

ACADEMIC COUNCIL REPORT

Action Required:

Public:
Non-Public:

Discussion
Decision

TO: Academic Council

DATE: November 11, 2016

FROM: Cheryl Foy, University Secretary and General Counsel

**SUBJECT: Policy to Prevent and Respond to Violence, Harassment and
Discrimination in the Workplace**

A. Purpose

We are consulting with Academic Council to seek Council's advice on the Policy Against Violence, Harassment and Discrimination in the Workplace.

B. Background/Context

The passing of the *Sexual Violence and Harassment Action Plan Act (Supporting Survivors and Challenging Sexual Violence and Harassment), 2015* (the "SVHAP Act"), introduced a number of amendments that require universities to review and address their policies and processes for preventing and responding to sexual violence and harassment on their campuses.

The University initially presented a single parent policy to the University community that was intended to reinforce the University's values and commitment to creating an environment that is free from all forms of violence, sexual violence, harassment and discrimination for all of its community members. While this perspective remains and is reflected in an umbrella policy against violent behavior, as consultation and work progressed over the past several weeks it was determined that the best policy approach would be to develop separate and distinct policy instruments that would address issues of Violence, Harassment and Discrimination in the Workplace.

Discussion and Rationale

The Policy Against Violence, Harassment and Discrimination in the Workplace has been developed to prevent Workplace Violence, Harassment (including Sexual Harassment)

and Discrimination through proactive measures and ensure that the University is able to effectively address and respond to reports of Violence, Harassment and Discrimination when they occur in the Workplace.

The Policy serves as a framework for the associated Procedures and these policy instruments taken together will:

- Educate and inform Employees, as well as other members of the University community, regarding issues of violence, harassment, and discrimination in the Workplace;
- Support Employees who experience acts of violence, sexual violence, harassment, and discrimination in the Workplace to seek help and advice relating to the processes and outcomes available to them;
- Address how the University will meet its obligations under the *Human Rights Code*, R.S.O. 1990, c. H.19, and the *Occupational Health and Safety Act*, R.S.O. 1990, c. O.1; and
- Meet the commitments to procedural fairness established under the new Fair Processes Policy.

Consultation and Approval

The draft Policy and the associated Procedures have been circulated to SLT and were posted online on November 2nd for broad consultation with the University community. Online feedback has been received and incorporated into the revised draft (see marked up documents attached). The drafts circulated to Academic Council are also being circulated to the Policy Advisory Committee (November 17) and the Health and Safety Committee (November 18) for further consultation and feedback.

The advice from the community, Academic Council, the Policy Advisory Committee, and the Joint Health and Safety Committee will be incorporated into further drafts of the Policy and Procedures to go to the Governance, Nominating and Human Resources Committee of the Board on November 23rd. The GNHR Committee comments and recommendations will be reflected in a further draft to be sent to the Board of Governors for approval on December 7, 2016.

The Policy Against Violence, Harassment and Discrimination in the Workplace and the associated Procedures will be effective upon approval by the Board. The Board has, however, committed to review this Policy and the Procedures at its spring, 2017 meeting, thereby allowing the community a three-month period within which to provide comments. Should the Board conclude that further amendments are required, such amendments will be made at the Board meeting to be held May 3, 2017. The Policy and Procedures will then be the subject of an annual review.

C. Request

We are seeking a resolution from Academic Council setting out its advice and/or recommended changes on the draft Policy to Prevent and Respond to Violence, Harassment and Discrimination in the Workplace and related procedures.

Classification	
Parent Policy	
Framework Category	
Approving Authority	
Policy Owner	
Approval Date	DRAFT
Review Date	
Supersedes	

~~POLICY TO PREVENT AND RESPOND TO~~
POLICY AGAINST VIOLENCE, HARASSMENT AND DISCRIMINATION IN THE WORKPLACE

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POLICY PURPOSE

1. The purpose of this Policy is to prevent Workplace Violence, Harassment and Discrimination through proactive measures, and to ensure that the University effectively addresses and responds to Reports of Violence, Discrimination and Harassment in accordance with the *Occupational Health and Safety Act* and the *Human Rights Code*.

Any person who finds themselves or others to be at risk of imminent danger should summon immediate assistance by contacting:

On Campus: Office of Campus Safety
Extension: 2400
Direct line: 905.721.3211
Code Blue Stations

Off Campus: Durham Regional Police Service
911 (emergency)
905.579.1520 (non-emergency)

DEFINITIONS

The following definitions apply throughout this Policy, and in underlying procedures:

2. "**Complainant**" refers to an Employee who is alleged to have experienced Workplace Violence, Harassment and/or Discrimination. A Complainant may experience discrimination directly or indirectly.
3. "**Discrimination**" is a distinction, without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an Employee in the course of their employment on the basis of a Protected Ground (defined below).
4. "**Discriminatory Harassment**" means engaging in a course of vexatious comment or conduct, directed at an Employee in the course of their employment, based on a Protected Ground, that is known or ought reasonably to be known to be unwelcome. Discriminatory Harassment may include, for example, racist jokes, sexual harassment or gender-based harassment.
5. "**Employee**" means any individual employed by UOIT, including but not limited to Employees who are members of a bargaining unit, Employees who are not, and faculty. Students who are employed at UOIT during the course of their studies, are "Employees" for the purposes of this policy when they are engaged in employment activities, but not otherwise.
6. "Faculty" includes a Faculty Member at UOIT.
- ~~6.7.~~ "**FIPPA**" means the *Freedom of Information and Protection of Privacy Act*, RSO 1990, c. F.31.
- ~~7.8.~~ "**Harassment**" includes Discriminatory Harassment, Workplace Harassment, and Workplace Sexual Harassment.
9. "Human Resources" means the department of Human Resources at UOIT, or its delegate.
- ~~8.10.~~ "**JHSC**" means the Joint Health & Safety Committee(s) at UOIT.
11. "Member" includes a Student, Faculty or Staff Member.
- ~~9.12.~~ "**Personal Information**" means information about an identifiable individual, as defined in s. 2 of the ~~*Freedom of Information and Protection of Privacy Act*~~FIPPA, as amended from time to time.

~~10.13.~~ **"Person(s) of Authority"** includes any person who has charge of a workplace or authority over another Employee ~~[NTD: Jordan, is authority any authority or is it disciplinary or control over work? Is there a way to be compliant and limit this so that we don't have as many Persons~~ Anyone who supervises an Employee at UOIT is a Person of Authority²¹.

~~11.14.~~ **"Policy"** refers to this *Policy to Prevent and Respond to Against Violence, Harassment and Discrimination in the Workplace.*

~~12.15.~~ **"Protected Ground"** includes race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, Record of Offences, marital status, family status or disability, and any additional protected grounds that are added to the Ontario *Human Rights Code* by way of statutory amendment.

~~13.16.~~ **"Record of Offences"** means a conviction for,

- a. an offence in respect of which a pardon has been granted under the *Criminal Records Act* and has not been revoked, or
- b. an offence in respect of any provincial enactment.

~~14.17.~~ **"Report"** refers to information about Workplace Violence, Harassment and/or Discrimination in the workplace that is reported under the procedures for Reporting Violence, Harassment and Discrimination in the Workplace.

~~15.18.~~ **"Reporting Process"** refers to the process for reporting information about Harassment and/or Discrimination in the workplace under the procedures for Reporting Violence, Harassment and Discrimination in the Workplace.

~~16.19.~~ **"Respondent"** refers to anyone who is alleged to have engaged in behaviours of Violence, Harassment and/or Discrimination in a Report or investigation.

20. "Staff" means a Staff Member at UOIT.

21. "Student" includes any student enrolled or previously enrolled at UOIT.

~~17.22.~~ **"University"** or **"UOIT"** means the University of Ontario Institute of Technology.

~~18.23.~~ **"Workplaceworkplace"** means any place where UOIT Employees engage in employment activity, including employment activities online, outside the normal place of work, and employment activities that occur outside of normal working hours.

19.24. "Workplace Harassment" means,

- a. engaging in a course of vexatious comment or conduct against ~~an~~ Employee in a workplace that is known or ought reasonably to be known to be unwelcome, including bullying, or
- b. Workplace Sexual Harassment- (defined below), and/or
- c. Workplace Sexual Violence (defined below).

~~Workplace Harassment may include, for example, bullying.~~ A reasonable action taken by UOIT or a Person of Authority relating to the management and direction of an Employee or a workplace is not Workplace Harassment.

20.25. "Workplace Sexual Harassment" means,

- a. engaging in a course of vexatious comment or conduct against an Employee in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the Employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Workplace Sexual Harassment includes but is not limited to, rough or vulgar humour or language related to sexuality, or showing or sending pornography.

26. "Workplace Sexual Violence" means, any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, in the workplace, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

21.27. "Workplace Violence" means,

- a. the exercise of physical force by a person against ~~an~~ Employee, in a workplace, that causes or could cause physical injury to the Employee,
- b. an attempt to exercise physical force against ~~an~~ Employee, in a workplace, that could cause physical injury to the Employee, or
- c. a statement or behaviour that is reasonable for ~~an~~ Employee to interpret as a threat to exercise physical force against the Employee, in a workplace, that could cause physical injury to the Employee.

Workplace Violence includes, for example, verbally threatening to attack an Employee, shaking a fist in an Employee's face, wielding a weapon at work, hitting or trying to hit an Employee, or throwing an object at an Employee.

SCOPE OF THIS POLICY

~~22-28.~~ This Policy applies to all Employees in the course of their employment, and is intended to address Violence, Harassment and Discrimination against Employees from all sources, including students, colleagues, coworkers, supervisors, managers, administrators, other members of the University community, and the public.

~~23-29.~~ This Policy is not geographically limited, and applies to any employment activity, including employment activities that occur outside the normal place of work, and employment activities that occur outside of normal working hours.

~~24-30.~~ This Policy applies to the recruitment and promotion of Employees.

~~25-31.~~ This Policy does not override or diminish the rights provided to Employees under applicable collective agreements, and will be applied with appropriate regard to the rights established under those agreements.

~~26-32.~~ This Policy does not preclude Employees from pursuing resolution through external resources and processes, including those offered by the Human Rights Legal Support Centre, the police, the Ontario Labour Relations Board, the Ontario Human Rights Commission and the Human Rights Tribunal of Ontario.

