



Max Rady College of Medicine Policy

Policy Name:	Prevention of Learner Mistreatment
Application/Scope:	Faculty, staff and learners of the Max Rady College of Medicine
Approved (Date):	June 5, 2018
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Revised (Date):	
Approved By:	Dean's Council, Max Rady College of Medicine

1. **PURPOSE**

The purpose of this Policy is to:

- (a) Define Learner mistreatment in the teacher-learner relationship and to set out clear mechanisms and procedures for Learners to report mistreatment against them, or mistreatment that Learners observe against others, without fear of retaliation.
- (b) Ensure compliance with relevant accreditation standards applicable to the educational programs offered by the Max Rady College of Medicine.
- (c) Be aligned with existing policies at the University of Manitoba.

2. **DEFINITIONS**

2.1 The terms in this Definition section are defined for the purposes of this Policy.

“Academic Staff” refers to all individuals whose primary assignment is instruction, research, and/or service/academic administration. This includes employees who hold an academic rank such as professor, associate professor, assistant professor, instructor, lecturer, librarian, or the equivalent of any of those academic ranks. The category also includes a dean, director, associate dean, assistant dean, chair or head of department, visiting scholars, senior scholars, and those holding unpaid academic appointments, insofar as they perform instructional, research, and/or service/academic administrative duties.

“College” means the Max Rady College of Medicine.

“Faculty Member” means all unionized and non-unionized academic staff of the Max Rady College of Medicine, visiting professors, clinicians with academic appointments and including academic staff whose salary or stipend may be paid, in whole or in part, by another organization.

“Staff Member” means administrative or support staff employed by the College that are not Faculty Members.

“Learner” means an individual registered, enrolled, or classified as a student within or with the University of Manitoba, participating in the Max Rady College of Medicine programs.

“Mistreatment” means an intentional, or unintentional, disrespectful treatment of a Learner, trainee, or colleague that has or may have the effect of creating an intimidating, humiliating, hostile or offensive work or learning environment for Learners in that circumstance. It entails a behaviour that shows disrespect for the dignity of others and can take the form of physical or psychological punishment, harassment or discrimination.

Examples of mistreatment include, but are not limited to:

- (a) Actions or criticism conducted in public that can be interpreted as embarrassing or humiliating.
- (b) Verbally abusing, belittling, ridiculing or yelling at a student or trainee in public or private.
- (c) Speaking to a Learner in a sarcastic or insulting manner.
- (d) Subjecting the Learner to racially or ethnically offensive remarks or names.
- (e) Requiring a Learner to perform personal services (i.e. babysitting, shopping).
- (f) Pressuring Learners to exceed established restrictions on work or duty hours.
- (g) Not providing Learners with clear work expectations yet holding them responsible for the expectations.
- (h) Directing Learners to perform an unreasonable number of routine hospital procedures where performing those activities interferes with a student’s attendance at educational activities, (e.g. rounds, classes).
- (i) Disparaging the Learner’s choice of residency, profession, or other career aspirations.
- (j) Committing an act of physical abuse or violence of any kind (e.g. throwing objects, aggressive violation of personal space).
- (k) Intentional physical contact such as pushing, shoving, slapping, hitting, tripping.
- (l) Subjecting the Learner to threatening gestures.
- (m) Subjecting the Learner to unwanted sexual advances.
- (n) Asking the Learner to exchange sexual favours for grades or other rewards.
- (o) Making unwelcome sexual comments, jokes, innuendos, or taunting remarks about one’s body, attire, age, gender, ethnicity, sexual orientation, marital status, or any other Protected Characteristic.
- (p) Excluding a Learner from reasonable learning opportunities.
- (q) Using grades as punishment rather than as an objective evaluation of performance.
- (r) Assigning duties as punishment rather than education.
- (s) Threatening to fail, give lower grades, or give a poor evaluation for anything other than documented performance issues.
- (t) Denying opportunities for training based on gender, or any other Protected Characteristic.
- (u) Intentionally neglecting or excluding the Learner from communications.
- (v) Intentionally singling out a Learner for arbitrary treatment that could be perceived as punitive.

"Discrimination" means an intentional or unintentional act or omission resulting in:

- (a) Differential treatment of:
 - (i) An individual on the basis of the individual's actual or presumed membership in or association with some class or group of persons, rather than on the basis of personal merit;
 - (ii) An individual or group on the basis of any Protected Characteristic;
 - (iii) An individual or group on the basis of the individual or group's actual or presumed association with another individual or group whose identity or membership is determined by any Protected Characteristic;
- (b) Failure to make Reasonable Accommodation for the special needs of an individual or group, if those needs are based upon a Protected Characteristic.

