



BOARD OF GOVERNORS
Governance, Nominations & Human Resources Committee (GNHR)

Thursday, January 28, 2021

2:00 p.m. – 3:50 p.m.

[Videoconference](#)

Toll-Free: 1.888.240.2560 Meeting ID: 863 627 458

Members: Maria Saros (Chair), Lisa Edgar, Laura Elliott, Mitch Frazer, Francis Garwe, Kori Kingsbury, Steven Murphy, Dietmar Reiner, Trevin Stratton

Staff: Jamie Bruno, Becky Dinwoodie, Cheryl Foy, Lori Livingston

AGENDA

No.	Topic	Lead	Allocated Time	Suggested Start Time
	PUBLIC SESSION – 2:00 p.m.			
1	Call to Order	Chair		
2	Agenda (M)	Chair		
3	Conflict of Interest Declaration	Chair		
4	Chair's Remarks	Chair		
5	President's Remarks	Steven Murphy	5	2:10 p.m.
6	Governance:			
6.1	Strategic Discussion: <ul style="list-style-type: none"> Strategic goals for Board Governance EDI Strategy* (D) 	Chair	20	2:15 p.m.
6.2	Review of Board Committee Structure (D)	Dietmar Reiner	10	2:35 p.m.
6.3	Policy Consultation (D): (a) Proposed Amendments* to: (i) Board of Governors Recruitment, Appointment and Leadership Policy* (ii) By-law No. 1* (iii) Board of Governors Procedures for the Election of Administrative Staff, Student, and Teaching Staff Governors* (iv) Exempt Academic Staff Employment Policy & Deans, Associate Deans		10	2:45 p.m.

	and Teaching Staff Governors Procedures*			
7	Consent Agenda (M):	Chair	5	2:55 p.m.
7.1	Minutes of the Meeting of October 22, 2020*			
7.2	Election Process 2021*			
8	Policy Documents for Written Feedback: (a) Accommodation Policy* (b) Respectful Campus Policy & Procedures to Prevent and Address Discrimination and Harassment By or Against Employees*			
9	Other Business	Chair		
10	Adjournment (M)	Chair		3:00 p.m.
BREAK			10	
No.	Topic	Lead	Allocated Time	Suggested Start Time
	NON-PUBLIC SESSION – 3:10 p.m. (material not publicly available)			
11	Call to Order	Chair		
12	Conflict of Interest Declaration	Chair		
13	President's Remarks	Steven Murphy	5	3:05 p.m.
14	Governance			
14.1	Durham College Board Engagement (U)	Dietmar Reiner	10	3:10 p.m.
15	Nominations			
15.1	Board membership and leadership succession update* (U)	Chair	10	3:20 p.m.
16	Human Resources			
16.1	Labour Relations & Human Resources Update (U)	Jamie Bruno	5	3:30 p.m.
17	Consent Agenda (M):			3:35 p.m.
17.1	Minutes of the Meeting of October 22, 2020*			
18	Other Business	Chair		3:40 p.m.
19	In Camera Session	Chair		
20	Termination (M)	Chair		3:50 p.m.

Becky Dinwoodie, Secretary

BOARD GOVERNANCE EDI STRATEGY WORK PLAN

Actions Required	Lead	Target Date	Status
GNHR preliminary discussion re: development of EDI Governance Strategy	Office of University Secretary & General Counsel (USGC)	October 2020	complete
GNHR discussion of strategic goals for EDI Governance Strategy	USGC	January 2021	
Board EDI Session	USGC	February 2021	
Finalization of strategic goals for EDI Governance Strategy	GNHR	March 2021	
Board review of strategic goals for EDI Governance Strategy	GNHR	April 2021	
Develop EDI Governance Strategy Implementation Plan	USGC	May 2021	
Board review and approval of EDI Governance Strategy Implementation Plan	GNHR	June 2021	

COMMITTEE REPORT

SESSION:

Public
Non-Public

ACTION REQUESTED:

Decision
Discussion/Direction
Information

TO: Governance, Nominations & Human Resources Committee (GNHR)

DATE: January 28, 2021

PRESENTED BY: Cheryl Foy, University Secretary & General Counsel

SUBJECT: Proposed Approach to Board of Governors Election Teaching Staff Eligibility Arbitration Decision

COMMITTEE MANDATE:

- One of GNHR's responsibilities under its Terms of Reference is to oversee the process of electing new governors & recommending their appointment to the Board, in accordance with the university's Act & By-laws.
- **Request:** We are seeking the committee's feedback on the proposed amendments to By-law No. 1 and the relevant policy documents. See attached. These amendments will clarify and improve the By-Law language and address changes arising from a recent arbitration decision regarding faculty member eligibility for board membership.

BACKGROUND/CONTEXT & RATIONALE:

- In response to concerns raised during the spring 2018-2019 Board of Governors Election regarding Teaching Staff governor eligibility requirements, GNHR formed a Faculty Governor Working Group to review the matter over the summer of 2018.
- The Faculty Governor Working Group presented their recommendations to the committee for recommendation to the Board for approval.
- Pursuant to the recommendation of GNHR, the Board approved changes to the Board of Governors Recruitment, Appointment and Leadership Policy ("Recruitment Policy") in February 2019 (attached for ease of reference as attachment #1 with relevant sections marked in yellow).
- An overview of the issue giving rise to a policy grievance by the Faculty Association (the "Grievance") is attached as attachment #2.

- An arbitration decision in respect of the Grievance was issued in September 2020 and is attached to this report as attachment #3.

Key Elements of Arbitrator’s Decision:

Key arbitral findings are:

- The Board has the right to pass a proper by-law setting out qualifications, expertise, and responsibilities for service but must not violate the Collective Agreement (CA).
- Restricting eligibility to faculty members who did not plan to take research leave targeted tenured faculty.
- Others on the Board have full-time jobs and serve on the Board and just because a faculty member is on Research Leave does not mean the faculty member cannot volunteer on the Board.
- Eligibility must be clearly stated in the by-law (not enough that the by-law permits the establishment of a policy).
- Key quotation: “There is nothing in Article 28.03 that could be reasonably interpreted to preclude Board service during a 100% research leave”.
- Academic freedom includes the right to stand for election to the Board.
- If the Board has concerns about competencies, attendance, and engagement, they can be addressed separate and apart from this restriction on eligibility.

Effect of Arbitrator’s Decision:

Based on the reasoning set out in the arbitrator’s decision regarding eligibility of Teaching Staff for the Board of Governors, By-Law No. 1, the Recruitment Policy, and Exempt Academic Staff Employment Policy & Deans, Associate Deans and Teaching Staff Governors Procedures should be amended as follows:

STEP 1 – Amendments to Recruitment Policy

- Removal of sections 9.6-9.9 from Recruitment Policy in response to Arbitrator’s decision.

STEP 2 – Amendments to By-law No. 1

- The proposed amendments flow directly from the arbitration decision.
- The arbitrator relied on section 8.2 of the Act, which provides:

(2) The board shall by by-law determine the manner and procedure for the election of members described in paragraph 5 of subsection (1) and eligibility requirements for election to the board. 2002, c. 8, Sched. O, s. 8 (2).

- We propose amending Articles 3.4 and 3.5 of By-law No. 1 (as set out in attachment #4) to further clarify the Board’s authority to establish eligibility requirements and election rules and regulations through policy and procedures. The Board has the authority to approve the amendments (section 9(1)(p) of the Act).

Article 4.1 – Standard of Conduct

- We recommend adding the expectation that governors are able to commit the time to prepare for and attend Board and Committee meetings, as well as to attend university events and support other university endeavours (as set out in attachment #4).
- This is an expectation for all governors and is a question asked of all external governor candidates during the interview process.
- In response to the arbitration decision that refers to the requirement for the Board to set eligibility through the By-laws, this will make it explicit that Board members are expected to attend all meetings.

STEP 3 – Update Board Election Procedures

- We recommend updating the Board of Governors Procedures for the Election of Administrative Staff, Student, and Teaching Staff Governors (“Election Procedures”) to include the declaration statements that must be included in the nomination form. This will make it clear that the statements must be checked off in order for a nomination to be considered complete.
- Organizational Commitment is considered to be a core competency for potential new Board members. All external Board candidates are asked the following question:
 - Serving as a Governor will require a commitment of time to prepare for and attend Board and Committee meetings. As well, Governors are sometimes asked to contribute their time and energy to attend University events or support other University endeavours. How much time do you anticipate you will have to devote to the Board and what level of flexibility do you have relative to your other commitments?
- We recommend including a statement about the candidate’s ability to commit to attending Board and Committee meetings throughout their term. There is already a similar statement on the declaration form and we propose updating it to make it clearer.
- The proposed amendments to the Election Procedures are set out in attachment #5.

STEP 4 – Update Exempt Academic Staff Employment Policy & Deans, Associate Deans and Teaching Staff Governors Procedures (attachment #6)

- These policy documents do not currently include Research Leave for Teaching Staff Governors.
- We recommend asking the AVP, HR to review the *Deans, Associate Deans and Teaching Staff Governors Procedures* to manage the issue of leave for research purposes and Board membership with the stipulation that Teaching Staff Governors are expected to actively participate on the Board while on Research Leave, unless the Board grants the Teaching Staff Governor a leave of absence in accordance with the provisions of Article 3.6(c) in [By-law No. 1](#) and the [Board Attendance Policy](#).

NEXT STEPS:

- The policy documents will undergo consultation in accordance with the Policy Framework.

- The relevant policy documents will return to GNHR for recommendation and to the Board for approval.
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SUPPORTING REFERENCE MATERIALS:

- Attachment #1 – blacklined Board of Governors Recruitment, Appointment and Leadership Policy
- Attachment #2 – Overview of Issue Giving Rise to a Grievance By the Faculty
- Association #3 – Arbitration Decision
- Attachment #4 – blacklined By-law No. 1
- Attachment #5 – blacklined Board of Governors Procedures for the Election of Administrative Staff, Student, and Teaching Staff Governors
- Attachment #6 – Exempt Academic Staff Employment Policy & Deans, Associate Deans and Teaching Staff Governors Procedures



Classification	BRD 1000
Framework Category	Board
Approving Authority	Board of Governors
Policy Owner	University Secretary
Approval Date	February 28, 2019
Review Date	March 2022
Supersedes	Amendment, June 18, 2014 Original Approval, April 24, 2014

BOARD OF GOVERNORS RECRUITMENT, APPOINTMENT AND LEADERSHIP POLICY

PURPOSE

1. The purpose of this policy is to define the method by which the Board of Governors will carry out the recruitment, appointment and re-appointment of members to the Board of Governors. Additionally, this policy outlines the process by which the Board of Governors will address the election, appointment and succession planning for leadership positions of the Board (Chair and Vice-Chair(s)) and its Committees.

DEFINITIONS

2. For the purposes of this policy the following definitions apply:

“Administrative Staff” means full-time continuing and part-time continuing employees of the University who are not members of the Teaching Staff.

“Administrative Staff Governor” means a member of the Board who is elected by and from within the Administrative Staff of the University.

“Board” means the Board of Governors of the University.

“Committee” means any standing committee or sub-committee of the Board, established in accordance with the ~~UOIT~~ Act and By-laws.

“Corporations Act (Ontario)” means the Corporations Act, RSO 1990, c C.38, and any amendments thereto.

“Disqualifying Final Disciplinary Decision” is a decision under the Student Conduct Policy, as amended, which has not been appealed or has been upheld on appeal and which, in the discretion of the Governance, Nominations and Human Resources Committee of the Board, indicates that the student candidate or Student Governor does not demonstrate the core competencies expected of all Governors.

“External Governor” means an appointed member of the Board who is external and independent from the University.

“Elected Governors” means the members of the Board who are elected from within their relevant constituencies at the University. This includes Administrative Staff, Student and Teaching Staff Governors.

“Clear Academic Standing” has the meaning ascribed to it in the General Academic Regulations of ~~UOIT~~the university, as amended.

“Good Standing” means both that there is no record of a Disqualifying Final Disciplinary Decision and the student is in Clear Academic Standing.

“Research Leave” has the meaning ascribed to it in the relevant Collective Agreement.

“Student Governor” means a member of the Board who is elected by and from within the student population of the University.

“Teaching Staff” means those positions engaged in the work of teaching or giving instruction or in research at the university as defined in Section 1 of the ~~UOIT~~Act.

“Teaching Staff Governor” means a member of the Board who is elected by and from within the Teaching Staff of the University.

“The By-laws” means By-Law Nos. 1 and 2 of the University of Ontario Institute of Technology, and any amendments thereto.

“~~UOIT~~ Act” means the University of Ontario Institute of Technology Act, 2002, SO 2002, c 8, Sch O, and any amendments thereto.

SCOPE AND AUTHORITY

3. This policy applies to the recruitment, election, appointment and re-appointment of members to the Board.
4. This policy and the related procedures are established in accordance with the ~~UOIT~~Act and The By-laws as amended from time to time

POLICY

5. Achieving excellence in governance and ensuring performance and accountability in the management of the affairs of the University is the primary mission of the Board. To meet this obligation, the Board has developed a policy that will:
 - Establish membership and leadership for the Board that demonstrates a balance of skills, expertise and knowledge, while reflecting broad demographic and cultural diversity.
 - Support transparent and effective processes for the recruitment, review, appointment and election of members to the Board and its leadership positions.
6. **Board Composition: Skills and Competencies**
 - 6.1. The ~~UOIT~~university’s Board of Governors is a competency-based Board and its composition will reflect the knowledge, skills and abilities necessary for it to govern effectively and meet the strategic goals of the University.

- 6.2. Overall Board composition, and selection of individual members, will be based on the requisite skills and competencies set out in the Board Skills and Competencies Matrix (Matrix) as amended from time to time.
- 6.3. The Governance, Nomination and Human Resources Committee (GNHR), or its successor Committee, will be responsible for annually reviewing the Board composition and identifying any skill or competency gaps. This assessment will form the basis of recruitment of new members and recommendation for appointment to any vacancies on the Board.

7. Recruitment and Appointment: General

- 7.1. In addition to the requirements set out in the ~~UOIT~~-Act and The By-laws, all appointments to the Board must be made in accordance with the regulations set out in the Corporations Act (Ontario) for Corporations without Share Capital.
- 7.2. The process of recruitment, screening, selection, election, and recommendation for appointment to the Board will be overseen by GNHR, in accordance with the associated procedures.

8. Recruitment and Appointment: External Governors

- 8.1. Term lengths for External Governors are defined in sections 8(3) and 8(5) of the ~~UOIT~~ Act.
- 8.2. GNHR, or its successor Committee, will recruit, screen, and maintain a pool of eligible candidates for appointment to the Board, based on an assessment of the skills and competencies needed to fill any identified gaps.
- 8.3. GNHR, or its successor Committee, will actively seek to broaden the demographic and cultural diversity of the Board when recruiting eligible candidates to fill any identified gaps.
- 8.4. Candidates may be referred by any member of the current Board, University Senior Leadership or other member of the University community.
- 8.5. Eligible candidates will remain in the pool for three (3) years.
- 8.6. GNHR, or its successor Committee, will make recommendations to the Board from the pool of eligible candidates for the appointment of new members.

9. Recruitment and Appointment: Elected Governors

- 9.1. Term lengths for Elected Governors are defined in sections 8(3), 8(4) and 8(5) of the ~~UOIT~~-Act.
- 9.2. GNHR, or its successor Committee, will be responsible for overseeing the recruitment, nomination, and election procedures for Elected Governors.
- 9.3. Elected Governors will be recruited, nominated, and elected from within their respective constituency groups at the University.
- 9.4. The respective constituencies will be provided with information regarding the requisite skills and competencies for Board members in order to facilitate the nomination and

election of Elected Governors who can meet the needs and obligations of Board membership.

- 9.5. In accordance with Article 3.4 of By-Law No. 1, in order to be eligible to be nominated or to remain as an Administrative Staff Governor or Teaching Staff Governor, individuals must be employed by the University. Such Governors will automatically cease to hold office if they cease to be employees of the University.

Teaching Staff Governor Eligibility

- 9.6. Teaching Staff who:

- a) have been granted a six (6) month Research Leave; or
- b) submitted a request for a six (6) month Research Leave; or
- c) are planning to submit a request for a six (6) month Research Leave

that will commence at any time during the first year of their prospective first term on the Board are ineligible to be nominated as a candidate for the position of Teaching Staff Governor.

- 9.7. Teaching Staff who:

- a) have been granted a twelve (12) month Research Leave; or
- b) submitted a request for a twelve (12) month Research Leave; or
- c) are planning to submit a request for a twelve (12) month Research Leave

that will commence at any time during the first two (2) years of their prospective first term on the Board are ineligible to be nominated as a candidate for the position of Teaching Staff Governor.

- 9.8. In the event that a Teaching Staff Governor is granted a twelve (12) month Research Leave that will commence prior to the end of her/his term on the Board, the Teaching Staff Governor will cease to hold office as a Teaching Staff Governor effective as of the start date of the Research Leave.

- 9.9. In the event that a Teaching Staff Governor is granted a six (6) month Research Leave that will commence during the second or third year of her/his term on the Board, assuming the Teaching Staff Governor obtains the written agreement of the relevant Dean in accordance with the terms of the applicable Collective Agreement, the Teaching Staff Governor may continue to serve on the Board for the remainder of the term.

- 9.10. In order to be eligible to be nominated or to remain as a Student Governor, a student must be a full-time, registered undergraduate or graduate student, in Good Standing.

10. Election and Selection of Chair, Vice-Chairs and Committee Chairs

- 10.1. In accordance with Section 8(13) of the ~~UOIT~~ Act, the Chair and Vice-Chair(s) shall be elected on an annual basis.

10.1.1. There will be one (1) Chair who will normally be nominated and elected from the incumbent Chair or Vice-Chairs.

- 10.1.2.** An incumbent Chair will have the opportunity to express interest in re-election to the Chair position, provided such person is within the normal term length for an External Governor.
- 10.1.3.** There will be two (2) Vice-Chairs who will normally be nominated and elected from the incumbent Vice-Chair(s) or Committee Chairs.
- 10.1.4.** The incumbent Vice-Chair(s) will have the opportunity to express interest in re-election to the Vice-Chair positions, provided such person is within the normal term length for External Governors.
- 10.2.** Committee Chairs will normally be recruited from within the incumbent External Governors.
 - 10.2.1.** External Governors will have an opportunity, on an annual basis, to express interest in Committee Chair positions.
 - 10.2.2.** Committee Chairs be selected from members who have demonstrated a high degree of commitment to the University, the Board and its Committees and who meet the desired skill and competency profile for leadership of the respective Committee for which they are being considered.

11. Review of Chair, Vice-Chairs and Committee Chairs

- 11.1.** The Board Chair, Vice-Chairs and Committee Chairs will be evaluated on an annual basis.
- 11.2.** Annual evaluations will be used to support the ongoing improvement of Board processes as well as in the consideration of incumbent nominees for re-election to Board leadership positions.