POLICY

~~27-33.~~ The University is committed to providing a work environment in which all Employees are treated with dignity, and to fostering a climate of understanding and mutual respect for the value of each Employee. To this end:

- a. The University will not tolerate Workplace Violence, Harassment and/or Discrimination in the workplace.
- b. The University will ensure that procedures are in place for the prevention of and response to Workplace Violence, Harassment and/or Discrimination.
- c. The University will provide information, instruction and assistance to Employees with respect to Workplace Violence, Harassment and/or Discrimination.
- d. The University will ensure Persons of Authority are provided with information and instruction that will enable them to recognize, assess

and address Violence, Harassment and/or Discrimination in the workplace, and to understand how to respond appropriately when such incidents are alleged.

- e. The University will not penalize an Employee for submitting a Report in good faith, or for participating in a related investigation. This protection does not apply to an Employee who submits a Report that is determined to be frivolous or vexatious, or who exhibits bad faith in the course of an investigation. An Employee who believes they have been penalized for submitting a Report in good faith, or for participating in a related investigation, may pursue the allegation of reprisal by submitting a Report under the [\[INSERT LINK:\] Procedures to Prevent and Respond to Violence, Harassment and Discrimination in the Workplace.](#)
- f. The University will respect the privacy of individuals involved in Reports and investigations, ensuring information about a Report is not disclosed, except to the extent necessary to investigate, take corrective action, implement measures to protect the health and safety of Employees, or as otherwise required by law.
- g. Personal Information collected under this Policy will be used only for the purposes of administering this Policy, and will be disclosed only on a need-to-know basis, to the extent disclosure is required to fulfill the University's legal obligations under the *Human Rights Code* and the *Occupational Health & Safety Act*. Subject to applicable law, Personal Information collected, used and disclosed under this Policy will otherwise be kept confidential, and will be stored and disposed of in accordance with FIPPA [and UOIT's Records Management Policy](#).
- h. The University will administer the processes set out in the *Procedures ~~for~~ Reporting to Address Violence, Harassment and Discrimination in the Workplace*, responding to Reports fairly and promptly, with adequate regard to the unique circumstances of each particular case, and in a manner that strikes a balance between the privacy of individuals and the severity of the matters at issue.
- i. The University will inform and update individuals who are involved in investigations about the status of those investigations as they progress.

28-34. Employees who engage in Workplace Violence, Harassment and/or Discrimination will be held accountable and may be subject to disciplinary measures, up to and including termination of employment. In any event, the University will act in accordance with the rights and obligations established by applicable collective agreements.

29.35. Employees may refuse to work or do particular work where they have reason to believe that Workplace Violence is likely to endanger the Employee.

ROLES AND RESPONSIBILITIES

30.36. Employees

- a. Employees must not engage in Workplace Violence, Harassment and Discrimination.
- b. Employees are responsible for creating and maintaining an environment that is free from Workplace Violence, Harassment and Discrimination.
- c. Employees are encouraged to report incidents of Workplace Violence, Harassment and Discrimination by communicating ~~the~~such incidents to their supervisor. If the Employee's supervisor is involved in the incidents at issue, the information should be reported directly to the administrator who the Employee's supervisor reports to, or directly to ~~the~~ [INSERT Human Resources [LINK TO ASSIGNED PERSON IN THE HUMAN RESOURCES DEPARTMENT-]].
- d. Where it is requested and reasonably required, Employees shall participate in the Reporting Process, and/or any related investigation.
- e. Employees who are found to have engaged in Workplace Violence, Harassment and/or Discrimination under this Policy will comply with the corrective measures imposed by the University.

31.37. Persons of Authority

- a. Persons of Authority shall lead by example, acting respectfully in dealings with all Employees.
- b. Persons of Authority are responsible for familiarizing themselves with this Policy and related procedures, and for directing Employees who have information about Workplace Violence, Harassment and/or Discrimination to follow the appropriate procedures.
- c. Persons of Authority will ensure Employees are aware of this Policy and its associated procedures, and must otherwise assist in the prevention of Discrimination and Harassment in the workplace.
- d. Persons of Authority have a responsibility to recognize, assess and address Workplace Violence, Harassment and/or Discrimination. For example, Persons of Authority should intervene promptly when they

become aware of Workplace Violence, Harassment and/or Discrimination, and should seek assistance from [Human Resources](#) [\[LINK TO ASSIGNED PERSON IN THE HUMAN RESOURCES DEPARTMENT.\]](#).

- e. When a Person of Authority becomes aware of information about Workplace Violence, Harassment and/or Discrimination in the workplace, that Person of Authority must ensure the information is reported in the form of a Report.

38. Human Resources

~~f.a.~~ [HUMAN RESOURCES](#) [Human Resources](#) will take primary responsibility for updating this Policy and related procedures, ensuring that this Policy, and all related procedures, are reviewed as often as is necessary, and in any event, at least annually, and in consultation with all appropriate departments and the JHSC(s).