"Harassment" refers to:

- (a) **"Personal Harassment"**, which means offensive behaviour directed towards another person and not connected to a Protected Characteristic, including but not limited to:
 - (i) A severe single incident or a series of incidents of objectionable and unwelcome conduct or comments, directed toward a specific person or group, which does not serve a reasonable work or academic purpose, and objectively would have the effect of creating an intimidating, humiliating, hostile or offensive work or learning environment;
 - (ii) Verbal or written abuse, threats or intimidation that objectively are humiliating or demeaning;
 - (iii) Objectionable and unwelcome conduct or comments that objectively impact the mental or physical health of another person;
- (b) **"Human Rights Based Harassment"**, which means offensive behaviour connected to a Protected Characteristic, including but not limited to:
 - (i) A severe single incident or a series of incidents of objectionable and unwelcome conduct or comments, directed toward a specific person or group, which objectively would have the effect of creating an intimidating, humiliating, hostile or offensive work or learning environment;
 - (ii) Verbal or written abuse, threats or intimidation that objectively are humiliating or demeaning;
 - (iii) Objectionable and unwelcome conduct or comments that objectively impact the mental or physical health of another person;
 - (iv) Sexual Harassment.
- (c) **"Sexual Harassment"**, which is a form of Human Rights Based Harassment and refers to a course of objectionable and unwelcome conduct or comments undertaken or made on the basis of the Protected Characteristics including but not limited to:
 - (i) Unwanted sexual attention, including persistent invitations for dates, by a person who knows or ought reasonably to know that such attention is unwanted or unwelcome;
 - (ii) Gender-based abusive or unwelcome conduct or comments that would objectively have the effect of creating an intimidating, humiliating, hostile or offensive work or learning environment;
 - (iii) Sexist jokes or remarks, including comments regarding a person's

- appearance or clothing;
- (iv) Leering, ogling, or other sexually oriented gestures;
- (v) Questions about a person's sexual history, sexuality, sexual orientation, or sexual identity by a person who knows or ought reasonably to know that the questions are unwanted or unwelcome;
- (vi) Offensive physical contact by a person who knows or ought reasonably to know that the contact is unwanted or unwelcome;
- (vii) A single sexual solicitation or advance or a series of solicitations or advances made by a person who is in a position to confer any benefit on or deny any benefit to the recipient, and who knows or ought reasonably to know that the solicitation or advance was unwanted or unwelcome; or
- (viii) A Reprisal for rejecting a sexual solicitation or advance.

"Protected Characteristic" means those characteristics listed in The Human Rights Code (Manitoba) (effective as of May 18, 2018) as being protected, including:

- (a) Ancestry, including colour and perceived race;
- (b) Nationality or national origin;
- (c) Ethnic background or origin;
- (d) Religion or creed, or religious belief, religious association or religious activity;
- (e) Age;
- (f) Sex, including sex-determined characteristics or circumstances, such as pregnancy, the possibility of pregnancy, or circumstances related to pregnancy;
- (g) Gender identity;
- (h) Sexual orientation;
- (i) Marital or family status;
- (j) Source of income;
- (k) Political belief, political association or political activity;
- (l) Physical or mental disability or related characteristics or circumstances, including reliance on a service animal, a wheelchair, or any other remedial appliance or device;
- (m) Social disadvantage.

3. POLICY STATEMENTS

- 3.1 The Max Rady College of Medicine is committed to assuring safe, respectful and supportive working and learning environments in which all of its members are enabled and encouraged to excel. This is an environment free of discrimination, harassment and mistreatment and one in which feedback regarding performance can be shared openly without concern for ridicule or reprisal. All members of our diverse community share responsibility for maintaining a positive learning environment and for taking appropriate steps to seek advice and/or address Learner mistreatment when it occurs.
- 3.2 Remedial measures resulting from a Learner mistreatment concern will depend on circumstances, on the seriousness of the behaviour, on any mitigating factors and on applicable University policy, bylaw, collective agreement or academic regulation. The following list provides examples of remedial measures and is not meant to be exhaustive nor necessarily represents a progression of measures:
- (a) A letter of apology;
 - (b) Attendance at educational session(s) on professionalism;
 - (c) Attendance at coaching session(s) to improve communication or conflict resolution skills;

- (d) Prohibited or restricted access to the learning environment and/or to Learners;
- (e) Academic consequences such as remediation, probation, notation on the performance record, dismissal/expulsion from the College, termination of academic appointment.

