

Ethics Board Policy

Interim Status

This primary draft of this Policy was approved by the MUS Council on October 30th, 2018. This Policy shall remain in effect until an updated policy replaces it or until February 1st, 2019, whichever occurs earlier.

Purpose

The Management Undergraduate Society is committed to fostering a harassment-free environment where all members are treated with respect and dignity.

The Canadian Human Rights Act protects employees from harassment based on race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or pardoned conviction.

The Québec Charter of Human Rights and Freedoms is a fundamental law that governs all persons in Québec, including individuals in their private and public dealings with each other, groups and organizations, private businesses, public and private service providers, government administration (at the provincial, municipal and school board levels), and the Québec government and its agencies at all levels.

Among other things, the Charter prohibits harassment based on any orientation, civil status, age, religion, political convictions, language, ethnic or national origin, social condition, a handicap or the use of any means to palliate a handicap.

Harassment at the Management Undergraduate Society is not tolerated. Members who are found to have harassed another individual may be subject to disciplinary action to ensure the safety of the membership. This includes any member who: interferes with the resolution of a harassment complaint; retaliates against an individual for filing a harassment complaint; or files an unfounded harassment complaint intended to cause harm.

The purpose of the policy is to:

- Protect the petitioner(s) from further physical or mental harm.
- Ensure that MUS events and groups are safer spaces for all students.
- Restrict the access of persons who are more likely to inflict physical, mental, or emotional harm on the petitioner(s), or other students, to events and groups that are within the MUS context, as deemed necessary by the committee.

Definitions:

1.1

The Management Undergraduate Society of McGill University (hereafter “MUS”) is the registered name of the not-for-profit corporation representing Management students at the Desautels Faculty of Management.

1.2

The Board of Directors of the MUS (“Board of Directors”) is the administrative board of the Management Undergraduate Society of McGill University as defined in the MUS Constitution

1.3

The MUS context shall refer to any situation where there is a clear connection to the MUS or the involvement of its members. The MUS context is not restricted to McGill campus or MUS spaces.

1.4

Misconduct of an individual includes any action that endangers the well-being, physical or mental, of individual(s) in the MUS context.

1.5

The petitioner shall be the individual(s) affected, either directly or indirectly, by the alleged improper conduct. A petitioner does not need to be the person directly affected and can represent another individual who has been affected.

1.6

The respondent shall be the individual who allegedly engaged in improper conduct.

1.7

The Ethics Board shall be a standing board as defined in Section 2 of this policy.

1.8

Involvement Restriction refers to a limitation placed on an individual’s involvement in the MUS, including employment. This can include, but is not limited to: participating in, staffing, or organizing events, as well as leading, being a member of, or representing the MUS or its groups.

1.9

Harassment is:

- offending or humiliating someone physically or verbally;
- threatening or intimidating someone; or
- making unwelcome jokes or comments about someone’s race, national or ethnic origin, colour, religion, age, sex, sexual orientation, marital status, family status, disability or pardoned conviction.

1.10

Sexual harassment is:

- offensive or humiliating behaviour that is related to a person's sex;
- behaviour of a sexual nature that creates an intimidating, unwelcome, hostile or offensive work environment; or
- behaviour of a sexual nature that could reasonably be thought to put sexual conditions on a person's job or employment opportunities.

1.11

"action" as used in these Procedures refers to proceedings filed on petition or appeal to the MUS Ethics Board;

1.12

"Constitution" shall be defined as the Constitution of the Management Undergraduate Society of McGill University;

1.13

"days" as used in these Procedures do not include weekends (Saturday and Sunday) or holidays (civic and academic);

1.14

"members" shall be defined under Article 3.01 of the Constitution of the Management Undergraduate Society unless its definition is the point of dispute in an action brought before the MUS Ethics Board;

1.15

"Members" shall be defined as a person who seats on the Ethics Board

2. MUS Ethics Board

2.01

There shall be a body of the Society called the Ethics Board, which shall be an independent body of the Board of Directors, with the exception of the Chairperson, who serves a non-voting role on the Board of Directors in the capacity of Ombudsperson. It shall have authority to adjudicate on matters within its jurisdiction, which shall be the entirety of the MUS Constitution and Policies. Every member shall have the right to petition the Ethics Board on matters falling within the Ethics Board's jurisdiction.