~~g.b.~~ ~~The HUMAN RESOURCES DEPARTMENT~~ [Human Resources](#) will, as often as is necessary:

~~i.~~ [assign a Human Resources Employee to implement and oversee the activities outlined below, and in related procedures,](#)

~~ii.~~ [Assign a member to take on the responsibility for the activities outlined below and assign a Human Resources Employee to act as a contact for those who wish to make Reports;](#)

~~iii.~~ [assess the risk of Workplace Violence that may arise from the nature of the workplace, type of work or conditions of work, taking into account the circumstances of the workplace and circumstances common to similar workplaces, as well as any other elements prescribed in regulation; and](#)

~~iv.~~ [develop measures and procedures to control identified risks that are likely to expose an Employee to Workplace Violence.](#)

~~h.c.~~ All such measures and procedures will be incorporated into this Policy and related procedures.

~~i.d.~~ ~~HUMAN RESOURCES DEPARTMENT~~ [Human Resources](#) shall share the results of risk assessments with the JHSC(s).

~~j.e.~~ ~~The HUMAN RESOURCES DEPARTMENT,~~ [Human Resources](#) is primarily responsible for overseeing compliance with the *Occupational Health & Safety Act*, including:

- i. providing Employees with appropriate information and instruction with respect to Workplace Violence and Workplace Harassment, including notifying them of this Policy and its related procedures;
- ii. ensuring all Persons of Authority are provided with information and instruction that will enable them to recognize, assess and address Workplace Violence and Workplace Harassment in their respective workplaces, and will ensure Persons of Authority are aware of this Policy and related procedures;
- iii. ensuring that copies of this *Policy to Prevent and Respond to Violence, Harassment and Discrimination* and related procedures are posted on the established health and safety bulletin boards where it is likely to come to the attention of Employees; and
- iv. notifying the Ministry of Labour and JHSC, when required, under the OHSA.

k.f. ~~The HUMAN RESOURCES DEPARTMENT~~ is Human Resources is also responsible for:

- i. receiving and responding to Reports;
- ii. ensuring Reports are investigated, internally or externally, and responded to in a timely and equitable manner, as outlined in this Policy and in related procedures;
- iii. ensuring the appropriate departments and/or individuals are advised of a Report, where appropriate;
- iv. ensuring the outcome of an investigation under this Policy, and the corrective actions taken (if any), are communicated in writing to Complainant(s) and Respondent(s) who are Employees; and
- v. ensuring that copies of this *Policy to Prevent and Respond to Violence, Harassment and Discrimination* and related procedures are posted on a University website.

RELATED POLICIES, PROCEDURES AND DOCUMENTS

- *Procedures for Reporting Violence, Harassment and Discrimination in the Workplace*

Classification	
Parent Policy	
Framework Category	
Approving Authority	
Policy Owner	
Approval Date	DRAFT
Review Date	
Supersedes	

**PROCEDURES TO PREVENT AND ~~RESPOND TO~~ ADDRESS
VIOLENCE, HARASSMENT AND DISCRIMINATION IN THE WORKPLACE**

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Direct line: 905.721.3211
Code Blue Stations_

Off Campus: Durham Regional Police Service
911 (emergency)
905.579.1520 (non-emergency)

DEFINITIONS

1. "**Complainant**" refers to an Employee who is alleged to have experienced Workplace Violence, Harassment, Discrimination and/or Reprisal. A Complainant may experience discrimination directly or indirectly. Singular references to "Complainant" are deemed to include references to multiple Complainants where there are multiple Complainants.
2. "**Discrimination**" is a distinction, without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an Employee in the course of their employment on the basis of a Protected Ground.
3. "**Discriminatory Harassment**" means engaging in a course of vexatious comment or conduct, directed at an Employee in the course of their employment, based on a Protected Ground, that is known or ought reasonably to be known to be unwelcome. Discriminatory Harassment may include, for example, racist jokes, sexual harassment or gender-based harassment.
4. "**Employee**" means any individual employed by UOIT, including but not limited to Employees who are members of a bargaining unit, Employees who are not, and faculty.
5. "Faculty" includes a Faculty Member at UOIT.
- 5.6. "FIPPA" means the Freedom of Information and Protection of Privacy Act, RSO 1990, c. F.31, as amended from time to time.
- 6.7. "Harassment" includes Discriminatory Harassment, Workplace Harassment, and Workplace Sexual Harassment.
8. "Human Resources" means the department of Human Resources at UOIT, or its delegate.
- 7.9. "JHSC" means the Joint Health & Safety Committee(s) at UOIT.
10. "Member" includes a Student, Faculty or Staff.
- 8.11. "Personal Information" means information about an identifiable individual, as defined in s. 2 of ~~the Freedom of Information and Protection of Privacy Act, as amended from time to time~~ FIPPA.
- 9.12. "Person(s) of Authority" includes any person who has charge of a workplace or authority over another Employee.

~~10.13.~~ **"Policy"** refers to the *Policy to Prevent and ~~Respond to~~Address Violence, Harassment and Discrimination in the Workplace* .

~~11.14.~~ **"Protected Ground"** includes race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, Record of Offences, marital status, family status or disability, and any additional protected grounds that are added to the Ontario *Human Rights Code* by way of statutory amendment or interpretation.

~~15.~~ **"Staff"** means a Staff Member at UOIT.

~~16.~~ **"Student"** includes any student enrolled or previously enrolled at UOIT.

