify and review the informal and formal options available for resolving complaints;
- facilitate and encourage informal resolution of complaints whenever appropriate;
- work confidentially;
- compile reports and statistics;
- report directly to the President.

In the absence of the Campus Integrity and Human Rights Coordinator or in a situation of conflict of interest, the President shall appoint a designate to act in the position of Campus Integrity and Human Rights Coordinator.

Campus Integrity and Human Rights Committee The St. Mary's University College Campus Integrity and Human Rights Committee promotes integrity and human rights on campus by developing awareness of and dealing with concerns in a timely and professional manner. This committee is advisory to the President. The President shall appoint a Campus Integrity and Human Rights Committee with representation from senior management, faculty, staff and students. A three-member ad hoc sub-committee shall be created in a case-by-case basis to deal with each specific situation (to avoid potential conflicts of interest). The ad hoc committee shall submit its findings to the Campus Integrity and Human Rights Committee.

The mandate of this Committee is to promote respect, fairness, justice and good will throughout the campus. The Committee shall receive training on human rights issues and shall, in turn, establish campus training and awareness programs that promote a respectful campus community. The Committee shall monitor new developments in the area of human rights and ensure that training programs are delivered on an annual basis.

I. APPROACHES TO RESOLUTION

There are two basic approaches that can be used to resolve complaints of discrimination and harassment: a) those which focus on facilitating communication between the parties and reaching an agreement and, b) approaches which rely on formal procedures such as reporting a complaint to a supervisor, requesting a formal investigation, or filing a complaint.

Although there are situations where the use of a formal approach is appropriate, resolution can often be achieved using processes such as negotiation and mediation, which focus on increasing communication between the parties.

- 1.1 Negotiation and Mediation.** Negotiation occurs when the parties, on their own, meet to discuss an issue and find an acceptable resolution. Whenever possible, individuals who believe that they have been subjected to discrimination or harassment should make an effort to communicate their concerns directly to the offending party. Communicating the impact of someone's behaviour may prevent a situation from escalating and lead to resolution. The Campus Integrity and Human Rights Coordinator can provide assistance to individuals who want to communicate their concerns directly, but are unsure how to do this.

Mediation, which also emphasizes increased communication between the parties, is assisted by a neutral third party. The role of the third party is to facilitate communication between the participants so that they can better understand each other's view and arrive at a mutually acceptable solution. The Campus Integrity and Human Rights Coordinator shall facilitate the appointment of a neutral third party mediator. Mediation facilitated by the Campus Integrity and Human Rights Coordinator or designate is conducted without prejudice.

- 1.2 Formal Resolution.** Formal approaches to resolution focus on establishing the facts and implementing appropriate

corrective or disciplinary action. These approaches include reporting a complaint to an individual in a position of authority, formal complaints, formal investigations and appeals.

II. PROCESS FOR REPORTING COMPLAINTS

Suggestions for resolving issues include:

- 2.1 **Becoming familiar with the St. Mary's University College Campus Integrity and Human Rights Policy and Procedures.** Students and employees who may have grounds for a complaint should read this policy and procedures before proceeding further.
- 2.2 **Taking action and reporting complaints.** The University College encourages students and employees to take action to resolve problems as early as possible, even when a concern may not technically qualify as discrimination or harassment. Taking prompt action increases the likelihood of successfully preventing or resolving problems and stopping any discrimination or harassment that may have occurred. The following individuals and groups have responsibilities in the administration of this Policy: the vice-presidents, directors, coordinators, senior administrators, supervisors, supervisory and human resources personnel, the Campus Integrity and Human Rights Coordinator and the Campus Integrity and Human Rights Committee. All complaints that are reported to the resources listed above shall be taken seriously.
- 2.3 **Time Limits for Reporting Complaints.** To be considered under this Policy, complaints must be made within one year of the occurrence of the alleged incident(s) of discrimination or harassment.
- 2.4 **Reporting Complaints.** Reporting complaints of discrimination or harassment or seeking assistance in resolving these issues can be a difficult process. Some people may feel more comfortable reporting a situation on a confidential basis to the Campus Integrity and Human Rights Coordinator or human resources administrator, while others may prefer to report a complaint to an individual in a position of authority.
- 2.5 Assistance with issues of discrimination and harassment is also available from the Employee Assistance Program.
- 2.6 Complaints of systemic discrimination or situations where the respondent is unknown, such as a case involving anonymous graffiti, should be reported to the Campus Integrity and Human Rights Coordinator.