2.02

The Ethics Board shall be composed of two (2) Members, appointed by the Chairperson and including the chairperson. Members of the Ethics Board shall serve a term of one sitting-

2.03

The quorum for a meeting of the Ethics Board shall be three (3) members of the Ethics Board.

2.04

The Ethics Board is a dispute resolution body of the MUS empowered to hear appeals and facts.

2.05

The Ethics Board follows the principles of natural justice, including equity and good conscience and to uphold the MUS Constitution and Policies.

2.06

Only members of the MUS, not paid for their services, shall act as advocates for parties involved in actions before the Ethics Board. Parties are free to represent themselves

2.07

All electronic submissions to the Chairperson referred to in these Procedures should be addressed to ombudsperson@mus.mcgill.ca

2.08

Any and all questions pertaining to the Ethics Board and its procedures are to be addressed directly to the Chairperson at the above-mentioned email address.

2.09

All forms mentioned in these procedures shall be available on the MUS website.

2.10

The Ethics Board shall not:

2.10.1 Make judgements as to whether the respondent is “innocent” or “guilty”.

2.10.2 Make decisions that do not serve the policy’s purpose.

2.11

The Ethics Board does not require absolute proof in order to make a decision.

3. Membership

3.01

The Ethics Board shall hold three (3) Members, including the Chairperson, during all processes outline in this Policy. The Chairperson shall hold a permanent role unless removed. The Chairperson shall select the other Members of the Ethics Board from the Executive Council and Board of Directors.

3.02

Members on the Ethics Board shall be trained on matters of equity as deemed necessary by the Chairperson.

3.03

The Chairperson shall randomly select from the Executive Council as many members as required to reach quorum as defined by Section 2.03. Should the Executive Council be exhausted, the Chairperson may appoint a member of the MUS not on the Board of Directors.

3.04

Appointment to the Ethics Board shall be based on the ability to be impartial and fair.

3.05

Upon receipt of a petition or appeal and prior to the start of an investigation or Ethics Board procedure, the Members of the Ethics Board, including the Chairperson, shall evaluate any pre-existing biases.

3.06

No member of the Ethics Board may have played any role in or witnessed the incident.

3.07

All members of the Ethics Board must declare any personal relationship with any of the parties involved.

3.08

Any member of the Ethics Board may step down from the Ethics Board for the duration of the investigation by informing the Chairperson.

3.09

At any point during the investigation or processes, the Chairperson may ask an Ethics Board member to step down for the duration of the investigation due to bias.

3.10

At any point during the investigation, the MUS President may ask the Chairperson to step down from the Ethics Board due to bias for the duration of the ongoing investigation, subject to ratification by a two-thirds (2/3) majority of the Board of Directors.

3.11

Should the Chairperson decide to step down, or be asked to step down as per article 3.10, their duties shall be assumed by a member of the Ethics Board subject to ratification by a two-thirds (2/3) majority vote of the Board of Directors

3.12

Knowingly possessing a bias but remaining on the committee shall be grounds for immediate removal from the Ethics Board.

3.13

Members of the Ethics Board must reside in the Greater Montreal Area for the duration of their term. Should a Member choose to go on exchange, he or she must resign from the Ethics Board.

3.14

The Ombudsperson shall serve as the Chairperson

4. Removal

4.01

Any member of the Ethics Board may be removed from office for impropriety, violation of the provisions of the Constitution, the policies or their regulations, delinquency of duties or misappropriation of Society funds by way of a resolution adopted at a meeting of the Board of Directors, by a two-thirds (2/3) vote of the Directors present. The member of the Ethics Board against whom a request for removal from office is directed shall be notified of the place, the date, and the time of the meeting of the Board of Directors called to remove at least two (2) days in advance of such meeting. Such member of the Ethics Board shall have the right to attend and to address the meeting or, in a written statement and read by the Chairperson, to put forth the reasons why such member of the Ethics Board opposes the proposed removal from office.

5. Confidentiality

5.01

The Ethics Board shall make every reasonable effort to ensure confidentiality within the MUS and to external organisations.

5.02

All parties are expected to respect the privacy and confidentiality of all other parties involved in actions of the Ethics Board and to limit the discussion of a harassment complaint to those that need to know

6. Jurisdiction

6.01

The Ethics Board will hold the authority to adjudicate on all matters governed by the MUS Constitution and Policies.

6.02

By filing of a petition, the party agrees to submit the dispute to the sole jurisdiction of the Ethics Board and agree to be bound by its decision.