Communication and Education

- 3.3 This policy will be included in Learner handbooks and posted in the College website; the topic will be addressed at orientations at matriculation and at the beginning of third year.
- 3.4 Mandatory educational sessions for Faculty and Leadership will be held at least once a year under the direction of the University of Manitoba Office of Human Rights and Conflict Management in collaboration with the University of Manitoba Student Advocacy Office.
- 3.5 A letter will be sent each year from the Dean to all Faculty (including voluntary Faculty) reminding them of the College statement on supporting a Learner mistreatment-free environment, of the Learner mistreatment prevention policy and on resources available for resolution.
- 3.6 A letter will be sent each year from the Dean to the Chief Executive Officer at affiliated institutions to explain the policy and to request its distribution to all staff interacting with Learners from the Max Rady College of Medicine.

4. PROCEDURES

- 4.1 When assessing behaviour that might represent mistreatment, Learners are expected to consider the conditions, circumstances, and environment surrounding such behaviour.

Informal Procedure to Report Mistreatment

- 4.2 Learners can report concerns about mistreatment in their learning environment to any of their teachers, preceptors, course/rotation directors, administrative staff members, the Associate Dean, UGME, the Associate Dean, PGME, the Associate Deans of Student Affairs, UGME, the Associate Dean of Student Affairs, PGME, the Associate Dean of Professionalism, the University Office of Human Rights and Conflict Management or the University Student Advocacy office according to personal comfort and preference. Learners should recognize that not all the College teachers, leaders, or staff members are equally well placed to provide assistance or other support in response to a Learner mistreatment behavior, nor are they all equally capable of acting on the report to effectively address the particular incident or the system as a whole.
- 4.3 Learners may also make reports via the student representatives. Student representatives can discuss reports of Learner mistreatment with the relevant course/rotation director, curriculum committee, the Associate Dean, UGME, the Associate Dean, PGME, the Associate Dean of Student Affairs, UGME, the Associate Deans of Student Affairs, PGME, or the Associate Dean of Professionalism while maintaining the anonymity of the complainant.

- 4.4 Individuals to whom an informal report is made must make the Learner aware of this policy and are encouraged to suggest to Learners to also complete a Mistreatment Report Form to ensure that all appropriate follow-up takes place. Alternatively, the individual receiving an informal report of Learner mistreatment may complete a Learner Mistreatment Report Form anonymously on the reporting Learner's behalf.

Formal Procedure to Report Mistreatment

- 4.5 Mistreatment Report Form: Speak Up button.
In order to provide Learners with a convenient, effective, and confidential means to make a report of Learner mistreatment; an electronic Mistreatment Report Form has been created, and is available online at http://umanitoba.ca/faculties/health_sciences/medicine/reporting.html
- Although there is an option for anonymous reporting of Learner mistreatment, the College's response to anonymous reports may be limited when the College cannot follow up with the person making the report. Learners are encouraged to make reports that are not anonymous.
- 4.6 The Dean has appointed a Learner Mistreatment Advisor to review and manage all mistreatment reports. In making the appointment of the Learner Mistreatment Advisor, the Dean has been guided by considerations of continuity, experience, and sensitivity to concerns of professionalism from Learners, Faculty, and the College community.
- 4.7 All Mistreatment Report Forms will be reviewed within 10 working days by the Learner Mistreatment Advisor. The Learner Mistreatment Advisor will determine if the reported incident falls within this Policy or if immediate reporting to the Office of Human Rights and Conflict Management is required for incidents that may breach the Respectful Work and Learning Environment Policy and the Sexual Assault Policy. In cases where the Learner Mistreatment Advisor determines not to proceed, the Learner Mistreatment Advisor will notify the complainant in writing. In making these determinations, the Learner Mistreatment Advisor may seek advice, as appropriate. If the Learner Mistreatment Advisor finds him or herself to be in a conflict of interest with a complaint, the Advisor will immediately inform the Dean who will appoint another individual to review the incident.
- 4.8 The Learner Mistreatment Advisor will meet with the appropriate Senior Leadership (e.g.: Associate Dean, UGME; Associate Dean, PGME; Department Head, etc.) to inform about the complaint and to conduct an investigation. The Learner Mistreatment Advisor along with the Senior Leadership will conduct an investigation by interviewing the complainant, informing the respondent about the matter of the complaint, interviewing the respondent, and interviewing any other persons who might have insight into the situation, such as witnesses and individuals in relevant positions. All such individuals will be bound to strict confidentiality regarding all aspects of the case.