III. OPTIONS FOR REPORTING COMPLAINTS

- 3.1 **Reporting Complaints to the Campus Integrity and Human Rights Coordinator.** The Coordinator's services are available to all students and employees and other members of the University College community. Services include confidential consultation, which focuses on assessing the problem and outlining the options for resolution, and, on request, providing mediation or facilitating formal resolution.

Individuals consulting with the Campus Integrity and Human Rights Coordinator are free to choose the course of action that they wish to take in addressing their complaint. Some of the options include:

- a. deciding not to take any action;
- b. raising concerns directly with the offending party;
- c. requesting assistance with resolution;
- d. reporting the matter to a senior administrator or supervisor;
- e. seeking assistance from another resource (such as the Faculty Association for faculty members);
- f. requesting a formal investigation;
- g. filing a complaint with the Campus Integrity and Human Rights Coordinator;
- h. filing a complaint with the Campus Integrity and Human Rights Committee; or
- i. lodging a complaint with the Alberta Human Rights and Citizenship Commission, Occupational Health and Safety Council, or the Courts.

- 3.2 **Reporting Complaints to the Human Resources Administrator.** Employees also have the option of requesting assistance from the Human Resources Administrator.
- 3.3 **Reporting a Complaint to a Supervisor or a Senior Administrator.** Individuals may also choose to report complaints directly to their supervisor or the relevant senior administrator. Complaints that are reported to senior administrators or supervisors cannot be held entirely in confidence. Instead, since these individuals have a responsibility to maintain an environment that is free of discrimination and harassment they are required to take action on a complaint as outlined under Preliminary Investigation Procedures (Section V).
- 3.4 **Requesting a Formal Investigation.** Complainants and respondents who want a full investigation or believe that a matter has not been adequately addressed may request a formal investigation. A request for a formal investigation is made by submitting a Written Complaint Form to the Campus Integrity and Human Rights Coordinator along with a letter requesting a formal investigation. The Coordinator shall inform the relevant senior administrator of the request.

IV. INFORMAL INVESTIGATION PROCEDURES

Every effort should be made to seek an informal resolution to all incidents where it appears no criminal act has occurred. Suggestions for resolving issues informally may include the following:

- a. Consult the St. Mary's University College Integrity and Human Rights Policy and Procedures. Also, it is always advisable to record the details of the incident(s) – what happened, when, where, how often, who else was present, thoughts and feelings surrounding the incident and how the incident was handled.
- b. Approach the respondent to make it clear the behaviour is unacceptable and/or is in violation of University College policy. Request the behaviour stop.
- c. If the behaviour continues, or the complainant is not comfortable approaching the respondent directly with a request that the behaviour stop, the complainant can request assistance from the relevant senior administrator or the Campus Integrity and Human Rights Coordinator.
- d. Request assistance from the relevant senior administrator or the Campus Integrity and Human Rights Coordinator to enter into the process of negotiation and mediation as outlined in Section I.
- e. If the above attempts at resolution are unsuccessful and further action is required, the complainant may choose to proceed to the formal process beginning with the steps outlined in Section V: Preliminary Investigation Procedures.
- f. A list of informal and formal options is also listed in Section III under 3.1.

V. PRELIMINARY INVESTIGATION PROCEDURES

- 5.1 The first step in addressing a complaint or situation of discrimination or harassment is to conduct a preliminary investigation. The purpose of this investigation is to gather information and determine what action if any needs to be taken to resolve the issue and stop any discrimination or harassment that may be occurring.

Preliminary investigations are limited in scope to discussions with the complainant and respondent and do not require a written complaint. Interviews with individuals other than the complainant and respondent are part of a formal investigation and should only be conducted when a Written Complaint Form requesting a formal investigation has been completed and approved by the Campus Integrity and Human Rights Coordinator or the relevant senior administrator.

Complainants may be asked to put their complaints in writing if the person conducting the preliminary investigation deems this appropriate or if the respondent requests a written copy of the complaint.