6.03

The Ethics Board shall decide as a preliminary matter, within forty-eight hours after receiving the Petitioner's declaration, whether it has jurisdiction to hear an action brought before it.

6.04

Should the Ethics Board determine that the action is outside of its jurisdiction, the Chairperson shall escalate the action to the appropriate body.

6.05

The Ethics Board will not entertain petitions which are frivolous, vexatious or of inconsequential merit or outside its jurisdiction.

6.06

The Ethics Board shall investigate all matters relating to psychological, sexual or any other forms of harassment in all cases.

7. Investigation

7.01

The Chairperson shall hold the responsibility to call the Ethics Board to preliminary procedure to investigation.

7.02

During the investigation process, the respondent shall be subject to a precautionary probation period.

7.03

The probationary period shall begin following the approval of the duly completed incident response request and last up to four (4) weeks.

7.04

During the probationary period, the respondent may not participate or staff in any MUS events, or participate in MUS groups as deemed appropriate by the Chairperson.

7.05

If a restricted individual has registered and paid for an event prior to the probationary period, they may be refunded and unregistered from said event.

7.06

The respondent shall be notified in writing by the Chairperson at the start of the probationary period.

7.07

The notice of investigation shall describe the nature of the alleged misconduct without disclosing the identities of the petitioner(s) or any of the persons involved.

7.08

The petitioner(s) shall be given the opportunity to review this initial disclosure to ensure they are comfortable with its contents. Once both the petitioner(s) and Chairperson have given their consent as to the content of this notice, it shall be sent to the respondent along with the most recent version of this policy.

7.09

A list of support networks at McGill University, as well as a list of mental health and well-being resources, shall be sent to the respondent along with the notice of investigation.

7.10

The respondent is entitled to be informed about relevant procedural aspects of the investigation and changes to the composition of the Ethics Board, so long as that information does not jeopardize the safety and privacy of the petitioner(s) and committee members.

8. Preliminary Procedure

8.01

To petition the Ethics Board, a duly-completed Form P-1 “Notice of Petition” must be sent by email to the Chairperson no more than seven (7) days after:

- A. the event that is the cause for the petition;
- or B. learning of the event that is the cause for the petition.

Or

A duly-completed Incident Response Form shall be submitted on the MUS website within the statutes of limitations

8.02

The Incident Response Form shall be completed in cases limited to

- 8.02.1 Psychological Harassment
- 8.02.2 Physical Harassment or Abuse
- 8.02.3 Sexual Harassment or Violence
- 8.02.3 Acts of Discrimination

8.03

Submission of the P-1 Form or an Incident Response Form constitutes launching an appeal or a petition.

8.04

Within five days after the filing of Form P-1, the Petitioner must submit to the Chairperson an electronic copy of:

- A. all relevant documents in their entirety (except the Constitution and MUS Policies);
- B. their declaration containing the written arguments of the Petitioner conforming to the following format:
 - i. Allegation of facts: What happened? Who did what? What were the relevant dates of any, for example, communications, decisions, official Council motions?
 - ii. Procedures already followed: Why is it not possible for this petition to be resolved by the parties without intervention from the Ethics Board? Have all other possible avenues for dispute resolution been exhausted? If not, why not?

iii. What does the Petitioner want (remedy sought)? The Petitioner must state clearly what he or she wants e.g. Order of Council overturned, an act by an officer declared unconstitutional, an interpretation of the Constitution or MUS Policies in reference to a specific fact situation, a member removed from his or her involvement in the MUS.

iv. Reasoned argument: What is the basis of jurisdiction for the Ethics Board? Why should the Ethics Board award the Petitioner what he or she wants? What specific statutory provisions are involved and/or have been violated? How do the facts as alleged constitute a violation? How should the statutory provisions be interpreted according to the Petitioner?

8.05

Declarations shall be limited to twenty pages, not including cover page, table of contents, authorities and appendices, if included. A party may request, in writing, for an extended page limit.

8.06

The Incident Response Form shall be available on the MUS website and links shall be included within MUS communications, including but not limited to

8.06.01 MUS Listservs

8.07

The Incident Response Form shall be emailed to participants of events deemed necessary by the Chairperson, including without exception,

8.07.1 Management Orientation Week;

8.07.2 Hype Week;

8.07.3 Winter Carnival for Cancer Research;

Within twenty-four (24) hours **before the start** of the event and;

Within twenty-four (24) hours **after the end** of the event.