12. Vacancies

- 12.1.** Vacancies in Board membership that occur prior to the end of the appointment term of a Governor will be filled in accordance with Article 3.6 of By-law No. 1.
- 12.2.** Vacancies in any of the Board Chair, Vice-Chair or Committee Chair positions that occur before the end of the appointment term will normally be filled on an acting basis until GNHR can recommend a new nominee for election or selection.
 - 12.2.1.** A vacancy in the Chair position will normally be filled by one of the Vice-Chairs.
 - 12.2.2.** A vacancy in one of the Vice-Chair positions will normally be filled by an incumbent Committee Chair. The selected individuals will maintain their Committee Chair role on a temporary basis until the end of the year.
 - 12.2.3.** A vacancy in a Committee Chair position will normally be filled by a Committee member.

RELEVANT LEGISLATION

- 13.** University of Ontario Institute of Technology Act, 2002, S.O. 2002, c. 8, Sch. O
By-Laws of the University of Ontario Institute of Technology

Corporations Act, RSO 1990, c C.38

RELATED POLICIES, PROCEDURES & DOCUMENTS

14. Board of Governors and Committees Skills and Competency Matrix
General Academic Regulations, University of Ontario Institute of Technology
~~UOIT~~ Student Conduct Policy
Governance, Nominations and Human Resources Committee Terms of Reference
Board Leadership Nominating Committee(s) Terms of Reference**
Procedures for the Referral of Candidates to the Board of Governors**
Procedures for the Appointment of External Governors**
Procedures for the Election of Administrative Staff, Students and Teaching Staff Governors
Procedures for the Election of Board Chair, Vice-Chairs and Appointment of Committee Chairs**
Board Evaluation Policy**
Board Chair Position Statement **
Board Vice-Chair Position Statement**

***To be developed*

Overview of Issue Giving Rise to a Grievance By the Faculty Association:

- The 2018-2019 Board of Governors Election took place from February 26 - April 6, 2018.
- We received five nominations for the two Teaching Staff Governor positions on the Board.
- In order to confirm eligibility to serve on the Board, each nominee was asked to advise whether she/he had research leave scheduled or she/he would be requesting research leave during the next two years.
- Three nominees responded that they planned to request research leave during the next two years. One nominee withdrew as a candidate. The two other nominees were advised that they were ineligible due to their planned research leave requests.

Faculty Governor Working Group (FGWG)

- The decision to disqualify certain faculty raised concerns with the faculty themselves. Faculty Board members also raised concerns. In order to address the concerns, a working group was formed to review the research leave eligibility requirement and to make a recommendation to GNHR.
- The members of the FGWG were: Cheryl Foy (Chair), Robert Bailey and the two faculty governors (terms ending August 31, 2018): Jeremy Bradbury, and Shirley Van Nuland.
- The FGWG was guided by the following considerations:
 - regular attendance at Board & Committee meetings is required (the limit of missing three meetings is not intended to be permissive - it triggers a review of the Board member's status on the Board)
 - governors' fiduciary obligations
 - the practice of appointing elected faculty for three-year terms allows faculty Board members to become familiar with Board operations & then serve as effective Board members - any recommendation should ensure that faculty Board members have an opportunity to become familiar with the Board & serve effectively
 - minimize disruption & turnover of Board members
 - existing leave restrictions/parameters & the impact of the solution on decanal discretion relating to research leave
 - respect for the Collective Agreement provision indicating that research leave is to be reserved for 100% research activity (no requirement to provide "Service" – Board of Governor membership would normally constitute Service).
 - any recommendation must be consistent with the Act, By-Laws, and governance good practices
- The FGWG made recommendations and the Board of Governors Recruitment, Appointment and Leadership Policy was amended.
- The Faculty Association filed a policy grievance regarding the eligibility requirements.

IN THE MATTER OF AN ARBITRATION

BETWEEN:

The University of Ontario Institute of Technology

and

The University of Ontario Institute of Technology Faculty Association

(Policy Grievance re: BOG)

Before: William Kaplan
Sole Arbitrator

Appearances

For the University: George Avraam
Ajanthana Anandarajah
Baker & McKenzie
Barristers & Solicitors

For the Association: David Wright
Ryder Wright Blair & Holmes
Barristers & Solicitors

The matters in dispute proceeded to a hearing by Zoom on August 27, 2020.

Introduction

This case concerns an April 2018 policy grievance filed by the Faculty Association at the University of Ontario Institute of Technology (hereafter “the Association” and “the University”). Summarily stated, the dispute arose for the following reason: The University took the position that otherwise eligible faculty members who were on, or who would be applying for, a research leave – a cohort of only tenured members – could not seek election and serve on the Board of Governors (hereafter “the BOG”) if their research leave would overlap with part of their three-year BOG term. Three faculty members were excluded from running for election.

The explanation for the restriction advanced by the University was that pursuant to Article 28 of the collective agreement, faculty members on research leave are to devote 100% of their time to research. The University also takes the position that the grievance was not arbitrable as election to the BOG does not involve the collective agreement but is an independent process governed by BOG rules. For its part, the Association took the position that the collective agreement was fully engaged as the BOG was the employer and was bound by the terms and conditions of the collective agreement. In the Association’s submission, the effect of the prohibition was to potentially exclude tenured faculty members from ever serving on the BOG as they are eligible for a research leave every three years (although, as noted below, a new less strict policy was promulgated in the aftermath of these events). The dispute proceeded to mediation on May 26, 2020, and then to a hearing by Zoom on August 27, 2020.

The Collective Agreement

Article 4 – Management Rights

4.01 The Employer retains the exclusive right to manage the University which includes policy formulation and execution, except to the extent modified by the terms of this Agreement and provided this right is exercised in a fair, reasonable and equitable manner.

Article 14 – Academic Freedom

14.02 Academic freedom of Faculty Members resides at the core of the University's mission....

Article 16 – Academic and Professional Career/Workload

...

- b) Faculty Members have the right and responsibility to engage in an appropriate combination of the following activities:
- i. Research: Whereby Faculty Members make original contributions to their fields of learning.
 - ii. Teaching: Whereby Faculty Members convey information and techniques to students and foders critical and creative thinking.
 - iii. Service: Whereby Faculty Members contribute to the governance of the University through active and engaged participation on its collegial and administrative bodies....

Article 28 – Leaves of Absence

...

28.03 Research Leave

- a) Faculty Members with tenure are eligible for Research leave for a period of up to, but not exceeding, twelve (12) months, after completing six (6) Appointment Years of full-time Research, Teaching and Service, unless a period of less than six (6) Appointment Years is specified in the Faculty Member's letter of appointment.
- b) For clarity the workload of a Faculty Member on Research Leave is 100% Research, 0% Teaching, and 0% Service. Any variation from this must be documented and have the mutual agreement by the Faculty Member and the Dean.

Some Background Facts

Elections to the BOG were held in late winter/early spring 2018. There was no specific policy or by-law in place, at the time, restricting faculty members eligible for a research leave during their prospective BOG term from seeking election – although there was some contested extremely limited anecdotal evidence about a past practice to the effect. There was also some contested extremely limited anecdotal evidence to the contrary. Given its nature and scope, none of this is of any legal or factual significance.

In any event, five faculty were nominated for two faculty positions on the BOG. Prior to the election, all five were contacted and asked if they intended to take a research leave in the next two years, i.e., the first two years of their three-year term. They were asked to complete a form providing this information. While forms had been used in the past, this was the first time the research leave question was asked. Three faculty members who expressed interest in taking a research leave during the BOG term were deemed ineligible to stand for election because of Article 28.03. Two of the five faculty were deemed eligible and they were acclaimed. A grievance was filed. The BOG also convened a subcommittee to look into the matter and it adopted a policy – not a by-law – addressing eligibility issues for faculty members on research leave, but one that still imposes significant fetters on tenured faculty.

Submissions

In the Association's submission, the starting point was with applicable legislation, the *University of Ontario Institute of Technology Act, 2002* (hereafter "*the Act*"). *The Act* – which Association counsel extensively reviewed – made manifest that the BOG was the employer, it was the University, and it was bound by the collective agreement. Indeed, when faculty members were told they were ineligible to serve, their attention was drawn to Article 28.03 affirmatively establishing the collective agreement's application to this dispute and, accordingly, conferring arbitral jurisdiction. Other collective agreement provisions, in the Association's view, confirmed this conclusion.

Under the Management Rights clause the University had to exercise its functions in a fair, reasonable and equitable manner. Moreover, faculty members enjoyed academic freedom and it was axiomatic, and widely accepted, that academic freedom includes the right to participate in collegial governance. Indeed, in the Association's view, this entitlement was unequivocally set out in Article 16.01(b)(iii). An arbitrary rule that effectively excluded tenured faculty members from BOG service was completely inconsistent with the Management Rights provision, Academic Freedom and the right of faculty members to participate in collegial governance. This conclusion was reinforced by the fact that no other faculty members were prohibited from service – including those on a variety of other leaves such as maternity, parental or professional development.

The Association did not dispute that the University had the legal right to determine aspects of BOG eligibility – but it had to do so in a proper way – and that meant compliance with *the Act* through passage of a proper by-law. That also meant that while doing so it had to respect its obligations under the collective agreement. Significantly, there was no policy or by-law in place in the late winter/early spring of 2018 restricting faculty on 100% research leave from BOG service. Nevertheless, the University took unilateral steps and prohibited tenured faculty members from putting themselves forward for election.

It was also noteworthy, in the Association's view, that when the BOG considered this issue in the aftermath of the spring 2018 election, it promulgated a new policy, instead of passing a by-law as it was legally required to do. The new policy continued to breach the collective agreement, just like the old one, the Association argued, but making matters even worse, it was of no legal force or effect in the Association's opinion because a by-law was not passed as is categorically required.

The BOG certainly had the right to pass a proper by-law setting out competencies, qualifications, expertise and responsibilities for service, but it could not do so if it violated negotiated provisions of the collective agreement. Likewise, it could not do so where the result was completely discriminatory: intentionally or not, the restrictions targeted tenured faculty members to the exclusion of everyone else. It was also worth mentioning, the Association argued, that virtually everyone else who served on the BOG was either fully employed at the University or elsewhere, and it

was nowhere suggested that these full-time activities somehow interfered with BOG service. Simply because a faculty member was fully engaged with research did not mean that she or he could not fulfill BOG duties. The former did not preclude the latter, nor was it inconsistent with it. The Association asked that the grievance be allowed, appropriate declarations issued, and that I remain seized should any implementation issues arise.

For its part, the University took the position that the BOG was fully entitled to determine eligibility for membership, and that included its good faith determination that someone who was 100% engaged in research should not be allowed to serve. To whatever extent faculty members could decide on their University service, that did not give them the right to serve on the BOG or otherwise. Collective agreement references to the BOG were scant, and BOG members were excluded from coverage during their term. The fact of the matter was that a BOG member who took a 100% research leave would be unavailable for many months depending on the length of their leave. In determining that such persons should not, because they could not, serve on the BOG, the BOG was properly exercising its statutory powers.

The University also took the position that there was nothing in the collective agreement that entitled the Association to challenge or contest the BOG's determination of its membership. The BOG was separate and apart from the University. The latter was bound by the collective agreement; the former was not. BOGs act through by-laws, reflected in turn by more detailed policies giving effect to

those by-laws. And that is exactly what happened here. The decisions that were taken were reflected in past practice, fully lawful, appropriately authorized and made in good faith for legitimate operational reasons. Whether earlier nomination forms asked about current or future research leaves or had evolved over time, was neither here nor there and was immaterial to the threshold jurisdiction issue. There was, in any event, ample rationale for the decision that the BOG reached, one that was not subject to arbitral review. The University asked that the grievance be dismissed.

Decision

Having carefully considered the evidence, I conclude that the collective agreement is engaged, has been breached, and the grievance is, therefore, allowed.

In my view, following a thorough canvass of the legislative framework and the collective agreement, the conclusion is inescapable that the collective agreement applies. Under section 2(2) "The University....shall consist of members of the board." Under section 9.1 of *the Act*, the BOG is responsible for governing and managing the University. The University acts through the BOG. There are numerous references to the Board in the collective agreement. Under section 8(1) of *the Act* the composition of the BOG is prescribed. But under section 8(2) the BOG may "by by-law determine the manner and procedure for election of members....and eligibility requirements for election to the board" and it can amplify that in policies, provided that doing so does not violate negotiated entitlements in the collective

agreement. There is no power to set *ad hoc* election eligibility requirements, even if well intentioned.

In this case, not only has no by-law been passed, but the policy that was promulgated subsequent to the grievance infringes on the collective agreement. It is true enough that a faculty member who is elected to the BOG is no longer covered by the collective agreement for the period of their term. However, in seeking election to the BOG, a faculty member may rely on the terms and conditions of the collective agreement and the corollary of this is that the University cannot infringe on them. Management Rights, Academic Freedom and Article 16(b)(iii) are directly engaged by this grievance conferring jurisdiction and making this grievance arbitrable.

There is nothing in Article 28.03 that could be reasonably interpreted to preclude BOG service during a 100% research leave. Put another way, experience indicates that the purpose of provisions such as this are to limit what other duties *can be assigned* during the period of the research leave: namely, none (emphasis mine). This overall conclusion is reinforced by the discriminatory effect of the rule with its unfortunate effect of largely precluding tenured faculty from collegial governance. Faculty members enjoy academic freedom and that includes the right, as provided for in this collective agreement in Article 16(b)(iii), to stand for election to the BOG. There is nothing about being on a 100% research leave that is inconsistent with BOG service. The actions in the late winter/early spring of 2018 precluding tenured track faculty members with already approved research leaves, or faculty members

who were entitled to a research leave and who anticipated taking one, from BOG service was not fair, reasonable or equitable. To the extent the BOG has legitimate concerns about competencies, attendance and engagement, they can be addressed separate and apart from this restriction on eligibility. To the extent a faculty member fails to accomplish their research leave objectives by failing to properly dedicate themselves during that leave, that too is something that the University can address.

Conclusion

Accordingly, and for the foregoing reasons, the grievance is allowed and a declaration of collective agreement breach, together with a cease and desist, is issued. At the request of the parties, I remain seized with respect to the implementation of this award.

DATED at Toronto this 3rd day of September 2020.

"William Kaplan"

William Kaplan, Sole Arbitrator



UOIT BY-LAW 1

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BY-LAW NUMBER 1 OF THE UNIVERSITY OF ONTARIO INSTITUTE OF TECHNOLOGY

(being a by-law to regulate generally the affairs of the University)

BE IT ENACTED AND IT IS HEREBY ENACTED as a by-law of the University as follows:

DEFINITIONS

In this By-law:

- a. "Act" means the *University of Ontario Institute of Technology Act, 2002*.
- b. "Administrative Staff" means full-time continuing and part-time continuing employees of the University who are not members of the Teaching Staff.
- c. "Board" means the Board of Governors of the University.
- d. "By-laws" means this by-law and any other by-laws of the University as they exist from time to time.
- e. "Chair" means the person elected or appointed to the position of chair of the Board.
- f. "Chancellor" means the person appointed by the Board, pursuant to s. 11 of the Act, to be the chancellor of the University.
- g. "Governor" means a member of the Board.
- h. "*In Camera*" means a meeting, or a portion of a meeting, that includes Governors and only those individuals invited by the Board to attend, at which no motions are made and no minutes are recorded.
- i. "Non-Public" means a meeting that includes Governors and only those individuals invited by the Board to attend.

- j. "President" means the person appointed to be the president, chief executive officer and vice-chancellor of the University.
 - k. "Public" means a meeting open to all individuals, both internal and external to the University.
 - l. "Secretary" means the secretary of the Board.
 - m. "Student" means a student who is registered throughout the academic year as a full-time student in accordance with the academic regulations of the University.
 - n. "Teaching Staff" means professors, associate professors, assistant professors, lecturers, associates, instructors, tutors and all others engaged in the work of teaching or giving instruction or in research at the University.
 - o. "University" means the University of Ontario Institute of Technology.
 - p. "University Officer" means any duly appointed officer of the University in accordance with Article 5.1, including "designated executives" as defined in the *Broader Public Sector Executive Compensation Act, 2014*, as amended or replaced.
 - q. "Vice-Chair" means the person elected or appointed to the position of vice-chair of the Board.
 - r. "Vice-President" means a vice-president of the University.
- In the event of a conflict between any provision of the Act and any provision of the By-laws, the provision of the Act prevails to the extent of the conflict.

ARTICLE 1 - INTERPRETATION

- 1.1 In all By-laws of the University, where the context so requires or permits, the singular shall include the plural and the plural shall include the singular, and the word "person" shall include firms and corporations.
- 1.2 In all By-laws and resolutions of the University, unless the context otherwise requires, words and expressions have the same meaning as defined in the Act.
- 1.3 References in all By-laws and resolutions of the Board to the Act shall, unless the context otherwise requires, mean and include that Act and any amendments thereto from time to time or any act that may hereafter be substituted therefor.
- 1.4 The marginal notes and headings in the body of this By-law do not form part hereof and are inserted for convenience of reference only.

ARTICLE 2 - HEAD OFFICE AND SEAL

2.1 Head Office

The head office of the University shall be in the City of Oshawa in the Regional Municipality of Durham in the Province of Ontario and at such place therein as the Board may from time to time determine.

2.2 Seal

The seal, an impression whereof is stamped in the margin hereof, shall be the corporate seal of the University. The Secretary shall be responsible for the custody of the seal and for maintaining a record of its use.

ARTICLE 3 – BOARD COMPOSITION

3.1 All Governors

In addition to other qualifications set forth in the Act or in the By-laws, all Governors will also meet the qualifications prescribed for directors of corporations without share capital under the *Corporations Act (Ontario)*, RSO 1990 (as amended or replaced) and other qualifications which may be prescribed by legislation for governors of a university in Ontario.

3.2 Appointed Governors

The Governors appointed pursuant to paragraphs 4 and 5 of subsection 8(1) of the Act shall be appointed in such manner as the Board will determine and shall retire in rotation so that normally one-third of such governors will retire and be appointed in each year. Normally, the term begins on the first day of September.

3.3 Elected Governors

In accordance with paragraph 5 of subsection 8(1) of the Act, four of the Governors shall be elected as follows:

- a. two shall be elected by and from the full-time Teaching Staff of the University;
- b. one shall be elected by and from the Administrative Staff of the University; and
- c. one shall be elected by and from the Students.

3.4 The Board shall establish eligibility requirements, rules, and regulations governing the election of the Teaching and Administrative Staff through policy and procedures. ~~approve the rules and regulations governing the election of the Teaching and Administrative Staff.~~ Teaching and Administrative Staff Governors shall be persons who, at the time of their election and during their term on the Board, are employed by the University. Such Governors shall automatically cease to hold office if they cease to be employees of the University.

3.5 The Board shall establish eligibility requirements, rules, and regulations governing the election of the Student Governors through policy and procedures. ~~approve the rules and regulations governing the election of Student Governors.~~ Student Governors shall be persons who, at the time of their election and during their term on the Board, are registered and in good standing. Such Governors shall automatically cease to hold office if they cease to be registered and in good standing.