- 5.2 To help ensure that the University College and the individuals who act on behalf of the University College fulfill their legal obligations the following steps should be implemented when a preliminary investigation is conducted:
- a. A preliminary investigation, which balances the principles of fair treatment, respect for individual circumstances and the need for expediency in these matters, will be conducted in a timely manner but no later than four weeks of receiving a complaint, unless there are unforeseen and significant circumstances.
 - b. After information from the complainant is obtained, a separate interview with the respondent should be arranged. During this interview, the respondent shall be told the name of the complainant, the details of the complaint, and be invited to offer his or her view of the alleged events.
 - c. When information has been collected from both parties, the individual addressing the complaint shall decide what action needs to be taken to resolve the problem and stop any discrimination or harassment that may be occurring. Any questions that arise regarding what course of action to take should be directed to the relevant senior administrator, or the Campus Integrity and Human Rights Coordinator.
 - d. Examples of action that may be taken to address a complaint include: clarifying expectations for the parties, providing information on the St. Mary's University College Integrity and Human Rights Policy and Procedures, arranging for mediation, conducting a formal investigation, or recommending or implementing disciplinary action. If a formal investigation appears to be warranted, it shall be conducted by filing a complaint with the Campus Integrity and Human Rights Coordinator. All complaints against, or by faculty members that may require disciplinary action must be reported to the Vice-President Academic & Dean.
 - e. The outcome of the complaint, including any action to be taken, shall be communicated to the complainant and respondent. The parties shall also be instructed to immediately report any further problems that may arise.
 - f. After completing steps a) through e) above, additional action may need to be taken to restore a productive working or learning environment. This may include activities such as arranging for an awareness session, making a referral to EAP, or making arrangements for mediation or conflict resolution. The Campus Integrity and Human Rights Coordinator is available to help decide upon and make these arrangements.
 - g. All of the steps that were taken to address the problem shall be documented.

VI. FORMAL INVESTIGATION PROCEDURES

The purpose of a formal investigation is to gather evidence, determine if there is substance to the complaint, and implement or recommend disciplinary, remedial or corrective action, as required. Formal investigations are intended to be used in addressing complaints that involve serious allegations and may require disciplinary action. A formal investigation shall be conducted when a senior administrator files a complaint with the Campus Integrity and Human Rights Coordinator and they determine that this process is warranted. At this point, the process shall be referred to the Campus Integrity and Human Rights Committee.

A three-member ad hoc sub-committee shall be created in a case-by-case basis to deal with each specific situation (to avoid potential conflicts of interest). Membership on this committee shall be selected from the University College community. The ad hoc committee shall submit its findings to the Campus Integrity and Human Rights Committee.

The investigation process, including the final written decision, shall be completed with the greatest integrity and in a most timely manner, within six months from the time that the respondent is notified, unless there are unforeseen and significant circumstances.

When the relevant senior administrator or the Campus Integrity and Human Rights Coordinator receives a request for a formal investigation he or she shall assess the situation and decide whether the investigation should proceed or the matter should be addressed using another approach. If the complainant's request for a formal investigation has been made directly to the relevant senior administrator or Campus Integrity and Human Rights Coordinator and a preliminary investigation has not been conducted, the relevant senior administrator or Campus Integrity and Human Rights Coordinator shall meet with the complainant and respondent before deciding how the issue should be addressed.

The relevant senior administrator or Campus Integrity and Human Rights Coordinator shall inform the complainant and respondent of his or her decision and outline the approach that shall be taken to address the complaint.

If the relevant senior administrator or Campus Integrity and Human Rights Coordinator decide that a formal investigation is warranted, he or she shall ensure that the complainant submits a Written Complaint Form to the Campus Integrity and

Human Rights Coordinator who shall, in turn, submit this form to the Campus Integrity and Human Rights Committee.

6.1 Conducting a Formal Investigation

Once a decision has been made to conduct a formal investigation and the Written Complaint Form has been received, the Campus Integrity and Human Rights Committee shall:

- a. inform the respondent that a formal investigation is being conducted;
- b. provide the respondent with a copy of the written complaint; and
- c. offer him or her an opportunity to provide a verbal and/or written response to the allegations.

Individuals who provide information during an investigation shall be given a copy of this Policy and Procedures which outlines the formal investigation process.