8.08

The Chairperson undertakes to serve notice of the petition upon the Respondent in accordance to Section 4 of this Policy.

9. Respondent

9.01

If the Ethics Board decides to accept the petition, it shall invite the Respondent(s) to submit their position on the dispute by duly completing Ethics Board Form R-1 “Position of Respondent” and declaration, following the same format as for the Petitioners. Such a response must be filed no more than seven (7) days after the invitation of the Ethics Board.

9.02

The Respondent must deliver an electronic copy of Form R-1 to the Chairperson. The Chairperson undertakes to forward the Respondent's declaration to the Petitioner.

10. Mediation

10.01

With the consent of the Petitioner and the Respondent(s), The Chairperson may preside over a mediation session designed to amicably resolve the dispute without proceeding to a hearing.

10.02

The Chairperson may invite other members of the Ethics Board if he or she so choose.

10.03

The Chairperson shall not have any adjudicative role or decision-making power in the mediation session.

11. Preliminary Conference

11.01

The parties to the dispute and members of the Ethics Board shall then meet in a preliminary conference and discuss a number of issues informally, including but not limited to:

- A. agreement on non-contentious facts of the dispute;
- B. stipulation of witness testimony;
- C. amendment of petition or respective declaration(s);
- D. explanation of hearing procedures; and
- E. setting a date for the hearing.

12. Hearing rights and procedures

12.01

Hearings are to remain strictly confidential and no other person outside the Ethics Board, relevant witnesses, advocates, the petitioner and the respondent may be present.

12.02

The Ethics Board has the power to remove anyone from an interview if they are disruptive, threatening, or offensive.

12.03

No audio-visual recordings shall be taken during the hearing, although parties may take notes as necessary.

12.04

Ethics Board Hearing is loosely modelled on a Human Rights tribunal. As such, members of the Ethics Board may ask questions directly to witnesses, parties, and/or advocates.

12.05

The Ethics Board at any time during its investigation may collect and analyse relevant documents and request any witness to present themselves to the Ethics Board. Witnesses shall be given the option to submit a written statement in lieu of an interview in front of the Ethics Board. Witnesses shall never be required to present themselves and must choose to do so voluntarily.

12.06

The Ethics Board shall interview any witness who voluntarily requests to appear before the Ethics Board and shall be permitted to submit a written statement. The statement shall be submitted to the Chairperson by email and must contain a date and signature.

12.07

Individuals who step forward may not learn any further details about the ongoing investigation and may only provide their account of events or other relevant information.

12.08

Both the Petitioner(s) and the Respondent shall be given the opportunity to submit a written statement, in lieu or in addition to their interview. The statement shall be submitted to the Chairperson by email and must contain a date and signature.

12.09

Failure to present a statement, either in written or interview form, shall be considered in the decision-making process of the Ethics Board.

12.10

As a general model, the procedure for the hearing shall be as follows:

A. The Chairperson shall introduce the members of the Ethics Board and shall outline the rules of the hearing.

B. The Petitioner shall be permitted a time of sixty (60) minutes to present his or her case in an interview format. Should the Petitioner wish to continue beyond sixty (60) minutes, he or she may request, in writing to the Chairperson, to continue the interview at another time. The Chairperson shall grant additional time if he or she feels it is warranted and will allow an equal amount of additional time to the Respondent.

C. The Respondent shall be permitted a time of sixty (60) minutes to present his or her case in an interview format. Should the respondent wish to continue beyond sixty (60) minutes, he or she may request, in writing to the Chairperson, to continue the interview at another time. The Chairperson shall grant additional time if he or she feels it is warranted and will allow an equal amount of additional time to the Petitioner.

13. Disposition

13.01

The Ethics Board has the power to order such remedies as conform with Section 14.

13.02

Following the investigation, the members of the Ethics Board may recess the proceedings to determine if they can render a decision at the hearing. The Ethics Board may render its decision at the hearing and provide written reasons to the parties at a later date, or it may reserve judgment. In the latter case, the Ethics Board should submit its written judgment within fifteen days after the hearing.

13.03

The Chairperson shall inform the respondent and the petitioner(s), in writing, of the decision, the reasons for the decision, the remedies, if any, and the positions who have been informed. The respondent shall be informed of any subsequent changes to the decision. The decision is effective immediately after notification.

13.04

The final decision of the Ethics Board is binding, and the written judgment and remedy shall be stored in the Equity Log.