- 4.9 The Learner Mistreatment Advisor and the Senior Leadership will review all of the information gathered in the course of the investigation and within 20 working days of their initial meeting will submit a report to the Dean that includes the summary of the evidence and facts of the case and recommendations for corrective/remedial action.
- 4.10 The Dean will review the report and make a decision on the corrective/remedial action to take. The Dean may meet with both the complainant and the respondent to discuss the report prior to rendering a decision. The Dean will inform the parties in writing of his or her decision within 20 working days after receiving the report. The Dean will work with the appropriate department head, program director, associate dean, or chief executive officer to ensure that corrective action is taken and that the Dean's report and corrective action becomes part of the respondent's performance evaluation.
- 4.11 Special note regarding post graduate medical Learners.
Residents may report incidents of Learner mistreatment using the formal procedure described in this policy or using a Learner mistreatment tool in a curriculum management system and any mistreatment incident report form as per the College of Medicine Post Graduate Medical Education (CPGME) Resident Safety Policy. In any case and for any report made using either procedure points 4.8, 4.9 and 4.10 will apply.
- 4.12 The complainant has a right to withdraw the complaint at any stage. However, the Learner Mistreatment Advisor and the Dean may elect to continue the formal investigation and decision process in compliance with obligations to ensure an environment free from Learner mistreatment.
- 4.13 Appeals.
In cases where either the complainant or the respondent is dissatisfied with the Dean's decision, that person must submit his or her appeal in writing to the Dean within 10 working days of the report and refer to the applicable University Policy, Procedure or Bylaw or collective agreement.
- 4.14 Retaliation.
A complainant, respondent, witness, and/or any other person who has sought advice regarding Learner mistreatment, who has brought forward allegations, who has made a report or who has cooperated with an investigation, is entitled to be protected from retaliation. Retaliatory action of any sort during or following the investigation is prohibited and will not be tolerated. Accusations that retaliation has occurred will be subject to investigation and may result in disciplinary action up to and including termination or expulsion.
- 4.15 False Accusations.
A complainant or witness found to have been dishonest in making allegations with a conscious design to mislead or deceive, or with a malicious or fraudulent intent may be subject to disciplinary action up to and including termination or expulsion.
- 4.16 Confidentiality & Record Keeping.
Any communication of information gathered in any case is confidential. The College will not disclose the name of a complainant of respondent or the circumstances related to a complaint except to the extent that disclosure is necessary to effectively implement this policy or to undertake any disciplinary or remedial action arising from a decision made under this policy. Records will be kept pursuant to any applicable relevant University Policy and Procedure.

- 4.17 Institutional Responsibility.
Aggregate and de-identified data on formal and informal reports of mistreatment of Learners will be shared with Dean's Council and Department Heads Council in a quarterly basis. The Associate Dean Professionalism along with the Associate Dean, UGME and the Associate Dean, PGME are jointly responsible for actively addressing concerning rates of trends of Learner mistreatment.

5. **POLICY CONTACT**

Please contact the Associate Dean, Professionalism, Max Rady College of Medicine with questions respecting this policy.

6. **REFERENCES**

- 6.1 The University of Manitoba Respectful Work and Learning Environment (RWLE) Policy
http://umanitoba.ca/admin/governance/media/Respectful_Work_and_Learning_Environment_RWLE_Policy_-_2016_09_01.pdf
- 6.2 The University of Manitoba Sexual Assault Policy
http://umanitoba.ca/admin/governance/media/Sexual_Assault_Policy_-_2016_09_01.pdf
- 6.3 The University of Manitoba RWLE and Sexual Assault Procedure
http://umanitoba.ca/admin/governance/media/Respectful_Work_and_Learning_Environment_RWLE_and_Sexual_Assault_Procedures_-_2016_09_01.pdf
- 6.4 The University of Manitoba Student Discipline Bylaw and Procedures
http://umanitoba.ca/admin/governance/governing_documents/students/student_discipline.html
- 6.5 The University of Manitoba Violent or Threatening Behaviour Policy and Procedure
http://umanitoba.ca/admin/governance/governing_documents/community/669.html
- 6.6 The University of Manitoba Responsibilities of Academic Staff with Regard to Students Policy and Procedure
http://umanitoba.ca/admin/governance/governing_documents/students/278.html
- 6.7 The Human Rights Code, C.C.S.M.c. H175
<http://web2.gov.mb.ca/laws/statutes/ccsm/h175e.php>