Complainants and respondents shall be offered an opportunity to provide the names of potential witnesses and other facts, documents or submissions that they believe are relevant to the investigation.

Complainants, respondents and witnesses shall be interviewed separately and may be interviewed more than one time during an investigation.

A record of all interviews shall be kept and, whenever possible, signed statements shall be obtained. These statements should only contain information that is relevant to evaluating the allegations against the respondent.

If new allegations and/or new information related to the original complaint arise during an investigation, the relevant party shall be informed and offered an opportunity to reply verbally and/or in writing.

VII. EXCEPTIONAL CIRCUMSTANCES

- 7.1 **Multiple Complainants.** Where more than one complainant files a written complaint against the same respondent, the complaints may be investigated during the same investigation. Where the complaints are strikingly similar, before similar fact evidence is adopted, the investigator must assess the credibility of the complainants to ensure that they have not collaborated to concoct false evidence. In addition, each written complaint shall be individually determined on the evidence without regard to the number of complainants.
- 7.2 **Multiple Respondents.** A separate written complaint shall be submitted for each respondent in cases where it is alleged that two or more respondents acted together to discriminate or harass. In these cases, the complaints may be investigated during the same investigation, but shall be individually determined on the evidence.
- 7.3 **Complaints made in Bad Faith and Retaliation.** Allegations that a complaint has been made in bad faith, or that retaliation has occurred, may be investigated during the formal investigation of a complaint. Any evidence in support of these allegations shall be included in the written decision. This information shall also be included in the Report of Findings prepared by the Campus Integrity and Human Rights Committee. See Section XII for further details on bad faith allegations.

VIII. REPORT OF FINDINGS

The Campus Integrity and Human Rights Committee shall prepare a Report of Findings. This report shall include a statement indicating the type of discrimination or harassment under investigation, a list of the allegations against the respondent, and the specific evidence, which either supports or does not support the allegations. When evidence supplied by a witness is relevant to deciding the case, the witness shall be named in the report.

The Report of Findings shall also contain an impartial outline of the positions of the complainant and respondent, the original complaint and any additions to it, the respondent's full reply, and other documents or information that are relevant to the case and shall be used in making the final determination.

Complainants and respondents shall have up to four weeks unless there are unforeseen and significant circumstances, to review the Report of Findings and provide further submissions before a written decision is prepared by the Campus Integrity and Human Rights Committee.

IX. WRITTEN DECISION

- 9.1 After the formal investigation has been completed, the Campus Integrity and Human Rights Committee shall determine the outcome of the case. Based upon the findings, and subject to existing University College agreements and regulations, the Campus Integrity and Human Rights Committee shall recommend disciplinary and/or remedial action, as required.

Remedial action shall focus on providing any right or privilege that was denied due to discrimination or harassment, preventing further discrimination or harassment, and/or redressing or compensating rights and privileges that were violated. For example, remedial action shall be required when employee evaluations or student grades have been unfairly influenced by harassment.

- 9.2 The Campus Integrity and Human Rights Committee shall provide the complainant and respondent with a written decision. This decision shall include one or more of the following outcomes and the specific reason(s) why the outcome was chosen:
- a. Discrimination or harassment did occur;
 - b. Discrimination or harassment did not occur;
 - c. There is insufficient evidence to support a finding of discrimination or harassment;
 - d. The behaviour in question was not sufficiently severe to support a finding of discrimination or harassment, but warrants corrective and/or remedial action;
 - e. Discrimination or harassment did not occur but other behaviour warranting corrective action was revealed;
 - f. The complaint was made in bad faith;
 - g. The evidence supports a finding of retaliation.

- 9.3 The written decision shall also contain:

- h. an outline of any disciplinary and/or remedial action that is recommended or is to be taken; and
- i. information on the procedure for appeal.

- 9.4 The Campus Integrity and Human Rights Committee shall also provide the Campus Integrity and Human Rights Coordinator with a written statement of the decision and ensure that all records pertaining to the case are kept in accordance with the procedures.
- 9.5 Regardless of the outcome of the investigation, the individuals involved may have to continue to work or study together. Senior administrators have a responsibility to ensure that action is taken, when necessary, to restore a productive working or learning environment. The Campus Integrity and Human Rights Coordinator can advise senior administrators and the Campus Integrity and Human Rights Committee on the options available to help restore the environment.