13.05

The written judgement and remedy shall remain confidential between the Petitioner, Respondent, and Ethics Board. Should the Ethics Board warrant the need for a member of the Executive Council of the MUS be informed of the judgment in order to execute the remedy, the relevant Vice President(s) shall be notified of the judgement by the Chairperson.

13.06

The Investigation Committee may not discuss any details pertaining to the individual or incident in question with people outside of the Investigation Committee and the Executive Committee, unless otherwise specified within this policy.

13.07

Access to the minutes recorded during the investigation shall be restricted to the members of the Ethics Board.

13.08

Any breach of confidentiality is grounds for removal from the Ethics Board.

14. Remedies for MUS Members

14.01

The Ethics Board may prescribe the following remedies.

1. Letter(s) of apology
2. Suspension of the respondent from their position within the Management Undergraduate Society and its affiliated clubs, services, or publications

3. Suspension of financial support by the Management Undergraduate Society for clubs, services, or publications that violate this policy
4. Dismissal of the respondent from their position within the Management Undergraduate Society
5. Involvement Restriction

14.02

Involvement restriction, nor any other remedy, shall not be applied in a discriminatory manner and decisions cannot be based on personal characteristics such as race, gender, sex, religion, sexual orientation, disability, etc. as defined in Section 2, Article 10 of the McGill Charter of Student Rights.

14.03

The length and other terms of an individual's restriction are prescribed by the Ethics Board.

14.04

The terms of restriction may include a review by the Ethics Board at a point more than six (6) months in the future, as per article 8.

14.05

In the case that the terms of restriction are breached:

14.05.01 The terms of restriction may be updated by the Ethics Board.

14.05.02 The number of informed individuals may be increased to ensure that the safety of the petitioner(s) and other students is maintained. The new list of informed individuals shall be proposed by the Chairperson of the Ethics Board. The respondent shall be informed of all new positions which have been informed about the terms of their involvement restriction.

14.05.03 In the event of repeated breaches of the terms of restriction, the Chairperson of the Ethics Board and an Executive shall meet with the respondent in person to ensure the terms are understood and followed.

14.05.04 Should the breaches continue; the Chairperson and the Executive Committee reserve the right to involve McGill Security or event security.

14.06

If a restricted individual registers for an event without abiding by the terms of their restriction, the individual shall be unregistered and, if they have already paid for the event, may be refunded at the discretion of the event's organizers.

15. Remedies for Non-MUS Members

15.01

A petitioner may request the restriction of a respondent who is not a Regular MUS Member

15.02

The request shall be processed by the Ethics Board in the same manner as a MUS member as defined in this Policy.

15.03

If necessary, the restriction of a non-MUS Member may be managed by the Executive Committee and decided upon by a simple majority decision of the Executive Committee. This may include, but is not limited to:

- 15.03.1 The restriction of alumni;
- 15.03.2 The restriction of non-McGill students;
- 15.03.3 The restriction of McGill students who are not undergraduates.

16. Review

16.01

If the Ethics Board deems it appropriate, they may set a review to be carried out after a specified period of restriction.

16.02

This review will be used to assess if the respondent has made conscious and meaningful steps to improve upon recommendations made by the Ethics Board.

16.03

The review process may be impacted by:

- 8.3.1 Respect of restriction terms;
- 8.3.2 Behaviour in the MUS context;
- 8.3.3 Number and nature of additional complaints;
- 8.3.4 Other factors deemed appropriate by the Ethics Board.

16.04

At the end of the review, the Ethics Board will may alter or uphold the decision.

16.05

Excluding the following, all review proceedings shall abide by the investigation procedures outlined in this Policy

16.05.1 - If the review takes place during a different academic year, it is acceptable but not required to have a different Investigation Committee

16.05.2 - If possible, a minimum of one (1) member of the related Investigation Committee shall take part in the review process.

16.05.3 - The review process shall not include a probationary period, other than the terms set out in the pre-existing involvement restriction.

17. Maintenance of Remedies

17.01

A list of all currently restricted individuals is maintained by the Ombudsperson.

17.02

The Ethics Board shall take all necessary steps to limit any possible defamation of the respondent, in particular by restricting the list of individuals informed of the restriction to only relevant positions.

17.03

In the event that prior consent is received by participants of MUS Events to share and distribute their name should an involvement restriction remedy be applied; the Ombudsperson shall have the right to share the Respondents name and status to Campus Life and Engagement and the other organisations set out in the initial consent given.