~~12.17.~~ **"Record of Offences"** means a conviction for,

- a. an offence in respect of which a pardon has been granted under the *Criminal Records Act* and has not been revoked, or
- b. an offence in respect of any provincial enactment.

~~13.18.~~ **"Report"** refers to information about Workplace Violence, Harassment, Discrimination and/or Reprisal in the workplace that is reported to Human Resources under the procedures for Reporting Violence, Harassment and Discrimination in the Workplace. Under the Policy and this procedure, an incident report submitted to the Office of Campus Security does not qualify as a "Report".

~~14.19.~~ **"Reporting Process"** refers to the process set out under this procedure for submitting a Report to Human Resources and its processing. Submitting an incident report to the Office of Campus Security does not automatically initiate the Reporting Process.

~~15.20.~~ **"Reprisal"** refers to a retaliation against any individual for submitting a Report, or participating in a related investigation, under this procedure.

~~16.21.~~ **"Respondent"** refers to anyone who is alleged to have engaged in behaviours of Violence, Harassment and/or Discrimination in a Report or investigation. Singular references to "Respondent" are deemed to include references to multiple Respondents where there are multiple Respondents.

~~17.22.~~ **"University"** or **"UOIT"** means the University of Ontario Institute of Technology.

~~18.23.~~ **"Workplaceworkplace"** means any place where UOIT Employees engage in employment activity, including employment activities online, outside the normal place of work, and employment activities that occur outside of normal working hours.

~~19.~~24. "**Workplace Harassment**" means,

- a. engaging in a course of vexatious comment or conduct against an Employee in a workplace that is known or ought reasonably to be known to be unwelcome, including bullying,~~or~~
- b. Workplace Sexual Harassment- (defined below), and/or
- c. Workplace Sexual Violence (defined below).

~~Workplace Harassment may include, for example, bullying.~~ A reasonable action taken by UOIT or a Person of Authority relating to the management and direction of an Employee or a workplace is not Workplace Harassment.

~~20.~~25. "**Workplace Sexual Harassment**" means,

- a. engaging in a course of vexatious comment or conduct against an Employee in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- b. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the Employee and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Workplace Sexual Harassment includes, for example, rough or vulgar humour or language related to sexuality, or showing or sending pornography.

26. "Workplace Sexual Violence" means, any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, in the workplace, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

~~21.~~27. "**Workplace Violence**" means,

- a. the exercise of physical force by a person against an Employee, in a workplace, that causes or could cause physical injury to the Employee,
- b. an attempt to exercise physical force against an Employee, in a workplace, that could cause physical injury to the Employee, or
- c. a statement or behaviour that is reasonable for an Employee to interpret as a threat to exercise physical force against the Employee, in a workplace, that could cause physical injury to the Employee.

Workplace Violence includes, for example, verbally threatening to attack an Employee, shaking a fist in an Employee's face, wielding a weapon at work, hitting or trying to hit an Employee, or throwing an object at an Employee.

PURPOSE OF THIS PROCEDURE

~~22-28.~~ The purpose of this procedure is to establish processes to prevent Workplace Violence, Harassment, Discrimination and/or Reprisal through proactive measures, and to ensure that the University effectively addresses and responds to Reports of Violence, Harassment, Discrimination and Reprisal in accordance with the *Occupational Health and Safety Act* and the *Human Rights Code*.

~~23-29.~~ Under this procedure, a "Report" may be submitted by an individual who has experienced Workplace Violence, Harassment, Discrimination and/or Reprisal, or any other individual who has witnessed such incidents.

GUIDING PRINCIPLES

~~1. Defined Terms. Capitalized terms in this procedure are defined at the end of this document.~~

~~24-30.~~ Records. Human Resources will maintain a confidential file for each Report, including all related communications, memoranda, reports, statements and evidence. These records will be retained, and disposed of, in accordance with FIPPA and UOIT's *Records Management Policy*.

~~25-31.~~ Confidentiality. Information collected under this procedure will be used only for the purposes of administering the *Policy to Prevent and Respond to Address Violence, Harassment and Discrimination in the Workplace*, and related processes, and may be disclosed only on a need-to-know basis to the extent required to fulfill the University's legal obligations. Personal Information collected, used and disclosed under this procedure will otherwise be kept confidential. To this end:

- a. Physical documents collected and created under this procedure will be kept in a confidential file at LOCATION Human Resources.
- b. ~~Only authorized individuals permitted by Human Resources will have access to documents, including electronic document, created under this procedure, and then only on a need-to-know basis.~~ Reasonable steps will be taken to protect against unauthorized access to such documents. In each particular case, only the individual(s) authorized by Human Resources under paragraph 34 of the Policy, the Provost or delegate, an assigned investigator, and the Non-Academic Appeals Committee, will have general access to documents collected and created under this procedure, including electronic documents. Such documents will be disclosed to witnesses,

including but not limited to Complainants and Respondents, on a need-to-know basis.