X. PROCEDURE FOR COMPLAINTS OF SYSTEMIC DISCRIMINATION OR CASES WHERE THE RESPONDENT IS NOT KNOWN

The procedures in this section should be used in addressing systemic discrimination, which does not involve a respondent, and cases where the respondent is not known.

- 10.1 **Systemic Discrimination.** Complaints of systemic discrimination shall be directed to the Campus Integrity and Human Rights Coordinator.

If the complaint involves an informal procedure or practice, the Campus Integrity and Human Rights Coordinator shall contact the relevant individual to discuss the possibility of changing the procedure or practice or making an accommodation. In cases where the procedure or practice is an established part of the University College's system, the Campus Integrity and Human Rights Coordinator shall prepare a report that outlines the alleged discriminatory practice and forward a copy of this report to the relevant senior administrator. The relevant senior administrator shall ensure that the issue is addressed and shall inform the Coordinator in writing about the outcome of the complaint and any corrective action that is taken.

Cases that require accommodation for employees with disabilities or cases involving students with disabilities shall be referred to the Access Committee.

- 10.2 Addressing Complaints Where the Respondent is not Known.** Complaints that involve situations where the respondent is not known such as graffiti, or anonymous electronic messages or displays, shall be addressed by the Campus Integrity and Human Rights Coordinator and/or the relevant resource.

XI. APPEALS

11.1 Appeals Under this Policy

Appeals shall be made to the President of St. Mary's University College. In the case of a complaint made against or by the President, the appeal shall be made to the Chair of the Board of Governors.

XII. ASSISTANCE AND REPRESENTATION

- 12.1** A representative or a support person may accompany the parties or witnesses during any procedure in this policy.
- 12.2** The complainant and the respondent shall be informed about the procedure, the role of the person implementing the procedure, the outcome of a complaint, and any disciplinary, corrective, or remedial action that is taken. They shall also be informed about record keeping procedures, the limits of confidentiality, and the status of a complaint.
- 12.3** Respondents shall be informed of the allegations against them and be given an opportunity to reply to them before the case is decided.
- 12.4** All parties shall be given an opportunity to present evidence in support of their positions and to defend themselves against allegations.
- 12.5** Subject to existing agreements, either party to a complaint may reject the participation of a person in the administration of this policy on grounds of a conflict of interest. Senior administrators, supervisors, the Campus Integrity and Human Rights Coordinator or committee members may also excuse themselves from participation in the administration of this policy on grounds of conflict of interest.
- 12.6** Retaliation against an individual who has reported an alleged incident of discrimination or harassment, sought resolution, or been involved with a complaint in other ways is prohibited by the policy. Such retaliation, by itself, constitutes grounds for disciplinary action.
- 12.7** Complaints made in bad faith are prohibited and constitute grounds for disciplinary action against the individual making such allegations. These complaints do not include complaints that are made in good faith and not sustained.
- 12.8** At the discretion of the University College, in cases where a complaint is found to be vexatious or made in bad faith, or when there is clear evidence that a complaint has not been sustained, reasonable steps shall be taken to restore the reputation of the respondent.

GLOSSARY OF TERMS

The glossary contains definitions of terms and phrases commonly used in dealing with integrity and human rights matters. The terms and phrases do not necessarily represent strict academic definitions of each item but reflect their use in human rights matters.

Academic Freedom means "academic freedom" as defined in the St. Mary's University College Statement on Academic Freedom.

Accommodation see Duty to Accommodate.

Age means an age that is 18 years or more, except in cases of employment, in which case age means an age that is 18 years or more and less than 65 years.

Ancestry: belonging to a group of people related by a common heritage.

Bad Faith exists when an allegation is made for dishonest, vexatious or malicious reasons.

Bias is a propensity, predisposition or prejudice. The apprehension of bias occurs when an individual or group believes that another individual or group cannot assess a matter fairly because of bias. Reasonable apprehension of bias exists when there is reasonable belief that an individual or group shall pre-judge a matter.

Citizenship accrues to all persons born in Canada or all persons who have become naturalized in Canada.