3.6 Membership Vacated

Commented [BD1]: Amended to align with the Board of Governors Recruitment, Appointment and Leadership Policy eligibility requirements

The membership of a Governor is vacated when:

- a. such Governor resigns or ceases to be eligible for appointment or election to the Board;
- b. such Governor becomes incapable of acting as a Governor and the Board declares such membership vacant;
- c. within any twelve month period, a Governor of the Board, other than an ex-officio Governor and a Governor who has been granted a leave of absence by the Board, is absent for four consecutive regular meetings of the Board, or attends less than 50 per cent of such regular meetings in any year from September 1 to August 31. In any such case, the Board may, by resolution, declare his or her membership vacant; or
- d. the Board, in its sole and absolute discretion, rescinds a Governor's membership on the Board on the basis that the Governor has not met the standard of conduct set out herein or described in other applicable Board policies or agreements. In the event the Governor is serving as a Lieutenant Governor in Council (LGIC) appointee, the rescission will take effect on the date on which the LGIC approves the Board's request for rescission.

- 3.7 The Board's declaration that a Governor's membership on the Board is vacated shall be made by a resolution of the Board carried by at least two-thirds of the votes cast by the Governors at a meeting of the Board. Such declaration may not be made until after the delivery of written notice of the proposed declaration of the Board and the reasons therefor to the Governor affected at such electronic or most recent address appearing in the records of the Board.

The resolution declaring the vacancy on the Board shall be entered in the minutes of the Board and shall be conclusive evidence of the vacancy.

ARTICLE 4 - STANDARD OF CONDUCT

- 4.1 Governors are fiduciaries of the University and are expected:
- a. to meet the requirements of the Act, the By-laws and applicable policies, including, without limitation, the standard of conduct prescribed in section 9(3) of the Act;
 - b. to exercise their duties in the best interests of the University, consistent with its objects and mission, rather than in the interests of any other person, entity or constituency;
 - c. to commit the time to prepare for and attend Board and Committee meetings throughout the duration of their term, as well as to attend university events and support other university endeavours;
 - ed. to respect their duty of confidentiality with respect to Board matters; and
 - ee. to adhere to the Conflict of Interest requirements in this By-Law and in any applicable University policy, as approved by the Board from time to time.

4.2 Conflict of Interest

“Conflict of Interest” means a situation in which a person has a personal interest that conflicts, might conflict or may be perceived to conflict with the interests of the University. Conflicts of interest may arise in relation to personal matters including:

- a. directorships or other employment;
- b. interests in business enterprises or professional practices;
- c. share ownership;
- d. beneficial interests in trusts;
- e. existing professional or personal associations with the University; Professional associations or relationships with other organizations;
- f. personal associations with other groups or organizations, or
- g. personal or family relationships.

4.3 Governors who believe that they may have a Conflict of Interest shall:

- a. declare the nature and extent of the interest as soon as possible and no later than the meeting at which the matter is to be considered, and, if requested by the Board;
- b. refrain from taking part in any discussion or vote related to the matter; and/or
- c. withdraw from the meeting when the matter is being discussed.

4.4 A Student Governor or a Governor whose partner or relative is a Student, may take part in discussions and vote on all matters relating generally to the operations of the University, except for those matters which deal with the circumstances of the particular Student as an isolated issue, separate and apart from consideration of the other Students of the University.

4.5 A Teaching or Administrative Staff Governor or a Governor whose partner or relative is an employee of the University, may take part in discussions and vote on all matters relating generally to the operations of the University including, without limitation, issues concerning general conditions of employment for employees of the University, unless the discussion and voting deal with the circumstances of the particular employee as an isolated issue, separate and apart from consideration of the other employees of the University.

4.6 A Governor who has declared an interest in a contract or transaction, or a proposed contract or transaction, and who has not voted in respect thereof, shall not be accountable to the University, or its creditors, for any profit realized from the contract and the contract is not voidable by reason only of the Governor holding that office or of the fiduciary relationship established thereby.

ARTICLE 5 - OFFICERS**5.1 University Officers**

The President is hereby designated a University Officer. Other University Officers may be designated by the Board or approved by the Board on the recommendation of the President.

5.2 Election of Chair and Vice-Chair

The Board shall elect annually a Chair and at least one, and normally no more than two, Vice-Chairs from among its Governors (the "external Governors") who were appointed pursuant to paragraphs 3 and 4 of subsection 8(1) of the Act.

5.3 Appointment of the Secretary and Other Officers of the Board

The Board shall appoint a Secretary and such other officers of the Board as the Board may determine from time to time by resolution.

5.4 Duties of Chair and Vice-Chair

The Chair shall preside at all meetings of the Board.

5.5**Duties of Secretary**

The Secretary shall: give notice of and attend all meetings of the Board and keep regular minutes of all the proceedings thereat; prepare and maintain a record of the current membership with their mailing addresses furnished by the Governors; use such means as he or she deems necessary to record the proceedings of the meetings of the Board; keep minutes of the proceedings of all committees of the Board; prepare all resolutions, reports or other papers which the Board may direct, and all copies which may be required of any such documents and papers; discharge such other duties as are prescribed by the By-laws of the University or as may be assigned by the Board or by the Chair thereof.

ARTICLE 6 - MEETINGS**6.1 Meetings of the Board**

Board meetings may be formally called by the Chair, the Vice-Chair or the President. Board meetings may also be called by the Secretary on the direction in writing of eight

Governors. Notice of such meeting shall be given to the public by posting on one or more notice boards on campus and delivered, telephoned, or sent electronically to each Governor not less than seven days before the meeting is to take place in the case of regular meetings and not less than two days before the meeting is to take place in the case of special meetings. (In either case, the day of the meeting shall not be counted.)

The written declaration of the Secretary or the Chair that notice has been given pursuant to the By-laws shall be sufficient and conclusive evidence of the giving of such notice. The Board may appoint a day or days in any month or months for regular meetings at an hour to be named and, in respect of such regular meetings, no notice need be sent. The Governors may consider or transact any business, either special or general, at any meeting of the Board provided that advance notice of any such special business is given in accordance with the policies and procedures approved by the Board.

No formal notice (except for the said notice to the public) of any such meeting shall be necessary if all of the Governors are present or if those absent have signified their consent to the meeting being held in their absence.

- 6.2 The agenda for each Board meeting will be prepared by the Secretary in consultation with the Chair and the President and will be approved by the Chair. Each meeting of the Board will terminate after three hours from its commencement or on completion of the business before the Board at the meeting, whichever is earlier, unless the Board agrees to extend the time of termination beyond the three hour maximum by way of a motion passed by a simple majority of the Governors present.
- 6.3 Whenever, under the provisions of the By-laws, notice is required to be given to an individual, such notice may be given either personally or electronically (as provided above), or by depositing same in the post office or a public mail box, in a prepaid, sealed envelope addressed to the Governor at the most recent address recorded on the books of the University. A notice or other document so sent by mail shall be deemed to be received on the date which is two business days after the date when the same was deposited in a post office or public mail box as aforesaid or, if sent electronically, shall be deemed to be received on the day it was transmitted or, if delivered, shall be deemed to be received on the date of delivery. For the purpose of sending any notice, the address of any Governor will be the most recent address recorded on the books of the University.
- 6.4 Subject to sections 6.5 and 6.6 hereof, meetings of the Board will be Public in accordance with section 13 of the Act unless the meeting, or a part thereof, may be held in the absence of the public as specified in the Act and the related [procedures](#), as approved by the Board from time to time.
- 6.5 The Board will conduct three types of meetings as part of the regular administration of the Board and its committees:
- Public;
 - Non-Public; and
 - *In-Camera*.

6.6 Attendance at Public meetings will be subject to space limitations and the provisions of the related procedures. No person shall be removed from a meeting except for improper conduct as determined by the Chair.

6.7 **Errors in Notice**

No error or omission in the giving of such notice for a meeting of the Board shall invalidate such meeting or invalidate or make void any proceeding taken or had at such meeting, and any Governor may, at any time, waive notice of such meeting and may ratify and approve of any or all proceedings taken or had thereat.

6.8 **Voting**

Except as otherwise provided in the By-laws, questions arising at any meeting of the Board shall be determined by a majority of votes, including the vote of the Chair and, in the case of equality of votes, the question shall be deemed defeated. All votes at any such meeting shall be taken by ballot if so demanded by any Governor present, but if no demand is made, the vote shall be taken in the usual way by assent or dissent. A declaration by the Chair that a resolution has been carried or defeated and an entry to that effect in the minutes shall be admissible in evidence as prima facie proof of the fact without proof of the number or proportion of the votes recorded in favour of or against such resolution.

6.9 Any Governor may abstain from casting a vote and may request that the abstention be recorded in the minutes of the meeting.

6.10 **Reconsideration**

After any question has been decided, any Governor who voted thereon in the majority may move for a reconsideration of the question, but no discussion on the main question shall be allowed unless the matter is reconsidered and there shall be no reconsideration unless:

- a. notice of the motion to reconsider is given either at a meeting of the Board or in the same manner as notice of a regular meeting of the Board is given, and such notice to reconsider is in any event given at least two days before the meeting at which the motion to reconsider is to be presented; and
- b. two-thirds of the Governors attending such a meeting vote in favour of such reconsideration.

6.11 **Rules of Order**

Meetings of the Board and its committees will be conducted respectfully, efficiently and with a view to reaching consensus in accordance with the values of the University. In case of controversy, meetings of the Board and its Committees will be conducted in accordance with *Democratic Rules of Order* by Francis and Francis (9th edition), as amended or replaced, or such other rules of order most recently adopted by the Board and its committees.

6.12 **Adjournments**

Any meeting of the Board may be adjourned to any time and from time to time and such business may be transacted at such adjourned meeting as might have been transacted at the original meeting from which such adjournment took place. No notice shall be required of any such adjournment.

6.13 Such adjournment may be made notwithstanding that no quorum is present.

6.14 Quorum

A quorum of the Board consists of a majority of the Governors and that majority must include at least half of the Governors who are not the Student and employee Governors who were elected to the Board pursuant to paragraph 5 of subsection 8(1) of the Act.

6.15 Place of Meeting

Unless otherwise directed by the Chair, all meetings of the Board shall be held on the campus of the University.

6.16 Participation by Electronic Means

If the University chooses to make available a telephone, electronic or other communication facility that permits all participants to communicate adequately with each other during a meeting of the Board, any person entitled to attend such meeting may participate in the meeting by means of such telephonic, electronic or other communication facility in the manner provided. A person participating in a meeting by such means is deemed to be present at the meeting. Notwithstanding any other provision of the By-laws, any Governor participating in a meeting of the Board pursuant to this Article who is entitled to vote at that meeting may vote by means of any telephonic, electronic or other communication facility that the University has made available for that purpose. No Governor shall be represented by proxy.

6.17 Written Resolutions

A resolution signed (electronically or otherwise) by all Governors entitled to vote is as valid and effective as if passed at a meeting of the Governors duly called, constituted and held for the purpose. Written resolutions may be signed in counterparts and such resolutions signed by one or more Governors entitled to vote and transmitted by facsimile, electronic mail, or other electronic means to the Secretary shall be deemed to be duly signed by such Governors.

6.18 Books and Records

The Secretary shall see that all necessary corporate books and records required by the By-laws or by any applicable statute or law are regularly and properly kept. A record of the proceedings of each meeting of the Board shall be kept in a book provided for that purpose and the minutes, or a précis thereof, of the previous meeting shall be submitted at the next meeting of the Board and, after adoption by the Board of the minutes, they shall be signed by the Chair and Secretary and such minutes shall be kept in the custody of the Secretary. Except where the Board exercises its powers by by-law or where it is otherwise herein provided, the action of the Board upon any matter

coming before it shall be evidenced by resolution and the entry thereof in the minutes of the Board shall be prima facie evidence of the action taken.

ARTICLE 7 - COMMITTEES

General Provisions

- 7.1 Subject to subsections 7.2 to 7.9 and 7.12 to 7.22, the number of committees of the Board and their names, size, composition, duties and responsibilities shall be as determined from time to time by resolution of the Board.
- 7.2 There shall be an Executive Committee as provided in Article 8 below.
- 7.3 The majority of the members of all committees must be Governors of the Board.
- 7.4 The Chair and President shall be members of all Board Committees, whether standing, special or ad hoc.
- 7.5 The voting members of all committees shall be appointed by the Board.
- 7.6 The President may appoint a University Officer as the presidential representative to committees of the Board, except for the Executive Committee and any special or sub-committee thereof, for the purpose of assisting in the discharge of the President's responsibilities with respect to such committees. Such a presidential representative shall be a non-voting member of such committees during the term of any such appointment.
- 7.7 Each committee of the Board shall have a chair appointed by the Board. If the committee chair is not present at a meeting, the committee shall select another member of the committee to act as chair for that meeting.
- 7.8 The agenda for each Board committee meeting will be prepared by the Secretary in consultation with the committee chair and the appropriate member(s) of the University's administration as designated by the President, and will be approved by the committee chair.
- 7.9 **Other Committees**
In addition to the Executive Committee, standing committees may be constituted by the Board as committees whose duties are normally continuous, and which may include in their membership one or more persons who are not Governors.
- 7.10 **Special and Ad Hoc Committees**
Other committees constituted by the Board or by the standing committees shall be special or ad hoc committees, being those committees appointed for specific duties of a non-recurrent nature, and which may include in their membership one or more persons who are not Governors, subject to the proviso that the chair of the committee must be a Governor.

- 7.11 Unless specifically provided by the resolution by which it is constituted, each special or ad hoc committee shall automatically be dissolved on the date of the receipt of its final report by the Board or by the standing committee, as the case may be. Such committees may, at the discretion of the Board or the standing committee, as the case may be, be re-appointed with the same or different membership.

General Regulations

- 7.12 All members of committees, other than ex-officio members, serve at the pleasure of the Board. Vacancies occurring in the membership of a Board committee shall be filled by the Board at the next meeting of the Board after such vacancies occur, or as soon thereafter as may be convenient but, notwithstanding such vacancies, the remaining members of the committee shall have authority to exercise the full powers of the committee, providing that a quorum remains in office.
- 7.13 Meetings shall be held at the call of the chair of the committee, and shall be held at such places, or by teleconference, and at such times as the chair of the committee may determine. On the requisition of any three members of a committee, a meeting of such committee shall be called by the secretary of such committee. Notice of the time and place of every meeting shall be given to each member of the committee at least forty-eight (48) hours before the meeting. The means of delivery shall be either by:
- a. telephone or facsimile;
 - b. hand-delivered courier to the Governor's most recent address recorded in the books of the Board;
 - c. prepaid post to the Governor's most recent address recorded in the books of the Board; or
 - d. electronic mail.
- The notice need not specify the nature of the business to be transacted at such meeting. In exceptional circumstances, the committee chair may waive the time requirements for such notices.
- 7.14 A meeting may also be held at any time and at any place within the Province of Ontario without notice, if all the members of the committee consent thereto.
- 7.15 A resolution signed by all of the members of a committee shall have the same force and effect as if passed at a regularly constituted meeting.
- 7.16 Any omission in good faith to give notice to any Governor, or any inadvertent irregularity in connection with the giving of notice, shall not invalidate the proceedings of a meeting.
- 7.17 The chair of the committee shall preside at meetings. If the chair is absent, the members present shall appoint one of their number as acting chair to preside at the meeting.
- 7.18 Except where otherwise stated, quorum requires that half of the Committee members entitled to vote be present.

- 7.19 Each voting member of the committee present in person or by teleconference at a meeting shall be entitled to one vote.
- 7.20 All questions at a committee meeting shall be decided by a majority of the votes of the members present, including the vote of the chair. In the case of equality of votes, the motion will be declared defeated.
- 7.21 A record shall be kept of the proceedings of every meeting of each committee, and it is the responsibility of the chair of the committee to submit a report of such proceedings to the Board or the Executive Committee as soon as conveniently possible thereafter.
- 7.22 The secretary of a committee shall issue, or cause to be issued, notices of all meetings of such committee, when directed to do so.

ARTICLE 8 - EXECUTIVE COMMITTEE

- 8.1 The Board shall by resolution establish the size, composition, duties and responsibilities of the Executive Committee.
- 8.2 Unless changed by resolution of the Board, the Executive Committee shall be composed of the Chair and Vice-Chair(s) of the Board, the President and a maximum of four other Governors who shall be appointed by the Board to serve on the Executive Committee.
- 8.3 The Executive Committee shall have the following duties and responsibilities:
 - a. to exercise on behalf of the Board, between regular meetings of the Board, in circumstances where a matter cannot be delayed until the next regular meeting, and where a special meeting of the Board cannot be called, all the powers of the Board. The power of the Executive Committee to act for the Board is subject to prior delegation of powers from the Board to any other committee of the Board and to any specific directions given by the Board to the Executive Committee from time to time;
 - b. to make recommendations to the Board on the results of any search undertaken for the appointment of the President whether that search is undertaken by the Executive Committee or by another committee chosen by the Board;
 - c. to act as a committee to review, from time to time, the functioning of the governance system of the University;
 - d. to exercise such of the powers of the Board as the Board may by resolution provide;
 - e. to review and approve annually, on behalf of the Board, the performance of the President, to report to the Board annually with respect to such performance and to approve the compensation of the President and any changes thereto;
 - f. to approve, on behalf of the Board, recommendations from the President concerning the compensation of University Officers; and
 - g. to approve the compensation of other individuals in positions which the Board may, by resolution on recommendation of the President, designate from time to time.

In matters relating to the appointment of the President, the incumbent President shall not participate as a member of the Executive Committee or any other such search committee.

ARTICLE 9 - EXECUTION OF DOCUMENTS

9.1 Execution of Documents

Any two individuals holding the position of the Chair, Vice-Chair, President or Secretary or any person or persons from time to time designated by the Board, may execute any documents on behalf of and in the name of the University, may transfer any and all shares, bonds or other securities from time to time standing in the name of the University in its individual or any other capacity or as trustee or otherwise, and may accept, in the name and on behalf of the University, transfers of shares, bonds, or other securities from time to time transferred to the University, and the Secretary or President of the University may affix the corporate seal to any such transfers or acceptances of transfer, and may make, execute, and deliver under the corporate seal, any and all instruments in writing necessary or proper for such purposes, including the appointment of an attorney or attorneys to make or accept transfers of shares, bonds or other securities on the books of any company or corporation.

9.2 Notwithstanding any provisions to the contrary contained in the By-laws, the Board may, at any time, by resolution direct the manner in which, and the persons by whom, any particular instrument, contract, or obligation of the University may or shall be executed.

9.3 Cheques, Etc.

All cheques, bills of exchange or other orders for the payment of money, notes or other evidences of indebtedness issued in the name of the University shall be signed by such officer or officers, agent or agents of the University, and in such manner as shall, from time to time, be determined by resolution of the Board and any one of such officers or agents may alone endorse notes and cheques for deposit with the University's bankers for the credit of the University, or the same may be endorsed "for collection" or "for deposit" with the bankers of the University by using the University's rubber stamp for the purpose. Any one of such officers or agents so appointed may arrange, settle, balance and certify all books and accounts between the University and the University's bankers and may receive all paid cheques and vouchers and sign all the bank's forms or settlement of balances and release or verification slips.