- c. All individuals involved in this procedure will be advised of their duty to maintain the confidentiality of all information disclosed to them in this procedure, including any Personal Information disclosed to them.
- d. Personal Information obtained during the Reporting Process will not be disclosed except to the extent that disclosure is necessary for the purposes of investigating Reports, taking corrective action, protecting the health and safety of members of the University community, or as otherwise required by law. For example, information may be shared with the Office of Campus Safety if this is necessary to protect an individual who has allegedly experienced Workplace Violence, Discrimination, Harassment and/or Reprisal.
- e. InvestigationExcept as required under the Policy and its underlying procedures, or as otherwise required by law, investigation reports created under this procedure will not normally be disclosed or produced to a Complainant, Respondent or witness. Complainants, and Respondents who are Employees, will, however, be advised of the outcome of the investigation and the corrective actions taken, if any.

26-32. Right to an Advisor. Individuals who attend an interview in an investigation under this procedure may be accompanied by one advisor. Individuals who choose to attend an interview with an advisor will choose their own advisor and will notify the investigator of their advisor's name at least 24 hours prior to the interview. In the case of an Employee who is a member of a bargaining unit, the advisor may be a union representative. The role of an advisor is to support the individual by providing procedural information and/or moral support. During the interview, an advisor will be permitted to speak and ask questions regarding the investigation process, but will not be permitted to make legal submissions or arguments on behalf of the individual, or to disrupt the interview. In any event, individuals who are being interviewed must answer the interview questions themselves. Individuals who choose to do so may request that an advisor be appointed to assist them under the attached Appendix.

27-33. Informal Resolution Process. At any stage during this procedure an Informal Resolution Process, such as mediation, can be pursued if the Complainant, Respondent and Human Resources consent to Informal Resolution Processes being pursued and to its format. Where those involved in the Informal Resolution Processes reach an agreed resolution, that resolution will only be binding and effective upon written approval of Human Resources. Once an Informal Resolution Process has commenced, the investigation may be held in abeyance for a maximum period of 30 calendar days, after which, unless a resolution has been reached and approved, the investigation will

be re-commenced. Notwithstanding a resolution being reached and approved, Human Resources retains the discretion to continue/complete its investigation where it is appropriate to do so, having regard to relevant collective agreement requirements and applicable law, and, to protect the interests of the University and its Members.

~~28.34.~~ Reprisal. Any Reprisal, or expressed or implied threat of Reprisal, for making and pursuing a Report under this procedure is itself considered a breach ~~and of the Policy.~~ Any individual experiencing Reprisal may ~~itself be the subject of~~ file a Report, and the Report will be processed under this procedure.

~~29.35.~~ Non-Exclusive Procedure - This procedure does not preclude Employees from pursuing resolution through external resources and processes, including those offered by the Human Rights Legal Support Centre, the police, the Ontario Labour Relations Board, the Ontario Human Rights Commission and the Human Rights Tribunal of Ontario.

~~30.36.~~ Safety is Paramount: UOIT has an overriding obligation to protect the safety of all UOIT Members. When the safety of community members is at risk, UOIT reserves the right to investigate and respond appropriately, independent of a Complainant's and/or Respondent's course of action under this procedure.

INVOLVEMENT OF MEMBERS OTHER THAN EMPLOYEES

37. This procedure applies to incidents of Violence, Harassment and Discrimination against Employees from all sources, including students, colleagues, coworkers, supervisors, managers, administrators, other members of the University community, and the public.

38. This procedure necessarily overlaps with other University procedures that are concerned with preventing and addressing incident of Violence, Harassment and Discrimination involving Students. UOIT will administer the overlap according to the following principles:

a. This procedure will be applied to all incidents in which an Employee has allegedly experienced Violence, Harassment, Discrimination and/or Reprisal to ensure the University satisfies its commitment to, and its obligations under, legislation and collective agreements.

b. Where it is alleged that a student has, in their capacity as a student, engaged in Violence, Harassment, Discrimination and/or Reprisal against an Employee, then the matter will be addressed under the *Policy on Sexual Violence for Students and Procedures for Responding to Incidents of Sexual Violence*. However, in such cases, Human Resources will nevertheless be consulted in the process to ensure any investigation and/or corrective

action satisfy the standards set out this Policy and all applicable collective agreements.

39. Where an individual, other than a Member, is alleged to have engaged in Workplace Violence, Discrimination, Harassment and/or Reprisal against an Employee, Human Resources will consult with Members at risk, and other Members if necessary, to determine and implement reasonable measures to protect the health and safety of its Employees. However, because Human Resources does not have the jurisdiction to compel statements from members of the general public, or to impose sanctions upon them, it will not conduct a formal investigation in such cases.

PREVENTATIVE MEASURES

31.40. HR/OHS Human Resources will provide information and instruction to Employees regarding Workplace Violence, Harassment, Discrimination and/or Reprisal. Information about workplace violence prevention and response, including training programs, is available on the UOIT Health and Safety Website (<http://healthandsafety.uoit.ca/>).

41. Human Resources will, as often as is necessary, assess the risk of Workplace Violence that may arise from the nature of the workplace, type of work or conditions of work, taking into account the circumstances of the workplace and circumstances common to similar workplaces, as well as any other elements prescribed in regulation. Upon the conclusion of this assessment, Human Resources will develop measures and procedures to control identified risks that are likely to expose an Employee to Workplace Violence.

