

<b>PROCEDURE TITLE</b>	<b>Procedures Related to the Policy on Harassment and Discrimination</b>
<b>Executive Sponsor</b>	Provost and Vice-Principal (Academic)
<b>Initial Approval Date</b>	May 20, 2021
<b>Date of Last Review</b>	n/a

<b>Related Documents</b>	<a href="#">Policy on Harassment and Discrimination</a>
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## PART I – PURPOSE AND SCOPE

1. McGill’s [Policy on Harassment and Discrimination](#) (“the Policy”) establishes that acts of Harassment and Discrimination constitute misconduct. This document sets the procedures by which Reports of Harassment and/or Discrimination made pursuant to the Policy will be mediated and investigated.
2. These Procedures are meant to facilitate the investigation of Reports of Harassment and/or Discrimination. Consequently, an Assessor who investigates a Report has full authority to adapt the Procedures when necessary for the purpose of carrying out the investigation.
3. These Procedures also establish the process by which mediation under this Policy will be conducted.
4. These Procedures shall be reviewed and amended as necessary to facilitate the smooth implementation of the Policy, and in any case at least every three years, with appropriate stakeholder consultation.
5. Words capitalized herein are given the meaning they are ascribed in the Definitions section of the Policy.

## PART II – PROCEDURAL CONTENT

### Filing a Report

6. Any Member of the McGill Community who seeks to make a Report shall do so by submitting such Report to the Office for Mediation and Reporting (OMR).
7. The Report must set out in sufficient detail in writing: the act(s) or omissions that the Reporter experienced as Harassment and/or Discrimination, the identity of the Respondent(s), information about the incident(s) (e.g., time(s), location(s)), and any additional relevant information.
8. Where more than one Reporter considers that the same incident(s) have caused them to be the object of Harassment and/or Discrimination, they may choose to file individual Reports or one single Report together.
9. Where a Reporter considers that they are the object of Harassment and/or Discrimination that is systemic in nature, they may name a Respondent who has authority over the unit and/or office in which the Harassment or Discrimination is alleged to have occurred.

10. A Report may name more than one Respondent.
11. The OMR, in initial communications with a Reporter or Respondent, shall:
  - a. provide the parties with a copy of or an active hyperlink to the [Policy](#), these Procedures and/or other relevant policies;
  - b. inform the parties of their rights and responsibilities in regard to an investigation and mediation (related, for example, to: good faith, respect for privacy and reputation, protection from retaliation, no contact with one another or potential witnesses); and
  - c. inform all parties of available support resources for them both on- and off-campus.

#### Confidential and Third-Party Reports

12. The OMR may accept a Report that is confidential (i.e., a report made by a person whose identity is known only to the OMR and is not disclosed to the Assessor, the Respondent, or any other person) or made by a third-party (i.e., a report made by someone other than the person alleged to have experienced Harassment or Discrimination) where the person who submits the Report is a Member of the University Community.
13. Where a confidential or third-party Report includes sufficient information to conduct a fair investigation, the OMR will refer the Report to an Assessor for investigation.
14. Where the person who is alleged to have experienced Harassment or Discrimination is identified in a confidential or third-party Report, this person has the right to be informed about the Report and to choose whether to participate or not in the investigation of such Report.
15. Processes for investigating confidential or third-party Reports shall be adapted to respect the right of the person alleged to have experienced Harassment or Discrimination not to participate in an investigation.

#### Initial Review of a Report

16. Upon receipt of a Report, the OMR will acknowledge receipt to the Reporter within 5 Days. The OMR will then conduct an initial review to determine:
  - a. whether the Report falls within the Policy's scope and jurisdiction, as determined by Section 2 of the Policy;
  - b. whether the parties accept mediation;
  - c. whether, in the case of an confidential or third-party Report, there is sufficient information to conduct a fair investigation; and
  - d. whether immediate measures, as defined below, may be warranted at that time.
17. An initial review will normally occur within 5 Days of receiving a Report.
18. If, following the initial review, the OMR finds that the Report falls within the Policy's scope and jurisdiction as defined by Section 2 of the Policy, and the matter does not proceed to mediation, the Report will proceed to an investigation in accordance with these Procedures.

#### Immediate Measures

19. Before recommending the implementation of immediate measures, the OMR shall consult with the Reporter. Decisions concerning immediate measures rest with the appropriate University authority.

20. Immediate measures may be implemented before or during the course of mediation or an investigation.
21. Any immediate measures instituted shall comply with University regulations, policies, and collective agreements, and shall ensure that Procedural Fairness, as applicable in the context, is maintained. Such measures may include, but are not limited to:
  - a. voluntary measures (i.e., those agreed to by the Respondent);
  - b. an order to cease and desist communication;
  - c. devising and implementing accommodations that may be academic (e.g., course changes or reimbursement of fees associated with academic tuition), extra-curricular, residential, or work-related, with respect to the Reporter and Respondent.
22. Immediate measures are not meant to prejudge the outcome of the investigation and shall not be interpreted as affecting the impartiality of the Assessor