ARTICLE 10 - BORROWING

10.1 The Board is hereby authorized by resolution, from time to time, to:

- a. borrow money on the credit of the University in such amounts, on such terms and from such persons, firms, or corporations, including chartered banks, as may be determined by resolution of the Board;

- b. make, draw and endorse promissory notes or bills of exchange;
 - c. hypothecate, pledge, charge or mortgage all or part of the property of the University to secure any money so borrowed or for the fulfilment of the obligations incurred by it under any promissory note or bill of exchange signed, made, drawn or endorsed by it; and
 - d. issue bonds, debentures and obligations on such terms and conditions as the Board may, by resolution, decide and pledge or sell such bonds, debentures and obligations for such sums and at such prices as the Board may, by resolution, decide, and mortgage, charge, hypothecate or pledge all or any part of the property of the University to secure any such bonds, debentures and obligations.
- 10.2 The Board may, by resolution, delegate to officers of the Board all or any powers necessary for the purposes of borrowing and giving security by the University to such extent and in such manner as the Board may determine.

ARTICLE 11 - AUDITORS

The Board shall appoint one or more public accountants licensed under the Public Accountancy Act to hold office as the auditors of the University until a further appointment is made. The accounts, trust funds and transactions of the University shall be audited at least once per year.

ARTICLE 12 - FINANCIAL MATTERS

12.1 Fiscal Year

Unless otherwise ordered by the responsible government Ministry, the fiscal year of the University shall terminate on the 31st day of March in each year.

12.2 Deposit of Securities for Safekeeping

The securities of the University shall be deposited for safekeeping with one or more bankers or other financial institutions to be selected by the Board. Any and all securities so deposited may be withdrawn, from time to time, only upon the written order of the University signed by such officer or officers, agent or agents of the University and in such manner as shall, from time to time, be determined by resolution of the Board and such authority may be general or confined to specific instances. The institutions which may be so selected as custodians by the Board shall be fully protected in acting in accordance with the directions of the Board and shall not be liable for the due application of the securities so withdrawn from deposit or the proceeds thereof.

ARTICLE 13 – PROTECTION OF GOVERNORS

13.1 Indemnification

Every Governor or former Governor, and every person who acts or has acted at the request of the University as a director or officer of a body corporate in which the University directly or indirectly has a controlling interest, and that person's heirs, legal personal representatives, and the estate and effects of each of them respectively, shall be indemnified and held harmless out of the funds of the University from and against:

- a. all costs, charges and expenses whatsoever that such person sustains or incurs in or about any action, suit or proceeding which is brought, commenced or prosecuted against such person for or in respect of any act, deed, matter or thing whatsoever made, done or permitted by such person in or about the execution of the duties of that person's office or in respect of any such liability; and
- b. all other costs, charges and expenses that such person sustains or incurs in or about or in relation to the affairs thereof; except such costs, charges or expenses as are occasioned by that person's own wilful neglect or default.

13.2 **Protection of Governors**

No Governor shall be liable for the acts, receipts, neglects or defaults of any other Governor, or officer or employee, or for any loss, damage or expense happening to the University, through the insufficiency or deficiency of title to any property acquired by the University or for or on behalf of the University, or for the insufficiency or deficiency of any security in or upon which any of the moneys of or belonging to the University shall be invested, or for any loss or damage arising from the bankruptcy, insolvency or tortious act of any person, firm or institution with whom any moneys, securities, or effects shall be lodged or deposited or for any other loss, damage or misfortune whatever which may happen in the execution of the duties of their respective offices or trusts, or in relation thereto, unless the same shall happen by or through their own wilful act or through their own wilful neglect or default.

13.3 **Insurance**

Subject to the Act and all other relevant legislation, the University may purchase and maintain insurance for Governors against any liability incurred by any Governor in the capacity as Governor, except where the liability relates to the person's failure to act honestly and in good faith with a view to the best interests of the University.

ARTICLE 14 - REMUNERATION

- 14.1 Governors shall serve without remuneration for acting as such but they shall be reimbursed for expenses incurred in connection with meetings of the Board or other business of the University.
- 14.2 Subject to compliance with Article 4, if any Governor shall be employed by or shall perform services for the University otherwise than as a Governor or shall be a member of a firm or a shareholder, director or officer of a company which is employed by or performs services for the University, the fact of the person being a Governor shall not disentitle such Governor or officer or such firm or company, as the case may be, from

receiving proper remuneration for such services.

ARTICLE 15 – DISPUTE RESOLUTION

If a dispute or controversy among Governors, committee members, or officers of the Board of the University arising out of or related to the Act or By-laws, or out of any aspect of the activities or affairs of the University is not resolved in private meetings between the parties, then such dispute or controversy shall be settled by a process of dispute resolution as follows to the exclusion of such persons instituting a law suit or legal action:

- (a) the dispute shall be settled by arbitration before a single arbitrator, in accordance with the *Arbitration Act, 1991 (Ontario)*, as amended or replaced, or as otherwise agreed upon by the parties to the dispute. All proceedings relating to arbitration shall be kept confidential, and there shall be no disclosure of any kind. The decision of the arbitrator shall be final and binding and shall not be subject to appeal on a question of fact, law or mixed fact and law; and
- (b) all costs of the arbitrator shall be borne by such parties as may be determined by the arbitrator.

ARTICLE 16 – BY-LAWS

- 16.1 All By-Laws of the University enacted prior to the date hereof are hereby repealed.
- 16.2 Notice of any motion that a By-law is to be presented, enacted, amended or repealed shall be sent to each Governor and postmarked no later than seven (7) days before the meeting at which the Notice of Motion is to be presented. The actual motion may only be acted upon at the meeting following the meeting at which the Notice of Motion is presented or a future meeting of the Board. A motion to enact, amend or repeal any by-law of the University shall not carry unless it receives the affirmative vote of at least two-thirds of the Governors present at the said meeting.

ARTICLE 17 – SEVERABILITY

If any part of this By-law is held to be invalid or unenforceable, the remainder of this By-law will be interpreted as if such part had not been included

ENACTED by the Board of Governors on the 1 day of September, 2018.

President – Steven Murphy

University Secretary – Cheryl Foy



Classification	BRD 1000.01
Parent Policy	Board of Governors Recruitment, Appointment and Leadership Policy
Framework Category	Board
Approving Authority	Board of Governors
Policy Owner	University Secretary
Approval Date	January 17, 2019
Review Date	January 2022
Supersedes	Board of Governors Procedures for the Election of Faculty, Non-Academic Staff and Student Governors June 25, 2015

BOARD OF GOVERNORS PROCEDURES FOR THE ELECTION OF ADMINISTRATIVE STAFF, STUDENT, AND TEACHING STAFF GOVERNORS

PURPOSE

1. The purpose of these procedures is to outline the general rules and guidelines that will govern the conduct of elections for Elected Governor positions on the UOIT Board of Governors.

DEFINITIONS

2. For the purposes of these procedures the following definitions apply:
 - “**Campaigning**” means any attempt to influence voters or solicit votes with respect to any candidate during the election process.
 - “**Campaign Period**” means the designated timeframe during which candidates may campaign.
 - “**Chief Electoral Officer (CEO)**” means the University Secretary or designate who is responsible for the conduct of the elections within the established policies and procedures, as amended.
 - “**Elected Governors**” means the members of the Board who are elected from within their relevant constituencies within the University. This includes Administrative Staff, Student and Teaching Staff Governors.
 - “**Election Conduct Warning**” means a notice in writing made to a candidate of a violation of election procedures.
 - “**Nomination Period**” means the designated timeframe during which candidates may submit nomination materials to be considered as a candidate in the election.
 - “**Student Governor**” means a member of the Board who is elected by and from within the student population of the University.
 - “**Voting Period**” means the designated timeframe during which online voting will occur.

PROCEDURES

3. **General**

- 3.1.** In accordance with the Board of Governors Recruitment, Appointment and Leadership Policy, the Governance, Nominations and Human Resources Committee (GNHR), or its successor Committee, will have overall responsibility and authority for elections to the Board of Governors.
- 3.2.** The Chief Electoral Officer (CEO) shall have the following responsibilities in the conduct of the Board of Governors elections:
- a) Recommending the timelines for Board elections to GNHR;
 - b) Updating of the Board of Governors elections website;
 - c) Disseminating information about the elections to relevant constituency groups;
 - d) Providing nomination forms and instructions on the conduct of the Board elections;
 - e) Convening a mandatory information session for all student candidates prior to the start of the Campaign Period;
 - f) Verifying the eligibility of all nominees for the Board elections;
 - g) Establishing campaign expense guidelines as required;
 - h) Interpreting the election procedures;
 - i) Investigating and reporting to GNHR any irregularities and/or infractions of the election procedures and recommending sanctions;
 - j) Verifying the results of online voting and reporting election results to GNHR and the Board of Governors for confirmation; and
 - k) Recommending to GNHR updates and/or revisions to Board election policy and procedures.
- 3.3.** Email communication regarding Board of Governors elections will be to official UOIT addresses only (@uoit.ca or @uoit.net).

4. Nomination

- 4.1.** Individuals who wish to stand for election must fill out the required nomination forms and provide all other relevant information requested by the CEO. Nomination materials must be submitted according to the specified process and deadlines. Incomplete nomination materials or nomination materials submitted after the deadline will not be accepted.
- 4.2. Nominations forms will include all of the following declaration statements:**
- a. "I am willing to be nominated to stand as a candidate for election to the Ontario Tech Board of Governors".
 - b. "I am a Tenured, Tenure Track or Teaching Faculty member with a full-time, continuing appointment." OR: "I am a full-time, registered student in Good Standing and consent for the Office of the University Secretary and General Counsel to view my student record to confirm my eligibility." OR: "I am a full-time or part-time continuing employee of the University from one of the relevant constituency groups".

- c. "I have read and understood the Board of Governors Procedures for the Election of Administrative Staff, Student, and Teaching Staff Governors."
- d. "If elected, I am willing to serve as a member of the Ontario Tech Board of Governors and commit to attending, and participating fully, in scheduled Board and committee meetings throughout the entire duration of my 3-year term (1 year for students) unless granted a leave of absence by the Board of Governors in accordance with the relevant Policies and Procedures."
- e. "I will exercise my duties in the best interests of the University, consistent with its objects and mission, rather than in the interests of any other person, entity or constituency."
- f. "I will meet the requirements of the Act, the By-laws and applicable policies, including, without limitation, the standard of conduct prescribed in section 9(3) of the Act."
- ~~4.1.~~

Commented [BD1]: updated to be consistent with language in Article 4.1 of By-law No. 1

Commented [BD2]: updated to be consistent with language in Article 4.1 of By-law No. 1

- ~~4.2.4.3.~~ Candidate eligibility is determined in accordance with the Board of Governors Recruitment, Appointment and Leadership Policy, as amended.
- ~~4.3.4.4.~~ Nominations require a minimum of five (5) signatures from nominators who are deemed eligible from within the relevant constituency group of the nominee. Nominees are not eligible to sign their own nomination forms.
- ~~4.4.4.5.~~ The CEO is responsible for determining that all criteria for eligibility for both nominees and nominators has been met.
- ~~4.5.4.6.~~ Nominees will receive notification of their eligibility status by the CEO. Only nominees who have received confirmation of eligibility will be allowed to stand for election and campaign.
- ~~4.6.4.7.~~ Nominees for Student Governor are required to attend a candidates' information session at a time and place to be determined by the CEO.
- ~~4.7.4.8.~~ When the Nomination Period has closed, if the number of candidates nominated is equal or less than the Board positions available in a particular constituency, the candidates shall be acclaimed.
- ~~4.8.4.9.~~ A nominee may withdraw their nomination by submitting a signed statement to the CEO any time before the close of nominations and at any time thereafter up to two business days following the close of nominations.

5. Campaigning

- 5.1. If a candidate chooses to Campaign, he/she will only do so during the Campaign Period.
- 5.2. All candidates shall conduct themselves and their activities in a manner which is considered reasonable, respectful, ethical, and fair.
- 5.3. Candidates are responsible for ensuring that all aspects of their campaign are in compliance with UOIT policies and all applicable municipal, provincial and federal laws.
- 5.4. No candidate may campaign or allow campaigning on their behalf that is in violation of the election procedures.
- a) Candidates are personally responsible and accountable for those individuals acting on their behalf.

- b)** Candidates who are aware of unauthorized campaigning on their behalf must report the issue to the CEO.
- 5.5.** No candidate is allowed to interfere or condone interference with another candidate's campaign including but not limited to, communication of any misinformation about another candidate, misuse of social media, and/or the destruction, defacing, moving or removal of physical campaign materials.
- 5.6.** Candidates are required to check their UOIT email at least once every 24 hours during the Campaign Period for information from the CEO relating to the election. Candidates will be deemed to be notified and responsible for all information 24 hours after it was sent.
- 5.7.** Candidate names and personal statements will be posted to the Board of Governors election website at the beginning of the Campaign Period.
- 5.8.** Candidates are not entitled to use in their campaign any service or resource that is accessible by virtue of their employment at the University and/or position within a campus group or organization. This includes but is not limited to office supplies, equipment, technology, support staff, and distribution lists.
- 5.9.** All expenses incurred during the course of the election campaign are the responsibility of the candidate.
- 5.10.** All campaign information must include:
 - a)** Name of the candidate;
 - b)** Position for which the candidate is campaigning;
 - c)** The address of the official Board of Governors election website;
 - d)** An accurate English translation of any information in other languages;
 - e)** A reminder to vote during the Voting Period.
- 5.11.** Campaign information may not include the UOIT logo.
- 5.12.** Candidates must represent themselves accurately in all campaign information about their accomplishments, certifications, academic credentials, positions held and any other statements intended to influence voters.
- 5.13.** Campaigning may not interfere in any way with the normal orderly function of the University. Campaigning is not allowed during classes even with the permission of the course instructor.
- 5.14.** Campaigning may only be done on-campus and in an open, public space (e.g. hallways, atriums) and is prohibited in the following areas:
 - a)** All University administrative, academic and service offices;
 - b)** All instructional areas including classrooms, lecture theatres, seminar rooms, labs, meeting rooms and board rooms;
 - c)** Libraries, prayer rooms, designated study areas, the Health Centre, the Flex Centre and change-rooms, bathrooms, cafeterias and food service outlets;

- d) Student residences; and
 - e) Other locations as determined by the CEO.
- 5.15.** Campaigning at University events is strictly prohibited.
- 5.16.** Candidates are allowed the use of paper posters and handbills for campaign purposes. No other physical campaign materials are permitted.
- 5.16.1.** Posters may be no larger than eleven inches by seventeen inches (11"x17") and handbills may be no larger than eight and a half inches by eleven inches (8.5" x 11"). Campaign materials do not need to be approved by the CEO in advance of distribution.
 - 5.16.2.** Candidates are limited to a maximum of twenty-five (25) posters on each of the North or Downtown locations. There is no limit to the number of handbills that may be distributed.
 - 5.16.3.** Posting of any kind on any glass surface, on bulletin boards that are designated for specific departments/purposes, in stairwells, in the bathrooms or outside of buildings is prohibited.
 - 5.16.4.** Posters can only be affixed to surfaces by using wall putty such as fun tack or sticky tack. Tape of any kind is prohibited.
 - 5.16.5.** All campaign materials must be removed and disposed of within 48 hours following the close of the Voting Period.
- 5.17.** Candidates are allowed use of any freely accessed internet site or social media platform for campaigning purposes.
- 5.17.1.** Candidates who use social media to campaign for elections must create a new account for the elections such that all candidates will start the campaign with zero followers. Only one new account on each chosen platform may be created by each candidate.
 - 5.17.2.** Candidate's personal social media accounts may not be used for election purposes.
 - 5.17.3.** Candidates are not allowed to utilize any official UOIT social media accounts.
 - 5.17.4.** Communication using social media or posted online must comply with the campaign information requirements outlined in these procedures.
 - 5.17.5.** All online content and social media use must be public. Candidates must share any social media account/group names, addresses or handles, and links to websites or internet pages with the CEO within 24 hours of being created. All candidates choosing to use social media must provide access (i.e. add, invite, friend, be followed by) to the administrative account provided by the CEO.
 - 5.17.6.** Where applicable to the platform all social media communication must include the hashtag provided by the CEO.
 - 5.17.7.** Candidates may not publish, broadcast, tweet, retweet, post, pin, "tag" or communicate any information related to opposing candidates.

5.17.8. All online posting and social media activity must cease at the beginning of the Voting Period and all online accounts must be deactivated within twenty-four (24) hours after the close of the Voting Period.

6. Voting

- 6.1.** Voting for Board of Governors elections will be conducted online.
- 6.2.** The Voting Period will be forty-eight (48) hours in duration.
- 6.3.** No minimum voter turnout is required to validate an election. Eligible voters are entitled to vote once for each position within their respective constituency.
- 6.4.** The CEO and administrative staff of the University Secretariat are ineligible to vote.
- 6.5.** In order to respect the integrity of the election process voters are entitled to cast their ballots in secret. Candidates or those acting on behalf of a candidate are prohibited from:
 - a)** Establishing polling stations;
 - b)** Providing a personal computer or any other personal electronic device for the purpose of voting;
 - c)** Assisting voters in casting of their vote;
 - d)** Observing voters as they vote;
 - e)** Interfering with the voting process;
 - f)** Casting a ballot other than one's own;
 - g)** Conducting exit polls.
- 6.6.** Notification of the Voting Period and voting process will be communicated by email to relevant constituencies and posted to the Board of Governors elections website.

7. Election Results

- 7.1.** Depending on the number of vacancies in each constituency group, the candidate(s) with the highest number of votes in the election will be deemed the successful candidate(s).
- 7.2.** In the event of a tie, the CEO will determine the successful candidate by writing each candidate's name on a separate piece of paper. The papers will be folded and put in a box. The box will be shaken and the CEO will withdraw one (1) of the folded pieces of paper. The candidate whose name is on the selected piece of paper is the winner. This process will be conducted in the presence of two independent witnesses.
- 7.3.** In the event that a successful candidate is disqualified as a result of misconduct in the election process the candidate with the next highest number of votes will be deemed the successful candidate.
- 7.4.** Election results will be certified and communicated by the CEO. Election results may be withheld at the discretion of the CEO pending the outcome of any investigations into allegations of election misconduct.

8. Violations of the Election Procedures

- 8.1. Allegations of violation of the election procedures must be submitted to the CEO in writing. Complaints submitted anonymously will not be investigated.
- 8.2. Allegations of violations of the election procedures must be made within one (1) business day of the alleged infraction. Complaints may be made up to one (1) business day following the end of the Voting Period.
- 8.3. Alleged violations of election procedures will be investigated by the CEO:
 - a) The CEO shall inform the respective candidate of the allegations in writing, along with details of the violation that has been alleged to have occurred. The identity of complainants will be kept confidential.
 - b) Candidates will be given one (1) business day to comment upon the allegations being made.