32.42. When incidents of Workplace Violence, Harassment, Discrimination and/or Reprisal occur, Human Resources will ensure that reasonable steps are taken to prevent such incidents in the future.

REPORTING

33.43. Incidents, or perceived threats, of Workplace Violence, Harassment, Discrimination and/or Reprisal ~~must~~should be promptly reported to a Person of Authority, and Human Resources ~~or the Office of Campus Safety.~~

~~2. If UOIT becomes aware that circumstances of domestic violence may expose an Employee to physical injury in the workplace, UOIT will take every precaution reasonable in the circumstances to protect that Employee. To this end, Employees who become aware of such risks must report those risks to a Person of Authority, who must in turn advise Human Resources.~~

34.44. Anyone who witnesses an incident of Workplace Violence should promptly report it to the Office of Campus Safety. Employees who witness an incident of Workplace Violence ~~should~~must complete a Workplace Violence ~~Incident Report~~incident report form within 24 hours. If several Employees are involved in or witness the incident, each Employee ~~should~~must file a separate report with the Office of Campus Safety. ~~Incident reports should also be completed and forwarded~~The Office of Campus Safety will immediately forward a copy of all Workplace Violence incident reports to the Director of Human Resources, ~~within 24 hours,~~ when there is a situation that presents a threat of ~~or incident of~~further Workplace Violence to Employees, volunteers or visitors.

45. If UOIT becomes aware that circumstances of domestic violence may expose an Employee to physical injury in the workplace, UOIT will take every precaution reasonable in the circumstances to protect that Employee. To this end, Employees who become aware of such risks must report those risks to a Person of Authority, who must in turn advise Human Resources. Human Resources will consult with the Employee at risk, and other Members if necessary, to determine and implement reasonable measures to protect the Employee.

35.46. The University will provide appropriate support services to ~~Members~~Employees who are victims of Workplace Violence, Harassment, Discrimination and/or Reprisal. This may include the creation of a personal safety plan through the Office of Campus Safety, the provision of Employee counselling through the Employee Assistance Program and/or referral to the Victim Service Unit of Durham Regional Police Services.

THE REPORTING PROCESS

Step 1 - Submitting a Report

47. Submitting an incident report to the Office of Campus Security does not automatically initiate a formal "Report". A "Report", and the corresponding "Reporting Process", is initiated only when an individual completes the Report form (website here; Appendix X) that is available from Human Resources. Human Resources will, on its own initiative, initiate a Report when it receives information regarding an incident of Workplace Violence, Harassment, Discrimination and/or Reprisal, unless such a Report has already been submitted by an individual.

~~36. Wherever possible,~~After filing an incident report, an Employee with ongoing concerns ~~relating to~~regarding Workplace Violence, Discrimination, Harassment and/or Reprisal should ~~first be raised through consultation~~consult with a supervisor or manager (~~hereafter~~"Persons of Authority"). All such Persons of Authority ~~should~~must seek guidance from Human Resources in attempting to address and resolve concerns relating to Workplace Violence, Discrimination, Harassment and/or Reprisal in the ~~Workplace~~workplace. If an Employee's supervisor or manager is allegedly involved in

Workplace Violence, Discrimination, Harassment and/or Reprisal, then the Employee's concerns should be raised directly with Human Resources. However, if the allegation of Workplace Violence, Discrimination, ~~Harassment~~Harassment and/or Reprisal involves a member of the Human Resources team, then the Employee's concerns should be raised directly with **ALTERNATIVE DEPARTMENT**.

~~3. If allegations of Workplace Violence, Discrimination, Harassment and/or Reprisal are not fully addressed and resolved by way of consultation with a Person of Authority, a Report should be submitted to Human Resources. In cases where the Report involves an Employee of Human Resources, the Report should be submitted to {dept}.~~

4.2. When Human Resources is approached by an individual seeking to submit a Report, Human Resources will advise that information about a Report will be kept confidential except to the extent that Human Resources is legally required to investigate and/or disclose information, in which case information may be shared only on a need-to-know basis.

~~37-48. The Report form will be available from~~All Reports will be submitted in the format prescribed by Human Resources (website here; Appendix X)~~The Report will be submitted in that format~~, with the ability to attach additional pages if needed.

Step 2 - Interim Measures

~~38-49.~~ Upon receiving a Report, Human Resources will immediately ~~consider~~determine whether interim measures are necessary, considering the severity of the allegations, and the potential risks to UOIT Members. For example, an Employee may be placed on paid, administrative leave pending the outcome of an investigation, or may be required to refrain from interacting with the Complainant or other witnesses. Normally, a Complainant will not be required to interact with a Respondent during the Reporting Process or a related investigation.

~~39-50.~~ Further interim measures will be implemented where reasonable and appropriate in the circumstances. As necessary, Human Resources will consult with others, such as the manager(s) of the Complainant and Respondent, and the Office of Campus Safety, on a confidential basis, to determine additional interim measures.