Colour: colour of a person's skin. This includes, but is not limited to, racial slurs, jokes, stereotyping, and verbal and physical harassment.

Complainant is the party who makes a complaint by entering into the informal, formal or legal process.

Condonation occurs when breaches of the Alberta *Human Rights, Citizenship and Multiculturalism Act*, this policy or its procedures are tacitly accepted: for example, ignoring racist jokes or failing to respond to complaints. The Alberta *Human Rights, Citizenship and Multiculturalism Act* states that corporate liability can result when those with supervisory responsibilities condone (implicitly or explicitly) any discriminatory or harassing behaviour of others.

Creed is defined as a professed system and confession of faith, including both beliefs and observances or worship. A belief in a god or gods or a single supreme being or deity is not a requisite.

Differential Treatment. Differential treatment occurs when a person or class of persons who is identified by a prohibited ground is subject to treatment that has the purpose or effect of imposing burdens, obligations, disadvantages, or preferences on that person or class of persons which are not imposed on others. Examples of differential treatment include, but are not limited to:

- a. women not being asked to work overtime because it is assumed that they have family obligations; or
- b. persons with disabilities not being asked to do public presentations or answer questions in class because it is assumed that this might embarrass them or cause others to feel uncomfortable.

Discrimination is any practice or behaviour, whether intentional or not, that negatively affects an individual or group on the basis of one or more of the prohibited grounds defined by the Alberta *Human Rights, Citizenship and Multiculturalism Act* or this policy. Discrimination may be direct or indirect. Requirements, qualifications or factors that appear neutral may be discriminatory if they have the effect of preferring, excluding or restricting a group of persons on the basis of a prohibited ground under the Alberta *Human Rights, Citizenship and Multiculturalism Act*, this policy or its procedures. Discrimination may also arise as a result of hate-group activity.

Duty to Accommodate may be invoked where a factor or qualification is imposed in good faith but has the effect, when applied, of preferring or adversely affecting an individual or group of individuals on the basis of a prohibited ground under the Alberta *Human Rights, Citizenship and Multiculturalism Act* or this policy. For example, this could apply where a person with a disability is otherwise unable to carry out the essential requirements of employment or the essential requirements that are necessary to access a service.

Accommodation is not required if it would pose an undue hardship. For example, reasonable accommodation in the provision of education does not mean that the University College's academic standards should be compromised.

Ethnic Origin refers to a group of people having a heritage and a common ancestry or shared historical past, as well as identifiable physical, cultural, linguistic and religious characteristics.

Family Status: being related to another person by blood, marriage or adoption.

Gender: being male, female or transgender. Also protected under gender are pregnancy and sexual harassment.

Handicap see Physical or Mental Disability.

Harassment is a form of discrimination based on one or more of the prohibited grounds identified by the Alberta *Human Rights, Citizenship and Multiculturalism Act* or by this policy. Harassment may be either subtle or blunt and may include verbal or physical abuse, jokes, slurs, graffiti, pejorative or demeaning names, hate-group activity and ostracism. Sexual harassment can include a sexual advance, request for sexual favours or sexual flirtation or banter that is known, or ought reasonably to be known, to be unwanted. It is particularly pernicious where the solicitation or advance is made by any person in a position to grant, confer or deny a benefit, privilege or advancement to the person subjected to the harassment.

Invitees are persons who enter University College lands and property through either express or implied permission. Their business may be connected to University College business or with activities that the University College conducts or permits to be conducted on its land or property.

Marital Status is the state of being married, single, widowed, divorced, separated, or living with a person in a conjugal relationship outside marriage.

Mediation is the process of intervention between conflicting parties to promote reconciliation, settlement, or compromise.

Mental Disability: any mental disorder, developmental disorder or learning disorder regardless of the cause or duration of the disorder.

Merit and Foundation must be found for a matter to proceed under this policy and its procedures. A matter may be said to be without foundation if, although the facts alleged can be proven, it cannot succeed on its merits. For example, a matter shall not be able to succeed on its merits if the University College lacks the jurisdiction to hear it or where the allegation is not based on a ground covered by this policy. This would include circumstances where the undisputed facts clearly provide a defense.