9. Penalties

- 9.1. Where a violation of the elections procedures is deemed to have occurred, the CEO will implement penalties on a case by case basis, depending on the severity of the infraction.
- 9.2. If a candidate is found to have committed a violation of the election procedures, one or more of the following penalties may be imposed:
 - a) Election Conduct Warning;
 - b) Public correction and/or apology for false statements in campaign information;
 - c) Penalties under the Student Conduct Policy;
 - d) Disqualification of the candidate from the Board elections; or
 - e) Such other penalties as the CEO may consider to be reasonable and appropriate to the circumstances.
- 9.3. The following conduct will result in immediate disqualification of a candidate from the elections:
 - a) Failure to maintain the requirements for eligibility as outlined in the Board of Governors Recruitment, Appointment and Leadership Policy.
 - b) Violation of any procedure related to the online voting process.
 - c) Violation of an Election Conduct Warning from the CEO.
 - d) Any subsequent violation under these procedures whether or not an Election Conduct Warning has been issued in respect of such subsequent violation.
 - e) Failure to report to the CEO a violation of the election procedures by individuals acting on their behalf where the candidate ought reasonably to have known the conduct occurred.
 - f) Failure to cooperate with the CEO in the investigation of an allegation of election misconduct.
 - g) Any misrepresentation or misinformation communicated regarding an opposing candidate.

- h) Any other violation found by the CEO to be a serious violation of these procedures or electoral guidelines.

10. Appeals

- 10.1. Appeals related to the decision of the CEO may be made in writing to the Chair of GNHR.
- 10.2. Appeals must be made within one (1) business day of the receipt of the CEO decision and must contain:
 - a) The specific decision being appealed;
 - b) Written documentation of the reason(s) for the appeal; and
 - c) A summary of the evidence in support of grounds for appeal.
- 10.3. If an appeal is submitted while the election is still underway, GNHR will render a decision on the appeal within 24 hours, or as soon as practicable.
- 10.4. If a candidate is appealing disqualification from the election, the candidate will be allowed to continue their campaign until the outcome of the appeal is determined.
- 10.5. Decisions of GNHR are binding.

11. Election Recall

- 11.1. Where the CEO has determined that significant irregularities or violations of election procedures have occurred, a recommendation may be made to GNHR for the election results to be overturned and a new election held.

RELEVANT LEGISLATION

- 12. University of Ontario Institute of Technology Act, 2002, SO 2002, c 8, Sch O
By-Laws of the University of Ontario Institute of Technology

RELATED POLICIES, PROCEDURES & DOCUMENTS

- 13. Board of Governors Recruitment, Appointment and Leadership Policy

Classification	ADM 1319
Framework Category	Administrative
Approving Authority	Senior Leadership Team
Policy Owner	Vice-President responsible for Human Resources
Approval Date	November 20, 2017
Review Date	November 2020
Supersedes	Academic Staff Employment Policies

Exempt Academic Staff Employment Policy

PURPOSE

1. The purpose of this Policy is to establish the principles that support the employment of Exempt Academic Staff within the institution.

DEFINITIONS

2. For the purposes of this Policy the following definitions apply:
“Exempt Academic Staff” means any of the following positions:
 - Associate Dean;
 - Teaching Staff Governor;
 - Dean;
 - Limited Term Academic Associate;

See associated procedures for complete definition.

SCOPE AND AUTHORITY

3. This Policy applies to any Exempt Academic Staff employees.
4. The Vice-President responsible for Human Resources, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of this Policy.

POLICY

The University of Ontario Institute of Technology (UOIT) recognizes that the expertise, effectiveness and commitment the Exempt Academic Staff contribute to the level of excellence in teaching, research, service and opportunities that students receive. The main intent of this document is to establish and explain various procedures that apply to at UOIT.

5. **General**

5.1. All Exempt Academic Staff appointments will be made in accordance with the applicable policies and procedures for that position.

5.2. Appointments to Exempt Academic Staff positions will be term appointments, subject to review, renewal and term limitations, as specified in the applicable appointment policies and procedures.

6. Approval of Appointments, Suspension and Removal

6.1. Unless the Board otherwise delegates authority, the appointment, renewal, suspension and removal of a Exempt Academic Staff member will be made, in accordance with the applicable articles outlined in the relevant procedure.

7. Appointment Procedures

7.1. The University will establish detailed Procedures for all Exempt Academic Staff positions.

MONITORING AND REVIEW

8. This Policy will be reviewed as necessary and at least every three years. The Vice-President responsible for Human Resources, or successor thereof, is responsible to monitor and review this Policy.

RELEVANT LEGISLATION

9. University of Ontario Institute of Technology Act, 2002, S.O. 2002, c. 8, Sch. O
By-Law Number 1 of the University of Ontario Institute of Technology, as amended

RELATED POLICIES, PROCEDURES & DOCUMENTS

10. Deans, Associate Deans and Teaching Staff Governors Procedures
Limited Term Academic Associates Procedures



Classification	ADM 1319.01
Parent Policy	Exempt Academic Staff Policy
Framework Category	Administrative
Approving Authority	Vice-President responsible for Human Resources
Policy Owner	Vice-President responsible for Human Resources
Approval Date	November 20, 2017
Review Date	November 2020
Supersedes	Academic Staff Employment Policies S. 1, 4, 5

DEANS, ASSOCIATE DEANS AND TEACHING STAFF GOVERNORS PROCEDURES

PURPOSE

1. The University of Ontario Institute of Technology (UOIT) recognizes that the expertise, effectiveness and commitment the Deans, Associate Deans and Teaching Staff Governors contribute to the level of excellence in teaching, research, service and opportunities that students receive. The main intent of this document is to establish and explain various procedures that apply to Deans, Associate Deans and Teaching Staff Governors at UOIT.

DEFINITIONS

2. For the purposes of these Procedures the following definitions apply:

“Associate Dean” means a person who holds an Associate Dean appointment/position. The Associate Dean, as part of the management team of the academic unit, is involved in contributing in a confidential capacity to decisions. An Associate Dean may be appointed to serve as Acting Dean of the unit in the Dean’s absence.

“Teaching Staff Governor” means a member of the UOIT Board of Governors who holds a full-time continuing position, and is elected by and from within the teaching staff of the University.

“Dean” means a person who holds a Dean appointment/position. The Dean is responsible for the overall direction and development of the academic unit

SCOPE AND AUTHORITY

3. These Procedures apply to Deans, Associate Deans and Teaching Staff Governors.
4. The Vice-President responsible for Human Resources, or successor thereof, is the Policy Owner and is responsible for overseeing the implementation, administration and interpretation of these Procedures.

PROCEDURES

5. **Appointment to the position**

Refer to current policies or procedures in the Policy Library: Policy on Senior Academic Administrative Appointments (ADM 1313) (for Deans), Appointment of Associate Deans, Program Directors and Program Coordinators (ADM 1399.02) and Board of Governors Recruitment, Appointment and Leadership (BRD 1000).

5.1. Academic Freedom

UOIT regards academic freedom as indispensable to the pursuit of knowledge. The freedom of faculty members to define research questions, to pursue the answers with rigor, and to disseminate knowledge according to their best judgment resides at the core of the University's mission. Accordingly, academic freedom is the right of every Dean, Associate Dean and Teaching Staff Governor. The University expects its Deans, Associate Deans and Teaching Staff Governors to exercise this freedom with integrity and with due regard for the rights and freedoms of others.

5.2. Ranks

Employees undertaking an exempt academic staff position maintain the rank they last held prior to accepting the exempt academic staff position. In addition, the terms and conditions of their employment will remain the same.

The Award of Tenure or Promotion to Professor

5.3. Tenure

A Dean, Associate Dean or Teaching Staff Governor who is being considered for tenure will follow an appointment process that parallels the Tenure process for Tenured and Tenure Track Faculty.

5.4. Promotion to Professor

A Dean, Associate Dean or Teaching Staff Governor who is a candidate for promotion will follow the promotion to Professor process for Tenured and Tenure Track Faculty.

Promotion to Associate Teaching Professor or Senior Teaching Professor

5.5. An Associate Dean or Teaching Staff Governor who is a candidate for promotion to Senior Lecturer will follow an appointment process that parallels the promotion process for Teaching Faculty.

5.6. An Associate Dean or Teaching Staff Governor who is a candidate for promotion will follow the promotion to Associate Teaching Profe appointment process for Teaching Faculty.

Academic Administrators, Designations and Termination

5.7. Academic Administrators

Amended: Section 5.7 is superseded by the Policy on Senior Academic Administrative Appointments, February 2016

5.8. Required Professional Designations

Needs exist in some Faculties, for program accreditation or other reasons, for faculty to acquire and maintain in good standing certain professional credentials or designations. All such Deans, Associate Deans and Teaching Staff Governors must have, or will be required to obtain, these relevant credentials and to maintain them. Failure to do so could be grounds for dismissal or non-renewal. Required credentials or designations known at the time of appointment will be noted by the supervisor in the letter of appointment. Deans, Associate Deans and Teaching Staff Governors will be notified if other credential requirements arise during their employment and will be expected to obtain the new qualification.

5.9. Removal of an Associate Dean

An Associate Dean may be dismissed from the role for adequate cause. Adequate cause entails a fundamental breach of the contract of employment involving either serious wrongdoing or an accumulated record of unsatisfactory employment, including professional incompetence, persistent failure to carry out duties, refusal to carry out reasonable assignments, or gross misconduct, as documented in performance reviews or other written notification.

Gross misconduct does not include free inquiry, discussion, exercise of judgment or honest criticism of views whether inside or outside the University.

In dismissal for cause, the burden of proof shall rest with the University.

5.10. Removal of a Teaching Staff Governor

A Teaching Staff Governor may be removed only in accordance with Board of Governors policy and procedures.

5.11. Removal of a Dean

The removal of a Dean is governed by the Faculty Dean Appointment and Renewal Procedures. (ADM 1313.05)

ORIENTATION AND PERFORMANCE REVIEW**6. Orientation**

- 6.1.** The University recognizes that the orientation of and continuing assistance to Deans, Associate Deans and Teaching Staff Governors is important in establishing good employment relationships. An effective orientation process promotes morale, well-being and loyalty, encourages a well-informed faculty, fosters a sense of equity, and

serves as an essential human resource function. To that end, the University will provide a thorough and welcoming orientation process for new appointees and continuing assistance with the development of skills that facilitate learning.

7. Performance Review

Preamble

The University recognizes that a primary method of promoting excellence in the facilitation of learning, in research and creative professional practice, and in community involvement is through effective and constructive evaluation. In addition, the University believes that it is essential that exemplary performance be recognized and rewarded and, to that end, that it is important that a formal process be established to set and maintain standards of high quality.

7.1. Annual Review

Annual Review: May 1 – April 30

By April 30th, Deans, Associate Deans and Teaching Staff Governors will submit to their respective supervisors an annual activity report summarizing their achievements in the areas of Research (if applicable), Teaching and Service for the past review period.

Deans, Associate Deans and Teaching Staff Governors shall submit an annual activity report on a form supplied by their supervisor.

The report may include the following information:

- a) Academic leadership;
- b) Curriculum development;
- c) Course development, including innovation in delivery models;
- d) Teaching responsibilities including courses taught and supervised;
- e) Results of student evaluations;
- f) Books and papers published;
- g) Conference papers, presentations, exhibitions, etc. given;
- h) Research, completed or in progress;
- i) Research grants and contracts awarded, including name of granting body, research grant title, amount awarded and the date of the award;
- j) Awards and other honours received;
- k) Faculty, Academic Council, and other University Service activities;
- l) Contributions to their profession;
- m) Contributions to their community and other forms of external Service;
- n) A statement of their outside professional practice in the previous year;
- o) An account of the academic activities pursued by the Dean, Associate Dean, or Teaching Staff Governor during the semester in which they were not Teaching;
and
- p) Any other information that the Dean, Associate Dean, or Teaching Staff Governor

deems relevant.

- 7.2. The Supervisor shall provide a copy of the Dean's, Associate Dean's or Teaching Staff Governor's written performance assessment (as described in Article 9.1) to the Provost no later than June 15th for inclusion in the Dean's, Associate Dean's, or Teaching Staff Governor's Official File.
- 7.3. The Dean, Associate Dean or Teaching Staff Governor has the right to add a letter of response or rebuttal to the Supervisor's assessment, and this letter shall be attached to the Supervisor's written statement.

RIGHTS AND RESPONSIBILITIES

Dean's, Associate Dean's and BoG's will continue to participate in the University's programs made available to all full time continuing appointments as outlined on the UOIT HR website (i.e. Pension, Benefits, Dependent Tuition Assistant Program, Short Term Disability Leave, Pregnancy and Parental Leave and Professional Development, etc).

8. Vacation Entitlement

- 8.1. Deans, Associate Deans and Teaching Staff Governors shall be entitled to 25 days of paid vacation annually (30 days after ten years). Vacation days will accrue at the rate of one-twelfth of the annual entitlement per month. While these vacation entitlements will be the normal rule, factors related to seniority and work experience may be taken into account in assigning vacation entitlement at the time of the initial contract or at any subsequent renewal. Normally, vacation days may not be carried from one year to another. However, in certain special situations, and with prior approval from their immediate supervisor, vacation days may be allowed to carry over. Deans, Associate Deans and Teaching Staff Governors have a high degree of independence in scheduling their own time and as such are deemed to have taken their vacation entitlement in a given year. Therefore, they are not entitled to any payout of unused vacation days upon resignation, retirement or other form of termination.

9. Bereavement Leave

- 9.1. A Dean, Associate Dean or Teaching Staff Governor shall be entitled to a leave of absence with pay in the event of the death of a member of their family.
- 9.2. Bereavement leave to arrange or attend the funeral of an immediate family member shall be granted by the Dean's, Associate Dean's or Teaching Staff Governor's immediate supervisor. The paid portion of such leaves will be based on the amount of time the Dean, Associate Dean or Teaching Staff Governor is scheduled to work that week and will not exceed five (5) Days for a Dean, Associate Dean or Teaching Staff Governor except in instances where extensive travel is

required outside of Canada., In which case the immediate supervisor at their discretion, may give the Dean, Associate Dean or Teaching Staff Governor up to two (2) additional days of paid leave for travel purposes.

- 9.3. "Immediate family" is defined as the Dean's, Associate Dean's or Teaching Staff Governor's spouse, common law spouse, same-sex partner, son, daughter, children of the Dean's, Associate Dean's or Teaching Staff Governor's spouse, children of a common law spouse, children of same-sex partner, step-children, ward, brother, sister, father, and mother.
- 9.4. Bereavement leave to arrange or attend the funeral of an extended family member shall be granted by the Dean's, Associate Dean's or Teaching Staff Governor's immediate supervisor. The paid portion of such leaves will be based on the amount of time the Dean, Associate Dean or Teaching Staff Governor is scheduled to work that week and will not exceed three (3) Days for that Dean, Associate Dean or Teaching Staff Governor, except in instances where extensive travel is required outside of Canada, in which case the immediate supervisor at their discretion may give the Dean, Associate Dean or Teaching Staff Governor up to two (2) additional days of paid leave for travel purposes.
- 9.5. "Extended family" is defined as the Dean's, Associate Dean's or Teaching Staff Governor's father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, grandchild, grandmother and grandfather, grandparents of the employee's spouse, common-law spouse, or same-sex partner, step-mother and step-father.
- 9.6. If bereavement leave is required in the event of the death of a person significant to the Dean, Associate Dean or Teaching Staff Governor and not specifically named in the definitions listed above, or additional bereavement leave is required in circumstances covered by the definitions listed above, it may be granted up to a maximum of two (2) days, with the approval of the Dean's, Associate Dean's or Teaching Staff Governor's immediate supervisor.
- 9.7. It is recognized that the circumstances that call for leave in respect of bereavement are based on individual circumstances. On request, the Employer may, after considering the particular circumstances involved, grant leave with pay for a period greater than and/or in a manner different than that provided above.
- 9.8. Bereavement leave may be taken at the time of the bereavement and/or in a non-consecutive manner in the event of a later memorial service. A Dean, Associate Dean or Teaching Staff Governor is expected to give their immediate supervisor adequate notice in the event of a later memorial service
- 9.9. Additional time off may be approved by a Dean's, Associate Dean's or Teaching Staff Governor's immediate supervisor and may include the use of personal days, or any

other paid time owing to the Dean, Associate Dean or Teaching Staff Governor, or, if none is available, unpaid time.

- 9.10.** A Dean, Associate Dean or Teaching Staff Governor shall contact their immediate supervisor to request bereavement leave when it is required.

10. Unpaid leave of absence

- 10.1.** A Dean, Associate Dean or Teaching Staff Governor may request approval for an unpaid leave of absence from their Supervisor, who will take into account various factors, including the merits of the case, whether the position can be adequately filled during the course of the leave, and its impact on the operations of the Faculty. Leaves in excess of four calendar months must also be approved by the Supervisor. Copies of written approvals from the Supervisor must be given to Human Resources.
- 10.2.** Normally, unpaid leave may be granted for a maximum of 12 months.
- 10.3.** Pension and benefits implications of such leaves should be reviewed with Human Resources before leave is requested. While on an unpaid leave of absence, Employer and employee pension contributions will cease and the Dean, Associate Dean, or Teaching Staff Governor will not be eligible for short-term disability benefits or long-term disability benefits.
- 10.4.** While on an unpaid leave of absence a Dean, Associate Dean, Teaching Staff Governor has the option of paying both the employee and Employer premiums for major medical, dental, life insurance and accidental death and dismemberment insurance coverage.
- 10.5.** In all cases, the University expects that the Dean, Associate Dean or Teaching Staff Governor will return to the University at the end of the leave.
- 10.6.** Any other statutory leaves, as requested by the Dean, Associate Dean or Teaching Staff Governor, will be granted in accordance with Employment Standards Act (i.e. Family Caregiver Leave, Critically Ill Child Care Leave and Crime-related Child Death or Disappearance Leave).

11. Political Leave

Preamble

The University recognizes that, from time to time, employees, including Deans, Associate Deans and Teaching Staff Governors, may wish to participate in the public life of Canada, a province or a municipality by running for and holding public elective office. For purposes of this policy, a public elective office shall include Member of Parliament, Member of a Provincial

Parliament, municipal (including Regional) councillor, Mayor of a municipality, member of a Board of Education or other office filled by a vote conducted under the Ontario Municipal Elections Act. The University acknowledges the importance of such activities by adopting policies and procedures that are both supportive of such endeavours and as fair as possible to leave seekers, their colleagues and the University. This policy applies to faculty and staff with continuing appointments regardless of partisan affiliations or political beliefs.

Candidates for the House of Commons or the Ontario Provincial Legislature

- 11.1.** An official candidate for a seat in the House of Commons or the provincial legislature should normally be granted a leave without pay for the purposes of campaigning. The period of leave will normally begin after the issuance of writs and will normally cover the period between nomination day and polling day. In federal elections, a leave for campaigning would normally be no more than 90 days and no less than 28 Calendar Days. In provincial elections, nomination day may be from 23 to 60 days after writs are issued; as a result, a leave might be as long as 74 days or as short as 14 Calendar Days.
- 11.2.** Candidates elected to serve in the House of Commons or the Ontario Legislature will normally be granted leave without pay for the life of that Parliament, up to and including polling day for the subsequent Parliament. If the employee is re-elected to serve in successive Parliaments, she/he will be required to apply for a further leave, which will be granted, unless the total number of consecutive years of leave would exceed six.
- 11.3.** If an employee continues to serve in such an office after the expiry of a University-granted leave, the employee shall be deemed to have resigned her/his University post. Such a resignation does not preclude the possibility of reappointment by the University under conditions satisfactory to all concerned. It should be noted that an employee who is elected to the House of Commons or the Ontario Legislature and is appointed a Minister of the Crown may be asked by the Prime Minister or Premier to resign from the University immediately.