Step 3 - Establishing the Process & Investigation

~~40-51.~~ Human Resources will review the Report and determine if the conduct alleged in the Report would amount to Workplace Violence, Discrimination, Harassment and/or Reprisal. This determination will be based on an assumption that all of the alleged facts were true. If the determination is not supported, Human Resources will respond to the individual submitting the Report in writing, explaining usually within 60 days, advising that the Report has been reviewed, and that the information provided does not support an allegation of Workplace Violence, Discrimination, Harassment and/or

Reprisal under the *Policy to Prevent and ~~Respond to~~Address Violence, Harassment and Discrimination in the Workplace*. The Employee submitting the Report will also be advised that Human Resources may reconsider the Report if additional and significant information is provided. If there is another process or resource at the University that would be more appropriate for the subject matter of the Report, the individual will be advised of this alternative process.

~~41-52.~~ If, on the other hand, the information provided would, assuming the alleged facts were true, support a finding that Workplace Violence, Discrimination, Harassment and/or Reprisal had occurred, an investigation will be conducted. An investigation may include written submissions or witness interviews, depending upon the severity of the allegations.

~~42.~~ When an investigation is to be conducted, Human Resources will establish an investigation process that is appropriate ~~for~~in the circumstances. At this stage, consideration will be given to whether the investigation will be conducted internally or externally. An investigation will not be conducted by an individual who was directly involved in the events in issue.

~~5-3.~~ Human Resources will review the collective agreement(s) of any individuals involved in the Report, and will ensure the procedural rights granted to those individuals under their respective collective agreements are maintained.

~~43-53.~~ Human Resources will ensure the Employees involved in an investigation, and their respective bargaining agent(s), where applicable, are informed of the investigation process that will be adopted in each particular case. At a minimum, any investigation will provide a reasonable opportunity for the parties to understand the allegations, and to submit relevant information.

Step 4 - Determination & Corrective Action

~~44-54.~~ The investigator will be charged with determining whether Workplace Violence, Discrimination, Harassment and/or Reprisal has occurred. Human Resources will ensure that the results of the investigation are brought to the attention of, and reviewed by, the appropriate Person(s) of Authority. Human Resources will advise the Person(s) of Authority with respect to appropriate corrective measures, if any, to be taken, including measures aimed at preventing Reprisal, where appropriate.

~~45-55.~~ Where an Employee is found to have engaged in acts of Workplace Violence, Harassment, Discrimination and/or Reprisal, corrective measures may include non-disciplinary actions (e.g. education) or disciplinary measures (e.g. a written reprimand, a suspension or termination). Human Resources will ~~also~~ ensure such reasonable steps are taken to prevent a recurrence.

~~46.56.~~ Employees that are ~~in~~members of a bargaining unit shall have any corrective measure(s) imposed in accordance with applicable collective agreement requirements.

At the conclusion of an investigation, Human Resources will ensure that any Employee who was alleged to have experienced Workplace Violence, Discrimination, Harassment and/or Reprisal, and any Respondent Employee(s), are informed, in writing, of the outcome of the investigation, and the corrective actions taken. Human Resources will ensure that such information is provided in accordance with the procedural requirements of any relevant collective agreement and any applicable laws.

Involvement of Members other than Employees

~~6. Where an individual, other than an Employee, is alleged to have engaged in Workplace Violence, Discrimination, Harassment and/or Reprisal affecting an Employee, Human Resources will collaborate with the appropriate University Department...~~

~~7. refer to University body...~~

~~8. Where it is alleged that an individual who is not a Member of the University has engaged...what would we do there? We have a clause about reporting domestic violence above~~

~~9. Where it is alleged that a student has, in their capacity as a student, engaged in Workplace Violence, Discrimination, Harassment and/or Reprisal against an Employee, the matter will be addressed under the Student Conduct Policy and related policies and procedures. However, in such cases, Human Resources will continue to be consulted in the process to ensure any investigation and/or corrective action satisfy the standards set out under the Policy to Prevent and Respond to Violence, Harassment and Discrimination in the Workplace and related procedures.~~

~~10.4. Human Resources will ensure that reasonable steps are taken to prevent such incidents in the future.~~

APPENDIX - ADVISOR ASSIGNMENTS

1. Individuals who participate in the Reporting Process have the right to select their own advisor. However, participants may also submit a request to have Human Resources assign an advisor ("Advisor") to assist an individual in filing a Report, responding to a Report, or participating in the Report process as a witness.
2. The President will maintain a roster of volunteer Advisors, and will appoint a minimum of six such Advisors. This roster will include at least one male and one female faculty member, as well as one male and one female staff member. Advisors will ordinarily be appointed for a term of two years, and may be reappointed.
3. When assigned, an Advisor will provide support throughout the process, to the extent requested by the individual they are assigned to.
4. Human Resources will be responsible for training Advisors under this procedure.
5. Advisors will generally maintain confidentiality over the information disclosed to them. However, Advisors must report information to Human Resources under the following circumstances:
 - a. information is received suggesting there is a clear risk of harm, including self-harm, to a UOIT Member or other individual, in which case information will be disclosed to the extent required by law;
 - b. information suggests an incident occurred involving Workplace Violence or Workplace Harassment under the *Occupational Health & Safety Act*, in which case a confidential investigation will be conducted and information will be disclosed only to the extent necessary to achieve procedural fairness, and as otherwise required by law; orsharing information is otherwise required by law (e.g. if the police conduct an investigation and UOIT is legally required to share information with the police, or for the purposes of litigation).