Negative Environments or Climates are created by acts or omissions that permit offensive, hostile or intimidating climates for individuals or groups based on one or more of the prohibited grounds of discrimination. These acts or omissions can have the effect of "poisoning" the environment. In this context, discriminatory behaviour by those covered by this policy while engaged in university affairs or at university-related events, can have a negative effect on the University College community. A negative environment is characterized by condonation of, or participation in, such matters as: pinups, language or graffiti that demeans groups on the basis of prohibited grounds identified either by the Alberta *Human Rights, Citizenship and Multiculturalism Act* or by this policy; failure to implement special programs; and the failure to review and change policies, practices and procedures that discriminate on any ground prohibited by this policy.

Physical disability - any degree of physical disability, deformity, malformation or disfigurement that is caused by injury, birth defect or illness. This includes, but is not limited to, epilepsy; paralysis; amputation; lack of physical coordination; visual, hearing and speech impediments; and physical reliance on a guide dog, wheelchair or other remedial appliance or device.

Place of Origin: place of birth.

Race: belonging to a group of people related by common heritage.

Religions Beliefs: system of belief, worship and conduct (includes Native Spirituality).

Reprisal may take the form of threat, attempts to intimidate and denial of opportunity. It may also take the form of undue focus on the rights of individuals or groups to claim and enforce their rights under this policy.

Respondent is the party against whom a complaint has been made.

Sexual Harassment occurs when a person receives unwelcome sexual or sexualized attention from another person whose comments or conduct are known, or should reasonably be known, to be offensive, inappropriate, intimidating, hostile or unwelcome. Sexual harassment includes situations in which a person in a position of authority (a supervisor or teacher, for example) shows unwelcome sexual attention to an employee or student, and in which reprisal occurs, or is threatened, if the sexual attention is rejected. It also includes an environment in which sexist jokes and materials are allowed. It may occur between persons of different or the same sex.

Sexual Orientation is protected ground and includes protection from differential treatment based on a person's actual or presumed sexual orientation, whether homosexual, heterosexual or bisexual.

Source of income means lawful source of income.

Socioeconomic status is assessed according to one's income, education level, occupation, and social status in the community (such as contacts within the community, group associations, and the community's perception of the family and/or individual).

Special programs are designed to remove systemic barriers to equality in employment. Such programs involve identifying and eliminating discriminatory policies and practices, remedying the effects of past discrimination, and ensuring appropriate representation of designated groups. Employment equity programs require goals and timetables to be set to achieve fairness in the representation of designated groups in the workplace.

Student is defined under this policy and these procedures as an individual who is enrolled as either a full-time or part-time student at the University College or an individual who is on a field placement from the University College.

Supervisory Responsibility is imputed under this policy and these procedures to a University College employee who is in a position of trust, power or authority.

Senior Administrators are employees who are in charge of a college or a non-academic unit. Deans, Vice-Presidents, and the President are all included in this category.

Supervisors are employees who are directly responsible for managing an area within a college, including chairs, vice-presidents, directors and coordinators.

Supervisory Personnel are individuals who have some supervisory responsibility, which is limited in scope and does not include the management of a department or area.

Systemic Discrimination. Systemic discrimination is a form of discrimination that occurs when policies, practices, or procedures, have a discriminatory affect on a person or class of persons who are identified by a prohibited ground. Systemic discrimination does not exist when a policy, practice, or procedure is reasonable and bona fide in the circumstance or when a statutory exemption has been granted.

Examples of systemic discrimination may include:

- a. exam schedules which interfere with the religious holidays of a particular faith; or
- b. meetings within an area that are always scheduled during times that are very difficult for people with children to attend.

REFERENCES

Alberta Human Rights, Citizenship and Multiculturalism Act

Canadian Human Rights Act

Canadian Charter of Rights and Freedoms

St. Mary's University College Mission Statement, Vision Statement and Educational Objectives

St. Mary's University College Policy on Academic Freedom

St. Mary's University College Bylaws

Proposed Outline for a Policy from the St Mary's Faculty Association Executive

ACKNOWLEDGEMENTS

University of Saskatchewan Discrimination and Harassment Policy

University of Lethbridge Personal Security Policy

University of Waterloo Ethical Behaviour Policy

St. Jerome's University Grievance Policy

University of Guelph Human Rights Policy

LINKS

St. Mary's University College Integrity in Research and Scholarship Policy