### Mediation

23. Mediation is a voluntary process in which the mediator facilitates discussion between two or more parties on issues that have given rise to conflict, and supports the parties to find a resolution that the parties accept as fair. Mediation can yield a range of outcomes that are helpful for the parties, such as guidelines on any future communication between them.
24. Mediation may occur when a Report is filed with the OMR or at any point before an Assessor's report is finalized and sent to the Provost.
25. Where a Reporter requests mediation, whether at the outset of a process or when an investigation is already underway, the OMR will notify the Respondent and determine, usually within no more than 5 Days, whether the Respondent also consents to mediation. If the Respondent accepts, the matter proceeds to mediation. If the Respondent declines, the Reporter can opt to proceed with an investigation or, if the investigation was underway when mediation was proposed, the investigation will continue.
26. Where both parties consent to mediation, the matter shall be referred to a mediator with appropriate skills and training, as defined by Section 6.2.1 of the [Policy](#).
27. Mediation normally shall not exceed 30 Days from the date of the Respondent's consent to mediation. If an investigation is ~~that may be~~ underway when the parties agree to mediation, the investigation and associated time delays are suspended during the mediation.
28. Mediation is not conducted with the parties in the same room or in direct communication with one another unless the Reporter and Respondent agree to mediate in the presence of one another.
29. Mediation is intended to be without prejudice to the parties. Therefore, all statements and disclosures made, information disclosed, and documents and material provided or presented specifically for the purposes of the mediation by one party cannot be used or referred to by the other party if the matter proceeds to an investigation, unless consent to their use is provided in writing by the person who provided them. The mediator shall advise the parties of their rights and duties under this clause.
30. Either party may, at any time, refuse or withdraw from mediation. In that case, if the mediation was attempted before an investigation began, the Reporter may opt to proceed to an investigation by an Assessor. If the mediation was attempted during the course of an investigation already underway, the investigation shall resume.

31. A party's decision to participate or not in mediation is without prejudice. No adverse inference will be drawn against a party based on such a decision.
32. Where the mediator is of the opinion that a resolution cannot be reached within a reasonable time, the mediator shall so advise the OMR and the parties in writing no later than 30 Days following the date on which the parties agreed to mediation.
33. In cases where a resolution acceptable to both parties is achieved through mediation, the resolution shall be acknowledged by the Reporter and the Respondent in writing, in sufficient detail to allow for its implementation, with the mediator signing as a witness. The resolution shall be final and both parties shall waive any further internal and external recourse based on the facts having given rise to the Report. A signed copy of the resolution shall be kept confidential and held for a minimum of ten years by the OMR.
34. Breach of a mediation agreement may result in disciplinary consequences for the party that committed the breach. It will not, however, trigger an investigation of the initial Report or of a new Report based on the same events. In cases of breach of the mediation agreement, the agreement shall be relevant evidence to consider in the disciplinary process. In the case of a new incident, a Reporter can file a new Report.
35. In cases where a resolution is not reached, if an investigation had not begun prior to mediation, the Reporter may decide to proceed with an investigation. However, if mediation was attempted while an investigation was already underway, the investigation shall resume.

#### Investigation

36. When a Report falls within the Policy's scope and jurisdiction as defined by Section 2 of the Policy, and the matter does not proceed to mediation, there will be an investigation of the Report by an Assessor.
37. The Assessor notifies the Respondent within 10 Days of having received the Report and provides the Respondent with a copy of the Report. The Respondent shall provide a response to the Report within the time specified by the Assessor, which generally shall not be more than 14 Days. The response must be submitted in writing to the Assessor.
38. Upon receiving the Respondent's response, the Assessor shall send a copy to the Reporter.
39. The Assessor will work diligently to ensure timely processes for investigating Reports without compromising Procedural Fairness.
40. An investigation will not exceed 60 Days from the date that the Report is submitted to the Assessor.
  - 40.1 In exceptional cases, the Assessor may seek permission from the Provost to extended the 60-day delay for completing an investigation.
  - 40.2 This 60-day delay may be extended if the parties agree to attempt mediation during the course of an investigation, which will suspend the delay by the time during which mediation was attempted, but not more than 30 Days.

41. The Assessor may investigate in any manner required to obtain the information that the Assessor deems necessary to making the necessary findings of fact. This may include, but is not limited to, the following:
  - a. meeting with and requesting information from the Reporter;
  - b. meeting with and requesting information from the Respondent;
  - c. meeting with or requesting information from any other individuals who may have information relevant to the Investigation, including, but not limited to any witnesses identified by the Reporter or the Respondent;
  - d. obtaining any other evidence (e.g., documents, copies of correspondence, photos/images) that may be relevant to the investigation.
38. The Assessor shall not hold a hearing. This means that the Assessor shall not meet together with both parties to hear their respective claims.
39. When the investigation is complete, the Assessor prepares a written report that is submitted to the Provost with a copy to the Reporter and the Respondent, in accordance with Sections **6.10ff** of the [Policy](#).
40. The process following the Assessor's submission of the report to the Provost shall follow the terms established in the Policy.

#### Withdrawing a Report

41. Before an investigation has begun, the Reporter may withdraw the Report at any time.
42. Once an investigation has begun, the Reporter may withdraw the Report with the consent of the Respondent. This shall be evidenced in writing, with the Assessor signing as a witness, with a copy filed with the OMR.