Candidates for Municipal Office

- 11.4.** Normally, candidates elected to municipal office will not require a leave of absence; the performance of duties can be considered a form of community service and can often be combined with regular University duties. However, any elected official whose civic duties infringe upon her/his University responsibilities should contact their Supervisor immediately and seek an appropriate adjustment of University responsibilities and compensation under the provisions of Leave of Absence Policies
- 11.5.** If, in the assessment of the Supervisor, the individual's performance is being adversely affected by civic duties, then she/he may request an adjustment of

University responsibilities and compensation. In both cases, the goal should be to preserve the integrity of University operations while facilitating, to the extent possible, the performance of community service.

- 11.6.** While on an approved leave for these purposes, an employee shall retain all normal rights of those on leave, including pension and benefit entitlements. Such an employee shall be able to return to the University at the same rank or position and at the same salary plus any adjustments that may have been granted during the leave. Deans, Associate Deans or Teaching Staff Governors on conditional appointments may return at the expiration of the leave without pay to complete the conditional term held when elected.
- 11.7.** Employees who intend to seek election to municipal office (including Boards of Education) normally do not require a leave for campaigning. Instead, some flexibility should be sought, where necessary and where possible, in the performance of regular University duties during the last three weeks before polling day. Possibilities include partial unpaid leave of absence, flexible arrangements or the use of vacation entitlement.
- 11.8.** No candidate for, or holder of, a public elective office shall speak as a representative of UOIT.

12. Complaints and Appeals

- 12.1.** Every Dean, Associate Dean, and Teaching Staff Governor has the right to make, without fear of reprisals, a complaint or appeal in accordance with University policies and procedures.

13. Employment of Members of the Same Family

- 13.1.** The University does not discourage, and in certain cases actively encourages, the employment of more than one member of a family. A member of the immediate family of a Dean, Associate Dean or Teaching Staff Governor may apply for, and shall be considered in competition for, positions at UOIT. However, because of the potential for conflicts of interest, the appointment of an immediate relative of a current employee to the same department is discouraged and requires prior declaration to the appropriate authority, normally by the immediate Supervisor.
- 13.2.** All opportunities and benefits normally accruing to employees will obtain when such an appointment is made. However, normally a family member should not exercise any form of supervision or direct influence over an immediate relative. For the purposes of this policy, immediate relative is defined as spouse, common-law spouse, same-sex partner, child, stepchild, sibling, parent, sister/brother-in-law, mother/father-in-law, grandparent or grandchild. This policy should also be applied in circumstances involving intimate personal relationships.

- 13.3.** Full disclosure of all such familial or intimate relationships must be made to the University. Conflicts of interest related to the employment of relatives include:
- a) Hiring decisions
 - b) Tenure decisions
 - c) Promotions
 - d) Renewal of contracts
 - e) Performance evaluation
 - f) Disciplinary procedures
 - g) Salary considerations
 - h) Confidentiality
- 13.4.** In the event a conflict arises, no family member shall be the sole decision-making authority.
- 14. Professional Service, Consulting and Related Work**

Preamble

Dean, Associate Dean, and Teaching Staff Governors are expected to devote all their professional endeavours to the purposes of the University. UOIT believes that a great university should reach out to the world. Accordingly, the University encourages its staff to seek and participate in sponsored research, to consult widely, and to engage in other activities that may benefit not only the participants but also the University itself, and the larger community. Hence, Dean, Associate Dean, and Teaching Staff Governors who engage in contract research administered by the University may benefit personally from their research by receiving in addition to their regular University salary up to one quarter of their University salary, as outlined in the University's Compensation Policy. Recognizing the benefits of such activities, the University is also committed to ensuring that they are conducted properly and consistent with the right of free inquiry and membership in the University community.

Conflict of Interest and Conflict of Commitment

- 14.1.** Professional service, consulting, and related work are defined as activities involving the application of professional effort and expertise on behalf of individuals or agencies outside the University community. In pursuit of its own mission and consistent with the requirements of external agencies, the University has formulated the following policies to identify and address potential, actual and apparent conflicts of interest and commitment. The fundamental premise of this policy is that each member of the University community has an obligation to act in the best interest of the University, and must not let outside activities or outside financial interests interfere with that obligation.

Conflict of Commitment

- 14.2.** A conflict of commitment occurs when the commitment to external activities of a

Dean, Associate Dean, and Teaching Staff Governors adversely affects her/his capacity to meet University responsibilities. Accordingly, the nature and extent of professional service, consulting and related work undertaken should complement the primary commitment of faculty members to the University.

- 14.3.** The nature and extent of any individual's participation in professional service and related work, and the use of the University's facilities in connection with such work, are matters to be agreed upon beforehand with the University. Such agreements may relate to specific proposals or they may be more general, relating to types of professional service, consulting, and related work, and to limits on the time that may be devoted to such work. In general, a Dean, Associate Dean, or Teaching Staff Governor may not accept salaried employment at another institution while a full-time employee of the University, and may not spend more than one day in a seven-day week on consulting activities.
- 14.4.** The University requires that its Deans, Associate Deans, and Teaching Staff Governors will meet their classes. It also expects that they will be available to students outside the classroom, will carry their share of committee responsibilities, and will remain productively involved in their research, creative professional practice and other scholarly pursuits. Deans, Associate Deans, and Teaching Staff Governors are expected to satisfy all of the requirements of their jobs, and should not permit outside activities to interfere with the performance of their University obligations. External activities that compromise or diminish an individual's capacity to meet these obligations represent a conflict of commitment
- 14.5.** Professional service, consulting, and related work of limited scope may be undertaken without the prior agreement of the University. However, the details of all such professional service, consulting, and related work, and the time committed to it, must be reported to the University on a regular and timely basis. This report shall include details about the specific nature of the work and a summary of the time devoted to it.

Conflict of Interest

- 14.6.** A conflict of interest exists when an individual, including Dean, Associate Dean, or Teaching Staff Governor, has an economic interest that affects or provides an incentive to affect the individual's conduct of her/his University activities. Conflicts of interest can arise naturally from an individual's engagement with the world outside the University, and the mere existence of a conflict of interest does not necessarily imply wrongdoing on anyone's part.
- 14.7.** Conflicts of interest may also exist with respect to University financial decisions in which the individual is involved, such as investments, loans, purchases or sales of goods or services, and financial accounting decisions, and with respect to non-financial matters, including in particular the conduct of research and the treatment

of students and colleagues. Conflicts may also exist with respect to matters with both financial and non-financial implications, such as decisions about the use of University equipment and facilities and the negotiation of research agreements and license agreements.

- 14.8.** For the purposes of this procedure, an individual's economic interests include the use of University facilities, an interest in obtaining, maintaining or increasing the value of relationships, such as employment, independent contractor or consulting relationships; management positions, board memberships and other fiduciary relationships with for-profit organizations; and any other activity from which the individual receives or expects to receive remuneration. They also include such interest on the part of the individual's spouse and her/his financially dependent children. When conflicts of interest arise, they must be recognized, disclosed to the appropriate Supervisor, and either eliminated or properly managed.
- 15. Conflict of Interest in Research**
Refer to current policies or procedures in the Policy Library: Conflict of Interest in Research (LCG1122).

MONITORING AND REVIEW

- 16.** These Procedures will be reviewed as necessary and at least every three years. The Vice-President responsible for Human Resources, or successor thereof, is responsible to monitor and review these Procedures.

RELEVANT LEGISLATION

- 17.** Employment Standards Act, 2000, SO 2000, c 41

RELATED POLICIES, PROCEDURES & DOCUMENTS

- 18.** Exempt Academic Staff Employment Policy (TBA)
 Conflict of Interest in Research Policy (LCG 1122)
 Policy on Senior Academic Administrative Appointments (ADM 1313)
 Appointment of Associate Deans, Program Directors and Program Coordinators (ADM 1399.02)
 Board of Governors Recruitment, Appointment and Leadership (BRD 1000)



BOARD OF GOVERNORS

Governance, Nominations & Human Resources Committee (GNHR)

Minutes of the Public Session of the Meeting of Thursday, October 22, 2020 Video Conference, 2:00 p.m. to 3:20 p.m.

Members: Maria Saros (Chair), Laura Elliott, Francis Garwe, Mitch Frazer, Steven Murphy, Dietmar Reiner, Trevin Stratton

Regrets: Kori Kingsbury

Staff: Jarek Baginski, Jamie Bruno, Becky Dinwoodie, Cheryl Foy, Barb Hamilton, Monica Jain, Les Jacobs, Lori Livingston, Langis Roy

Guests : Chelsea Bauer (FA), Mike Eklund (FA), Andrew Sunstrum

1. Call to Order

The Chair called the meeting to order at 2:02 p.m.

2. Agenda

Upon a motion duly made by D. Reiner and seconded by L. Elliott, the Agenda was approved as presented.

3. Conflict of Interest Declaration

There was none.

4. Chair's Remarks

The Chair started by thanking F. Garwe for his leadership and mentorship. She remarked that he is leaving big shoes to fill. She thanked the senior leadership team for leading the university through the pandemic and prioritizing the health and safety of the university community.

The Chair advised that she has a conflict and must step off the call for a short while and F. Garwe has agreed to step in during that time.

5. President's Remarks

The President also expressed thanks to F. Garwe for his leadership. The President provided an update on the university's COVID efforts. The university has had a more seamless transition online than many other institutions. The President shared that when he has the opportunity, he asks students how the fall term is going. Overwhelmingly, the responses have been positive. The President attributed this to the hard work of faculty and staff. He is proud of how the university continues to support students during this difficult time. We will use what we have learned during the pandemic to strengthen the institution going forward. The President noted that several institutions have tried to hold classes in person and others are offering a hybrid model. He has been hearing that other institutions are not communicating as effectively as Ontario Tech and are making very last-minute changes. He advised that the Provost has been speaking to the Deans in order to understand what is working across the university.

The President advised that from a governance perspective, in-depth strategic discussions are being held with Academic Council about blended learning. He clarified that the intention is not to become a fully online university. He looks forward to the discussion and debate about how the university will become more of what it was intended to be as set out in its founding legislation. Academic Council will be discussing: What blended learning is and is not; What blended learning means for Ontario Tech?; and, How do we promote culture change at the university going forward?

The President also discussed government relations and the potential impact of a tuition freeze. There was a discussion regarding how Ontario university presidents would be aligning regarding this potential issue. The President advised that the Ontario university presidents are working with the new CEO of COU, Steve Orsini, to present the government with several options instead of freezing tuition.

The President responded to a question about enrolment at institutions that are struggling with the transition online. It seems that in a time of crisis, students gravitate to institutions with recognizable names. The big-name institutions have lowered entry requirements and increased student intake, which has had a domino effect on less recognizable institutions. The university's first year enrolment is down about 7%, which will have budget consequences as the students work their way through the system. He is confident that we can win students back with a different and value-added proposition going forward.

6. Governance:

6.1 GNHR Terms of Reference Review

C. Foy advised that the committee has an annual opportunity to review and comment on its Terms of Reference. She asked the committee to consider, in particular, whether the mandate and membership are still appropriate and whether the number of meetings is sufficient. There was a discussion regarding whether there are other frameworks out there that could help improve the effectiveness of the committee. C. Foy advised that we are always looking at new ways of doing things to improve efficiency. There was general

agreement that the Terms of Reference are broad enough to encompass the work that the committee is doing. There could be changes coming out of the development of the EDI governance strategy this year.

6.2 By-laws Implementation Update

C. Foy reminded the committee that this is a multi-year project coming out of the by-law review. She referred the committee to the By-law Implementation Plan, which provides the status of all of the work being done. She highlighted several of the key accomplishments. The focus for Academic Council's Governance and Nominations Committee this year will be rolling out good governance principles to Faculty Councils.

6.3 Board Engagement:

(M. Saros left at 2:30 p.m.)

(a) Board PD 2020-2021

C. Foy presented the proposed professional development work plan for the year. The work plan was developed keeping in mind the university's strategic priorities, the work of the Board this year, and getting to know different areas of the university. C. Foy added that we could also offer some optional sessions, if governors are interested. She asked the committee what other areas they think the Board members would like to learn about.

The committee shared the following feedback on the PD work plan:

- EDI is a huge area of challenges and opportunities for all organizations – must relate to the work of the university; focus on expectations for staff and support for students; EDI topic is incredibly important and all encompassing; C. Foy advised that at the December Board meeting, the Board would be receiving an update from the President's Equity Task Force and the February PD session would focus on what the Board can do to promote EDI.
- Important for the Board to learn about the EDI work already happening at the university – L. Livingston advised that the new Director of EDI was recently hired and is developing a strategic plan for the university; cultural competencies will be an area of focus.
- It is a comprehensive work plan – might be helpful to have a session on governors being ambassadors for the university as every governor has a unique skillset and must apply that to help promote the university. C. Foy advised that something similar to this was done during last year's retreat, when governors were asked to create a statement of commitment and an ambassador session could help carry on that momentum.
- A suggestion was made that the Board would benefit from an education session on the strategic relationship with Durham College (optional session or record it to make it available to governors at various times).
- Another helpful session would be Funding 101.

6.4 Development of Board Governance EDI Strategy

C. Foy advised that the Board is at the beginning stages of this initiative. The question that must be answered is: What can the Board do to complement the EDI work being done at the institution? C. Foy asked the members to identify what is important to the committee and what they would like to see in a work plan. GNHR will be the engine of EDI for the Board. The Board should build on what the university is already doing. C. Foy informed the committee that she does have an idea about a guest speaker for the February PD session, but welcomed ideas from the committee, as well. This initiative will be a multi-year plan (3-5 years). It will be internal and external facing.

A member commented that it is important for the university to demonstrate EDI leadership in Durham Region, as it will be linked to the brand we are building in the region. Are we walking and living the path? How is the university contributing to the well-being of the region? The university can play a key role in building the future. Another member commented that the Board benefits from governors coming from different environments.

(M. Saros returned at 2:53 p.m.)

6.5 Strategic Discussion: Mental Health in the Time of COVID

J. Baginski and M. Jain delivered a presentation on supporting student mental health in the time of COVID. The university recognizes that mental health is increasingly important and that the context for students has changed dramatically. They outlined the initiatives implemented to transition online and to support students during the pandemic. The committee was asked to assess whether the university is keeping up, changing accordingly, and to focus on the key next steps and strategies.

The committee had the following comments and questions:

- Encouraged to hear that the response times to students were dramatically reduced.
- How are our students resilient?
 - Students who are compromised will be compromised at a greater scale;
 - University does an excellent job supporting our students – from advisors to mental health supports.
- Applauded the team for the work they are doing – particularly the peer mentorship for first year students.
- Lessons learned in terms of service delivery during the pandemic?
 - Learned power of e-counselling – was previously only provided to remote students.
 - Have become better at delivering virtual services – have heard from students that they hope that the virtual option remains available for a blended delivery.
 - Also implemented the stepped care – better equipped to provide specialized and customized service – launched in September

- Wait list cut down significantly despite higher volumes – have capacity to accommodate those in acute need almost immediately.
- Happy to see the focus on this and that keeping the well-being of students and university community at the forefront.
- Concern about the lingering effects of COVID and economic recovery and the university should keep a focus on it.
- Programs/sessions geared towards mental health issues for the broader student population?
 - M. Jain spoke about Campus Connected – staff led session teaching peers to recognize signs and help their peers – once training completed, given a sticker to indicate those who can be approached for assistance – for students and staff.
 - Such programming is provided year-round.
 - Working to normalize mental health and eliminate the stigma – looking at emotional wellness.
- Very proud to be associated with the work being done at the university – great number of partners available to help – noted that physicians at CAREA available to help support students in the community.
 - Uptake across the sector was initially low but trend will be that demand will increase.
 - With the student population, there will be more need, especially over the next 18 months.

J. Bruno delivered a presentation on the efforts implemented to support staff mental health. He advised that in January, the university partnered with Mental Health Canada in providing a session called the “Working Mind”, which was designed to help employees learn to identify the symptoms and signs of mental health challenges and to help develop the tools to deal with them. This also assists managers in dealing with the effects of COVID. The Chair commented that she appreciates the level of care being taken to ensure everyone can emerge resilient from this crisis.

7. Consent Agenda:

7.1 Minutes of the Meeting of May 14, 2020

Upon a motion duly made by D. Reiner and seconded by F. Garwe, the Consent Agenda was approved as presented.

8. Other Business

9. Adjournment

There being no other business, upon a motion duly made, the public session adjourned at 3:33 p.m.

Becky Dinwoodie, Secretary



Board of Governors Elections 2021

Board of Governors Open Elected Positions 2021

Position	Number of Vacancies
Administrative Staff Governor	1
Faculty Governor	2
Student Governor	1



Election Timeline*

Process	Proposed Dates
Nomination & Election Process Announcements	Monday, February 1
Nominations Open	Monday, February 8
Nominations Close	Monday, February 22
Review of Candidate Eligibility	Tuesday, February 23 to Friday, February 26
Student Candidate Information Meetings (mandatory)	Monday, March 1 & Tuesday, March 2
Campaign Period (if required)	Monday, March 8 – Wednesday, March 17
Voting Period (if required)	Wednesday, March 17 until Friday, March 19
Voting Results Presented to GNHR for Recommendation	Tuesday, March 30 (pending any outstanding investigations per Election Procedures)
GNHR's Recommendation Reported to Candidates	By Friday, April 2
GNHR's Recommendations presented to Board of Governors for Approval	Thursday, April 22

*scheduled to run concurrently with Academic Council election



COMMITTEE REPORT

SESSION:

Public

ACTION REQUESTED:

Decision
Discussion/Direction
Information

Financial Impact Yes No

Included in Budget Yes No

TO: Governance, Nominations and Human Resources Committee (GNHR)

DATE: January 28, 2021

SLT LEAD: Cheryl Foy, University Secretary and General Counsel

SUBJECT: Accommodation Policy – Written Consultation

COMMITTEE MANDATE:

- Under the University’s Act, section 9 (1), the Board of Governors has the power: “to establish academic, research, service and institutional policies and plans and to control the manner in which they are implemented”. The university’s Policy Framework is a key institutional policy that delegates the Board’s power, establishing categories of policy instruments with distinct approval pathways.
- In accordance with its Terms of Reference, one of GNHR’s mandate includes the establishment of human resources policy instruments.
- **Request:** We are asking for your consideration of and comments on the draft policy before it proceeds to the Board for approval.

BACKGROUND/CONTEXT & RATIONALE:

The Secretariat plays a significant role in advancing the strategic objective of creating a sticky campus. This work is done with a focus on initiatives to improve the culture within which students learn and employees work. The Accommodation Policy is an equity, diversity and inclusion initiative and was created to fill a policy gap – while the University has procedures for disability-related accommodation requests and processes, applicable human rights legislation requires accommodation on multiple other grounds (“Protected Grounds”). While the university has received and responded to requests on several of these Protected Grounds, there are currently no policy instruments to assist university members seeking to be accommodated on these Protected Grounds or to assist those involved in responding to such requests.

ALIGNMENT WITH MISSION, VISION, VALUES & STRATEGIC PLAN:

- This policy supports the university's values of integrity and respect by demonstrating the institution's commitment to working towards a barrier-free and inclusive campus environment.
- By promoting an inclusive and equitable culture at the university, this policy also supports the strategic pillar of creating a "sticky campus". In order to create a "sticky campus", the university community must feel welcome and included.

CONSULTATION:

- Policy Advisory Committee (Consultation - November 2020)
- Online Consultation (Consultation - December 2020 – January 2021)
- Academic Council (Consultation - January 26, 2021)
- Governance, Nomination and Human Resources Committee (Approval or consultation? - January 28, 2021)
- Board of Governors (Approval – February 2021)

Consultation Comments and Response To Date

Accommodation Policy

- We received feedback from individuals questioning the definitions of specific Protected Grounds that are included in the definitions section (e.g. disability, sex, creed, etc.). Specifically, the questions tended to focus on where the definitions came from and whether the level of detail provided is necessary.
- **Response:** We have clarified in the Policy instrument which of the definitions come directly from the Ontario Human Rights Code. Where the definition is not included in the Code, we have defined the terms in a manner consistent with the [approach/guidance of the?] Ontario Human Rights Commission or by referring to how the terms have been interpreted in jurisprudence. Our goal is to provide sufficient detail so that University Members can understand how the Protected Grounds may result in instances where accommodation may be needed.
- We received feedback that the Definitions section of the Policy was too extensive, that the definitions were confusing and too lengthy. There was a suggestion that some of the detail should be included in separate guidelines.
- **Response:** Revisions have been made in attempts to address the feedback related to the Definitions section of the Policy; specifically, attempts were made to make the section more concise where possible and appropriate. However, it should also be noted that the policy instruments will not be standalone. Web-based tools, and training will follow. As this is a new policy, we erred on the side of including more rather than less. We have aimed for a clear and succinct document that nonetheless provides the necessary information to ensure University Members know their rights, responsibilities and obligations – this is particularly important since the University has never had a stand-alone accommodation policy previously. Once the Human Rights Policy framework is established, the Human Rights Office will begin to focus on additional informational supports and resources for the Campus community and as we roll

those out we will revisit the content of the policy instrument during regularly scheduled reviews.

- A member states that the definition of “Disability” is ableist in tone. For example, it was suggested that the term “deafness” should be capitalized.
- **Response:** We have clarified in the policy instrument that the definition of “Disability” comes directly from the Code. Regardless we have capitalized “Deafness” as requested by the member. Although we will retain the legal definition of disability from the Code, the Human Rights Office is dedicated to the use of more inclusive language in the development of its website content and informational resources.

NEXT STEPS:

- Comments from pending consultations including those from Academic Council will be considered and a revised draft brought forward for deliberation to the Governance, Nominations and Human Resources Committee (March 30) and for approval to the Board of Governors (April 22).

SUPPORTING REFERENCE MATERIALS:

- blacklined Accommodation Policy



Classification Number	<i>To be completed by the Policy Office</i>
Framework Category	Legal, Compliance and Governance
Approving Authority	Board of Governors
Policy Owner	University Secretary and General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

ACCOMMODATION POLICY

PURPOSE

- The purpose of this Policy is to:
 - Establish the University’s commitment to working towards a barrier-free and inclusive campus environment; and,
 - Demonstrate compliance with the obligations and responsibilities, required of the University under its Respectful Campus Policy and by the *Ontario Human Rights Code* (“*the Code*”), the *Accessibility for Ontarians with Disabilities Act* (AODA), and the *Workplace Safety and Insurance Act*.

DEFINITIONS

“**Accommodation Measures**” are adaptations or adjustments that may be required to enable ~~an employee to perform his or her essential job responsibilities effectively and/or a service recipient to participate fully in their academic pursuits~~ full participation.

Accommodation Measures may include, but are not limited to:

- Human support services such as sign language interpreters, readers, etc.
- Technical aids and assistive devices
- ~~Modification of testing/exam requirements~~
- Workstation and/or office modifications
- Flexible or alternative work/assignment schedules
- Temporary re-assignments

“**Barriers**” include attitudes (stereotypes or prejudices), designs, policies, practices and rules that prevent full participation of individuals or groups on the basis of a protected Ground. ~~when applied in the same way to everyone without accommodation~~

“**Creed**” is not defined in the Code, but courts and tribunals often refer to creed as religious beliefs and/or practices. As creed is not clearly defined, the following characteristics have been relied on when considering whether a belief system is a creed under the Code:

- It is sincerely, freely, and deeply held
- Is integrally linked to a person’s identity, self-definition, and fulfilment
- Is a particular and comprehensive, overarching system of belief that governs one’s conduct and practices

- Addresses ultimate questions of human existence, including ideas about life, purpose, death, and the existence or non-existence of a creator and/or a higher or different order of existence
- Has some nexus/connection to an organization or community that professes a shared system of belief.

~~Not every belief, opinion, expression, practice, or matter of conscience is a creed under the Code. Further, practices/observances which are hateful, incite hatred or violence against other individuals/groups, or contravene criminal laws are not protected by the Code.~~

“Disability” is defined in the Code as means:

- any degree of physical disability, infirmity, malformation or disfigurement that is caused by bodily injury, birth defect or illness and includes diabetes mellitus, epilepsy, a brain injury, any degree of paralysis, amputation, lack of physical coordination, blindness or visual impediment, Ddeafness or hearing impediment, muteness or speech impediment, or physical reliance on a guide dog or other animal or on a wheelchair or other remedial appliance or device;
- a condition of mental impairment or a development disability;
- a learning disability, or dysfunction in one or more of the processes involved in understanding or using symbols or spoken language;
- a mental disorder; or
- an injury or disability for which benefits were claimed or received under the insurance plan established under the *Workplace Safety and Insurance Act*.

“Duty to Accommodate” refers to the obligation to eliminate the disadvantage, to the point of undue hardship, caused by barriers that exclude individuals or groups protected under the Code from participating in all aspects of their employment, academic endeavors, or use of facilities and housing or their receipt of services from the University on campus. Failure to meet the Duty to Accommodate is a form of discrimination. ~~There is a procedural obligation to explore all accommodation options, and a substantive obligation to implement an accommodation that is reasonable. Every accommodation request must be fully considered, and may be refused only if no Code-related need is substantiated or if undue hardship can be demonstrated.~~

“Family Status” is defined in the Code as the status of being in a parent and -child relationship. It, and includes any relationship that is equivalent to the care, responsibilities and commitment of a parent to a child. ~~“Parent” includes any person acting in the position of parent to a child, including biological, adoptive, foster, step-parents, legal guardians, or even a friend or family member who has taken responsibility for the care of a child whose parent(s) is not able to raise the child.~~ An adult child who is responsible for the care of a parent (e.g., providing elder care) is also in a relationship that is included in the definition of family status. In order to trigger a Family Status accommodation, the child/parent must be under the supervision or control of the University Member, there must be an essential need or legal obligation that flows from the relationship and the impact must create real disadvantages to the parental-child relationship and the responsibilities that flow from it (i.e. it is not trivial, insubstantial or merely a negative impact).

~~An assessment of whether a Family Status request triggers the University’s Duty to Accommodate:~~

- ~~Includes whether the child/parent is under the care and/or supervision of the individual~~
- ~~Includes whether the need is based on an essential or legal obligation which flows from the parent-child relationship~~
- ~~Includes whether the rule/requirement creates real disadvantage to the parent-child relationship and the responsibilities that flow from it (i.e. it is not trivial, insubstantial, or merely a negative impact)~~
- ~~May include a consideration of whether the individual made reasonable efforts to meet their child/parent obligations through alternative solutions that are reasonably accessible~~

“Functional Limitations” refer to the specific effects an individual’s code related needs/obligations impact their ability to access employment, academic services or facilities and housing on campus. For example, an employee is unable to lift objects greater than 10 pounds due to a disability, or a student will be late for class because they are a single parent and need to drop off their child to daycare at a specific time.

“Gender Identity & Gender Expression” are not defined in the Code. Gender Identity is the gender that people identify with or how they perceive themselves, which may be different from their birth-assigned sex. Gender identity is linked to a sense of self, the sense of being woman, man, both, neither or anywhere along the gender spectrum (non-binary). Gender Expression is the way people communicate or express their gender identity publicly; often through behaviour and physical appearance, e.g., dressing, the length and style of hair, or by emphasizing, de-emphasizing or changing physical characteristics. Chosen names and preferred pronouns are also ways in which people express gender. Gender Identity and Gender Expression are completely separate from sexual orientation.

~~All employees, job applicants and service recipients have a right to be treated with respect and dignity, dress in accordance with and be identified by and referred to as their self-identified or expressed gender.~~ Accommodations on the ground of gender identity or gender expression may be sought relating to:

- Pronouns
- Name and Gender title changes
- Transitioning
- Gender affirming surgery
- Washroom Access
- Locker Room/Change Facilities

“Interim Accommodations” are temporary Accommodation Measures that are implemented on a good-faith basis while an accommodation request is under review and are typically reserved for complex cases that may require more time or specialist input to determine whether Accommodation is required and to identify/choose appropriate long-term Accommodation Measures.

"Person(s) of Authority" includes any person who has charge of a workplace, authority over another Employee or authority in the administration of education. Anyone who

supervises an Employee at Ontario Tech University is a Person of Authority. For the purposes of this policy, Faculty members, and ~~Teaching Assistants and~~ Faculty Leadership (e.g. Deans, Associates Deans, etc.) are also considered Persons of Authority vis-à-vis their relationship to students.

"Protected Ground(s)" are the grounds contained in the Ontario Human Rights Code under which individuals are protected against discrimination and harassment. All University Members are protected under the following Grounds: "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." Employees are additionally protected under the ground "record of offences."

~~Protected Grounds for Students include "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. Protected Grounds for Employees are the same, but include the additional ground of "record of offences."~~

"Sex (Including Pregnancy and Breastfeeding)" ~~is not specifically defined in the Code, the ground of "sex,"~~ but it is considered to be related to a person's biological sex, male or female. The Code makes it against the law to discriminate against someone or to harass them because of sex, including pregnancy and breastfeeding. ~~Pregnancy includes the process from conception up to the period following childbirth.~~ Special needs and circumstances that may be experienced as a result of pregnancy are also included within the definition of pregnancy. Special needs can relate to circumstances arising from:

- miscarriage or stillbirth
- abortion
- conditions which result directly or indirectly from an abortion/miscarriage or stillbirth
- fertility treatments/ other interventions to get pregnant
- medical complications resulting from pregnancy
- recovery from childbirth
- breastfeeding
- postpartum depression

"Undue Hardship" as defined in the Code prescribes three considerations in assessing whether an accommodation could cause undue hardship: Cost; Outside Sources of Funding; and Health and Safety Considerations. Additional information is available on the Ontario Human Rights Commission website (URL: www.ohrc.on.ca).

"University Member" means any individual who:

- is employed by the University or holds an appointment with the University, including paid, unpaid and/or honorific appointments ("**Employee**");
- is registered as a student, in accordance with the academic regulations of the University ("**Student**"); and/or,

- Is otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

SCOPE AND AUTHORITY

- ~~2. The University Secretary and General Counsel is the Policy Owner. The Policy Owner is responsible for overseeing the implementation, administration, interpretation and application of this Policy.~~
- ~~3. This Policy applies to all University Members in all aspects of their engagement with the University.~~
- ~~2. This Policy applies to all University Members, including Employees (i.e. full time, part-time, temporary, seasonal, contract workers), volunteers and job applicants, as well as individuals who receive services from the University, e.g. all Students, and/or those that are permitted to use University facilities.~~
- ~~3. The University Secretary and General Counsel is the Policy Owner and is responsible for the interpretation and administrative direction of this policy and its associated policies and procedures to ensure their compliance with regulatory requirements.~~
4. This Policy does not override or diminish the rights provided to Employees under applicable Collective Agreements. Collective Agreements will supersede this Policy to the extent there is a conflict.

POLICY

- ~~5. Ontario Tech University is committed to promoting an environment where everyone has an equal opportunity to contribute to their fullest potential and where all are treated with sensitivity, fairness and respect. The university recognizes its duty to accommodate to the point of undue hardship and commits itself to an accommodation process that reflects the principles of dignity, and privacy, inclusion and individualization.~~
- ~~6. Ontario Tech University is committed to fully exploring all reasonable requests for accommodation in good faith, and to providing reasonable accommodation up to the point of Undue Hardship, where evidence supports the need for accommodation unless the accommodation would alter a bona fide occupational or academic requirement and/or undue hardship can be demonstrated.~~
- ~~7. Ontario Tech University will consider on a case-by-case basis whether Interim Accommodations can be implemented while the formal review of accommodation requests is in progress.~~
9. Where there are multiple ways to provide accommodation without incurring Undue Hardship, the University reserves the right to accommodate in the manner most consistent with the University's operational and academic requirements.

6.10. The Duty to Accommodate: General Principles

In order to meet the needs of individuals affected, the University's approach to providing accommodations will be based on the following principles:

a) **Individualization:** designing accommodation to meet the specific circumstances of each Employee, job applicant and Student. Accommodation is assessed and delivered on an individual basis for persons who make their needs known. Each request must be considered individually in order to assess appropriate accommodation. ~~Requests for accommodation must be dealt with in a timely manner so individuals can fully participate in all aspects of employment, use of facilities and receipt of services, except where evidence does not support the need for accommodation or where undue hardship can be demonstrated.~~

b) **Dignity:** Requests for accommodation must be dealt with in a respectful and timely manner so individuals can fully participate in all aspects of employment, academic endeavors and in the use of facilities and housing and receipt of services, ~~except where evidence does not support the need for accommodation or where undue hardship can be demonstrated. and~~

c) **Privacy:** individuals must be accommodated in ways that respect their ~~dignity~~ and right to privacy. Information relating to specific requests for accommodation will be treated as confidential and will only be used for the purpose of assessing and implementing accommodation options and solutions.

~~e) **Partnership and Consultation:**~~ The consideration of accommodation requests and the search for reasonable accommodation measures will involve the person requiring the accommodation and a Person of Authority. Consultations with third parties with specialized expertise in the development of the accommodation plan may also be required (e.g. the Human Rights Office, Student Accessibility Services and Human Resources~~medical practitioners~~).

~~ed) **Inclusion:**~~ intentional design helps ensure programs, policies, practices, facilities, services, communications and systems are designed and administered to foster the full integration of diverse individuals and groups protected under the Code. The proactive review of existing policies, rules, practices and procedures to identify and eliminate barriers to access and inclusion can also promote a more inclusive campus. Intentional design and systemic assessments minimize the need for individual assessments/accommodations.

~~e) **Respect for confidentiality and dignity and the unique circumstances of each University Member.** See comment above re: Dignity and Privacy.~~

~~f) **Written accommodation plans:** in cases involving disability accommodation, written accommodation plans will be developed in accordance with the requirements of the Accessibility for Ontarians with Disabilities Act.~~

7.11. Making a Request for Accommodation

Although accommodation requests are most commonly made on the grounds of Disability, Family Status, Creed, Sex (more specifically related to pregnancy and breast-feeding) and Gender Identity & Gender Expression, requests for accommodation can be made based upon any Protected Ground.

It is typically the responsibility of the University Member to make their Protected Ground~~Code~~-related needs known. Reach out to a relevant Person of Authority for information and assistance and/or to commence the accommodation process. [Note: The University has specialized procedures for Students and Employees related to

making disability-related accommodation requests.] ~~For accommodation requests related to all other Protected Grounds, speak to a Person of Authority (e.g. your manager, your Professor, a Dean, etc.)~~

A detailed, written account of your Code-related needs will assist the person of authority to understand your situation and will likely expedite the accommodation process. If appropriate and available, provide supporting documentation that verifies the need for accommodation (e.g. a medical form, a child's daycare schedule or a custody agreement). Those requesting accommodation should focus on the Functional Limitations that are impacting their ability to work, access academic services, facilities or housing, and should avoid at this early stage requests for specific Accommodation Measures.

Any University Member may book a consultation meeting with The Human Rights Office for additional information related to this policy instrument or for advice related to their specific circumstances.

8.12. Receiving a Request for Accommodation

~~Accommodation requests on the basis of a Disability must be handled in a manner consistent with obligations detailed in the relevant procedures for Students or Employees. Student Accessibility Services manages Disability related accommodation requests from Students and Human Resources manages similar requests from Employees.~~

~~For all other accommodation requests, Except in relation to disability-related requests, Persons of Authority will determine whether appropriate functional limitations have been identified in consultation with experts as necessary, and if not, will ask the requester to identify appropriate functional limitations. Persons of Authority are tasked with receiving and responding to requests for accommodation. When in receipt of a request for accommodation, Once the functional limitations are identified, the Person of Authority will determine whether the need for accommodation has been verified.~~

~~If there is evidence to support the need for accommodation, the Person of Authority will identify and select appropriate accommodation measures in consultation with the individual seeking accommodation. If, on the other hand, the assessment concludes that accommodation is not required, the Person of Authority will advise the individual in writing.~~

Persons of Authority are encouraged to consult with the Human Rights Office for advice and assistance. In any event, if the Person of Authority concludes that accommodation is not required, they must consult with the Human Rights Office prior to informing the individual.

9.13. Dispute Resolution

The University has Dispute Resolution procedures to handle allegations of discrimination. University Members who have concerns about the manner in which their request for accommodation has been handled should consult the Respectful Campus Policy and related procedures.

ROLES AND RESPONSIBILITIES

10-14. All University Members

- ~~1.~~ 1. ~~Are responsible for familiarizing themselves with this Policy~~
- ~~4-2.~~ 2. Will build and maintain positive and productive relationships and demonstrate Respect in their interactions; and,
- ~~2-3.~~ 3. Will engage the accommodation process in good-faith and in a cooperative manner, which includes making their needs known in a timely fashion, providing additional information about their individualized needs when requested and being open to all reasonable Accommodation Measures.

11-15. Persons of Authority

1. Are responsible for ~~familiarizing themselves with this Policy and will ensure~~ University Members under their authority are aware of this Policy and its associated procedures;
2. Will respond to requests for Accommodation in good faith, in accordance with related Ontario Tech University policies and procedures, and in consultation with relevant stakeholders;
3. Will handle requests for accommodation on the ground of “Disability” consistent with applicable procedures for Students and Employees;
4. Will process requests for accommodation related to all other Protected Grounds pursuant to requirements under this policy, ensuring the University meets its Duty to Accommodate up to the point of undue hardship; and,
5. Will cooperate with relevant stakeholders in the process of identifying and implementing reasonable Accommodation Measures.

12-16. Human Rights Office

1. Is responsible for the interpretation and administrative direction of this policy and its associated policies and procedures to ensure their compliance with regulatory requirements;
2. Will assist University Members to understand their rights and obligations under this policy and provide advice and direction; and,
3. Will assist Persons of Authority to assess requests for accommodation and explore reasonable Accommodation Measures.

13-17. Human Resources

1. Is responsible for administering the “Procedures for Accommodating Employees and Job Applicants with Disabilities;” and,

2. Will assist Persons of Authority to implement Accommodation Measures in the workplace.

14.18. Student Life

1. Is responsible for administering the “Procedures for Academic Accommodation for Students with Disabilities;” and,
2. Will assist Persons of Authority to implement Accommodation Measures for students.

MONITORING AND REVIEW

15.19. This Policy will be reviewed as necessary and at least every three years. The University Secretary and General Counsel, or successor thereof, is responsible to monitor and review this Policy.

RELEVANT LEGISLATION

16.20. Human Rights Code, R.S.O. 1990, c. H.19

Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005
Workplace Safety and Insurance Act

RELATED POLICIES, PROCEDURES & DOCUMENTS

17.21. Accessibility Policy

Procedures for Accommodating Employees and Job Applicants with Disabilities
Procedures for Academic Accommodation for Students with Disabilities
Respectful Campus Policy

COMMITTEE REPORT

SESSION:

Public

ACTION REQUESTED:

Decision
Discussion/Direction
Information

Financial Impact Yes No

Included in Budget Yes No

TO: Governance, Nominations and Human Resources Committee (GNHR)

DATE: January 28, 2021

SLT LEAD: Cheryl Foy, University Secretary and General Counsel

SUBJECT: Respectful Campus Policy Instruments –Written Consultation

COMMITTEE MANDATE:

- Under the University’s Act, section 9 (1), the Board of Governors has the power: “to establish academic, research, service and institutional policies and plans and to control the manner in which they are implemented”. The university’s Policy Framework is a key institutional policy that delegates the Board’s power, establishing categories of policy instruments with distinct approval pathways.
- In accordance with its Terms of Reference, one of GNHR’s mandate includes the establishment of human resources policy instruments.

Request: We are asking for your consideration of and comments on the draft policy before it proceeds to the Board for approval.

BACKGROUND/CONTEXT & RATIONALE:

The Secretariat plays a significant role in advancing the strategic objective of creating a sticky campus. This work is done with a focus on initiatives to improve the culture within which students learn and employees work. Several years ago, the Secretariat began to focus on how the university improves its culture by increasing its capacity to manage conflict and promote respect. The purpose of the Respectful Campus Policy is to communicate the University’s Human Rights responsibilities and obligations in a central document that applies to all University Members. The Policy combines an existing student policy (which has not been updated since 2004 and is out of date) with a policy that applies only to employees. In addition, the policy places a greater emphasis on

preventing harassment and discrimination by addressing disrespect and microaggressions and placing greater emphasis on informal dispute resolution processes such as mediation. While the principles and obligations described in the policy apply to all University Members (with the exception of workplace harassment), the dispute resolution procedures for employees and students will remain separate. The Policy is accompanied by the employee procedures and the student procedures will be forthcoming shortly.

ALIGNMENT WITH MISSION, VISION, VALUES & STRATEGIC PLAN:

- These policy supports the university's values of integrity and respect by demonstrating the university's commitment to establishing a safe, inclusive, and equitable culture at the institution.
- By promoting a respectful, inclusive, and equitable culture at the university, these policy documents also support the strategic pillar of creating a "sticky campus". If we want the university community to want to spend time on campus, they must feel protected and be familiar with their various rights, roles, responsibilities and obligations as they relate to preventing and responding to all forms of harassment and discrimination. We must also move toward more constructive ways of resolving disputes earlier and in less adversarial ways.

CONSULTATION:

- Policy Advisory Committee (Consultation - November 2020)
- Faculty Association (Consultation - November 2020)
- Online Consultation (December 18, 2020 – January 18, 2021)
- Joint Health and Safety Committee (Consultation - January 21, 2021)
- Academic Council (Consultation - January 26, 2021)
- Governance, Nomination and Human Resources Committee (Approval or consultation? Confirming with Niall - January 28, 2021)
- Board of Governors (Approval – February 2021)

Consultation Comments and Response

Respectful Campus Policy

- We received feedback that including job applicants in the definition of employee "does not make sense" and is "overreach."
- **Response:** Job applicants are protected against discrimination and harassment under the employment provisions of the Ontario Human Rights Code.
- We received feedback suggesting that "Microaggression" should not be defined in the Policy because it is "commentary" and "overreach."
- **Response:** The purpose of including a definition for Microaggression is to inform the campus community that there are types of behaviour like Microaggressions and disrespectful behaviour that may fall below the threshold of harassment, but are nonetheless harmful and require action on the part of Persons of Authority. Including this definition is consistent with the policy goal of creating a culture of respectful engagement and preventing harassment and discrimination by addressing various forms of conflict early and effectively. Inclusion of the definition also sends the message that inappropriate behaviour will not be

- tolerated, e.g. racism, sexism, ableism, transphobia, islamophobia, etc. This is of particular importance to members of the University community who come from traditionally marginalized communities.
- We received feedback that the definition of “Harassment” is too long with too much commentary. It was suggested that we use the legal definition of harassment instead.
 - **Response:** The legal definitions are included in the definition of “Discriminatory Harassment,” “Workplace Harassment” and “Sexual Harassment.” The use of the term “Harassment” in the policy instrument is to denote where all types of harassment are being referred to. The definition of “Harassment” is meant to provide a less legalistic and more colloquial understanding of what specific actions may or may not amount to harassment.
 - We received feedback suggesting that paragraphs 9-12 are commentary and not necessary.
 - **Response:** We believe there is value in setting out broadly the University’s principles and expectations as they relate to Human Rights. We also believe that there is value in providing guidance to the community about how Human Rights and Respect should be considered in relation to particular circumstances that are unique to academic environments.
 - We received feedback questioning the need to include information in the policy regarding privacy obligations since the University has other policies that already set out these obligations (paragraph 13.11).
 - **Response:** Because human rights reports and requests for accommodation on human rights grounds often require the disclosure of sensitive information it is appropriate to include a paragraph about the importance of maintaining private and confidential information collected under the policy in a manner consistent with our Privacy and Records Management policies.
 - We received feedback that there should be more references within the Policy to Collective Agreement protections. It was also pointed out that the Policy does not reference academic freedom.
 - **Response:** paragraph 7 of the policy notes that the policy and related procedures do “not override or diminish the rights provided to Employees under applicable Collective Agreements,” which includes the right to academic freedom under the FA Collective Agreement. Regardless, a reference to academic freedom was added to paragraph 7 for greater clarity.
 - We received feedback that there is a discrepancy with the scope and authority sections in the Policy and Procedure.
 - **Response:** The discrepancy was purposeful. The policy is for all university members; the procedures are for employees only. Further procedural instruments will come that will address students.

Respectful Campus Procedures (for Employees)

- We received feedback suggesting that the definitions section should be omitted from the Procedures in favour of simply referencing the definitions from the policy.
- **Response:** replicating definitions in a procedural document is standard in University policy instruments: including the definitions in the procedure is consistent with current and past practice and existing policy direction.

- We received feedback questioning the need to include information in the procedure regarding the handling of confidential information when the University has other policies that already set out these obligations (paragraph 7).
- **Response:** Because human rights reports and related investigation processes often require the disclosure of sensitive information it is appropriate to include a detailed section about how confidentiality will be maintained during reporting and dispute resolution processes. This is to ensure that individuals who are considering coming forward with a report of harassment or discrimination are not dissuaded because of fears about how their personal and private information may be used. Furthermore, it is important that the same individuals are aware of instances when the information provided may need to be shared.
- A member asked about the use of the term “Administrative Fairness” rather than “Procedural Fairness” or just “Natural justice.”
- **Response:** We’ve chosen for the purposes of the policy instrument to use “Administrative Fairness” as set out in the definitions section and to use it consistently.

NEXT STEPS:

- Comments from pending consultations including those from Academic Council will be considered and a revised draft brought forward for deliberation to the Governance, Nominations and Human Resources Committee (March 30) and for approval to the Board of Governors (April 22).
-

SUPPORTING REFERENCE MATERIALS:

- Respectful Campus Policy & Procedures to Prevent and Address Discrimination and Harassment By or Against Employees



Classification Number	<i>To be completed by the Policy Office</i>
Framework Category	Legal, Compliance and Governance
Approving Authority	Board of Governors
Policy Owner	University Secretary and General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

RESPECTFUL CAMPUS POLICY

PURPOSE

1. The Respectful Campus Policy (the “Policy”) outlines Ontario Tech University’s commitment to promote and sustain a respectful and inclusive campus in accordance with the Ontario Human Rights Code (the “Code”), the Accessibility for Ontarians with Disabilities Act, and the Occupational Health and Safety Act (OHSA). The purpose of the Policy is to ensure the campus community is familiar with their various rights, roles, responsibilities and obligations as they relate to preventing and responding to all forms of Harassment and Discrimination.

DEFINITIONS

2. For the purposes of this Policy and associated procedures, the following definitions apply:

“Barriers” include attitudes (stereotypes or prejudices), policies, practices, rules and designs that prevent full participation of individuals or groups on the basis of a Protected people Ground. ~~from fully participating in employment and service provision. Systemic barriers are formal or informal policies, practices or rules which, when applied in the same way to everyone without accommodation, may have the effect of excluding or restricting the participation of some individuals and/or groups. Individuals and groups can experience discrimination as a result of physical (building design), attitudinal (stereotypes or prejudices) or systemic barriers.~~

“Complainant” refers to an individual ~~who is alleged to have experienced Harassment and/or Discrimination or~~ who has filed a Rreport regarding an alleged breach of this policy.

“Discrimination” is a distinction, without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an individual on the basis of a Protected Ground (defined below). Discrimination may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging one or more groups of people.

“Discriminatory Harassment” means engaging in a course of vexatious comment or conduct, ~~against a University Member in the course of employment or receipt of service,~~ based on any Protected Ground, that is known or ought reasonably to be known to be unwelcome. Discriminatory Harassment may include, for example, taunting or mocking

someone's race, ridiculing an individual's disability or targeting others with sexual, gender-based or homophobic slurs.

"Disrespect" is behavior that falls short of Harassment, but nevertheless has harmful impacts on the campus environment, e.g. rude, inconsiderate and passive aggressive behavior. Disrespect, if left unaddressed, can escalate to Harassment or Discrimination.

"Duty to Accommodate" refers to the obligation to eliminate the disadvantage, to the point of undue hardship, caused by barriers that exclude individuals or groups protected under the Code from participating in all aspects of their employment, academic endeavors, or use of facilities and housing or their receipt of services from the on campus University. Failure to meet the Duty to Accommodate is a form of discrimination. For more on the Duty to Accommodate see the University's Accommodation Policy.

"Employee" means job applicants and individuals performing services directly on the University's behalf, including administrative staff members, Faculty, volunteers and contract employees. Students who are employed during the course of their studies, are "Employees" for the purposes of this Policy when they are engaged in employment activities, but not otherwise.

"Faculty" includes a Faculty Member at Ontario Tech University, and includes those with both limited term and indefinite term appointments, as well as those with paid, unpaid and honorific appointments. For greater certainty, "Faculty" also includes visiting scholars and emeritus professors.

"Harassment" is the term used in this policy instrument to represent all forms of harassment: Discriminatory Harassment, Workplace Harassment and Sexual Harassment.

For greater certainty, Harassment is objectionable and unwanted behaviour that is verbally ~~or physically~~ abusive, vexatious or hostile, that is without reasonable justification, and that creates a hostile or intimidating environment for working, learning or living. Harassment may be intentional or unintentional. While harassment usually consists of repeated acts, a single serious incident that has a lasting harmful effect may also constitute harassment.

Harassing behaviour includes, but is not limited to cumulative demeaning or intimidating comments, gestures or conduct; verbal aggression or yelling; bullying; threats to a person's employment or educational status, person or property; persistent comments or conduct, including ostracism or exclusion of a person, that undermines an individual's self-esteem so as to compromise their ability to achieve work or study goals; abuse of power, authority or position; sabotage of a person's work; humiliating initiation practices; hazing; calling someone derogatory names; spreading of malicious rumours or lies; or making malicious or vexatious complaints about a person.

Harassment does not include the exercise of appropriate managerial or supervisory direction, including performance management and the imposition of discipline; constructive criticism; respectful expression of differences of opinions; reasonable changes to assignments or duties; correction of inappropriate student behaviour; interpersonal conflict; instructional techniques such as irony, conjecture, and refutation, or assigning readings or other instructional materials that advocate controversial positions; and single incidents of thoughtless, petty or foolish words or acts that cause fleeting harm.

"JHSC" means the Joint Health & Safety Committee(s) at Ontario Tech University.

“Mediation” is a structured process in which parties in dispute are assisted by a third-party to engage in dialogue~~discuss a dispute~~ and attempt to arrive at a mutually agreeable resolution. Mediation is a voluntary process and can only proceed if all parties involved agree to participate. ~~Depending on the circumstances, mediation may result in a signed agreement summarizing the agreed upon terms of settlement.~~

“Microaggression” means a comment or action that negatively targets a group based on a Protected Ground (e.g. a racist, sexist or homophobic comment). Microaggressions may be intentional or accidental, but are nonetheless harmful and stigmatizing to a certain group of people. If allowed to go unchallenged, Microaggressions may escalate to Harassment and/or Discrimination

"Person(s) of Authority" include for the purposes of this policy and related procedures, any person who has charge of a workplace, authority over another Employee or authority in the administration of education. ~~Anyone who supervises an Employee at Ontario Tech University is a Person of Authority including supervisors, managers, Faculty members, Teaching Assistants, senior management and Faculty Leadership (e.g. Deans, Associates Deans, etc.) are also considered Persons of Authority vis-à-vis their relationship to students.~~

“Poisoned Environment” is a form of indirect Discriminatory Harassment ~~that creates real or perceived inequalities.~~ It occurs when comments or conduct (including comments or conduct that are condoned or allowed to continue when brought to the attention of a Person of Authority), ridicule or demean a person or group based upon a Protected Ground. The comments or conduct need not be directed at a specific person, and may be from any person, regardless of position or status.

"Protected Ground(s)" are the grounds contained in the Ontario Human Rights Code under which individuals are protected against discrimination and harassment. All University Members are Protected under the following Grounds: ~~for Students include~~ “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 and/or disability,” ~~and any additional protected grounds that are added to the Ontario Human Rights Code by way of statutory amendment. Protected Grounds for Employees are additionally the same, but include the additional protected under the ground of “record of offences.”~~

"Report" refers to information about Harassment and/or Discrimination that is reported under the applicable procedures.

“Reprisal” includes retaliation, coercion, dismissal, threats or intimidation of anyone who in good faith: raises complaints or concerns, exercises their rights, or participates in a remedial process under this Policy.

“Respect” is a standard of interpersonal communication and behaviour characterized by self-restraint and consideration for others. ~~Disrespect is behavior that falls short of Harassment, but nevertheless has harmful impacts on the campus environment, e.g. rude, inconsiderate and passive aggressive behavior. Disrespect, if left unaddressed, can escalate to Harassment or Discrimination.~~

"Respondent" refers to anyone who is alleged to have engaged in behaviours of Harassment and/or Discrimination or who is the subject of a report regarding a breach of this policy.

"Sexual Harassment" means,

1. engaging in a course of vexatious comment or conduct 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
2. 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 and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual Harassment includes but is not limited to, sexually suggestive or obscene remarks or gestures, negative stereotypical comments based on gender, sex or sexual orientation, gender identity and gender expression, ~~and showing or sending pornography.~~

“University Member” means any individual who:

- is employed by the University or holds an appointment with the University, including paid, unpaid and/or honorific appointments (**“Employee”**);
- is registered as a student, in accordance with the academic regulations of the University (**“Student”**); and/or
- Is otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

“Workplace” means any place where Employees engage in any facet of employment activity (e.g. recruitment, training, evaluation and development), including employment activities online, outside the normal place of work, and employment activities that occur outside of normal working hours.

“Workplace Harassment” means,

1. 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, and/or
2. Workplace Sexual Harassment ~~-(defined as Sexual Harassment against an Employee in the workplace).~~

SCOPE AND AUTHORITY

3. The University Secretary and General Counsel is the Policy Owner. The Policy Owner is responsible for overseeing the implementation, administration, interpretation and application of this Policy.
4. The Policy Owner will ensure the Policy is reviewed as often as is necessary, and in any event, at least annually, in consultation with all appropriate departments and the JHSC(s), and in accordance with the University’s Policy Framework and relevant Collective Agreements.
5. This Policy applies to all University Members in all aspects of their engagement with the University.
6. Ontario Tech University has a [Student Sexual Violence Policy](#), which sets out a framework for ensuring that students who experience sexual violence are directed to appropriate supports and services and that includes a set of procedures that are completely student-driven; meaning students decide if they want to file a formal report or

to participate in informal or formal resolution options. Sexual Harassment, as defined under this policy is also defined as Student Sexual Violence when perpetrated by or against a student. ~~As such, there is necessarily overlap between the two policies. In the event that a student alleges sexual violence against an Employee or an employee alleges sexual harassment by a student, in that case,~~ all of the rights, roles, responsibilities and obligations established under the Student Sexual Violence Policy will ~~be applied~~ to the Student Complainant, ~~whereas and~~ this Policy and its related procedures will be applied to ~~the Respondent Employees, including Respondents who are Students acting in the capacity as a University Employee (e.g., Teaching Assistants). Such overlap will also occur in the event that an Employee alleges Sexual Harassment by a Student.~~

7. This Policy ~~and its corresponding Procedures~~ does not override or diminish the rights provided to Employees under applicable Collective Agreements, ~~including the right to academic freedom afforded to Faculty~~. Collective Agreements will supersede this Policy to the extent there is a conflict.
8. This Policy does not preclude University Members from pursuing resolution through external resources and processes, including those offered by the Human Rights Legal Support Centre, the Human Rights Tribunal of Ontario and the Ontario Labour Relations Board.

POLICY

9. The University promotes a campus environment that is equitable, inclusive and accessible, and does not tolerate, ignore or condone Discrimination or Harassment by or against anyone. The University is committed to providing a campus environment in which all University Members are treated with dignity, and to fostering a climate of understanding and mutual respect for the value of each individual.
10. In the context of an academic community, responsibility for maintaining a respectful campus falls on all University members. Excellence in learning, research and work in the university community is fostered by promoting the freest possible exchange of information, ideas, beliefs and opinions in diverse forms, and it necessarily includes dissemination and discussion of controversial topics and unpopular points of view. Respect for the value of freedom of expression and promotion of free inquiry are central to the University's mission.
11. However, these freedoms cannot exist without an equally vigorous commitment to recognition of and respect for the freedoms of others, and concern for the well-being of every member of the university community. Excellence in scholarship, teaching and employment activities flows from active concern and respect for others, including their ability to participate meaningfully in the exchange of information, ideas, beliefs and opinions.
12. Therefore, freedom of expression and freedom of inquiry must be exercised responsibly, in ways that recognize and respect the dignity of others, having careful regard to the dynamics of different relationships within the university environment, such as between professor and student, or supervisor and employee. A respectful campus is a climate in which the human dignity of each individual is valued, and the diverse perspectives, ideas and experiences of all members of the community are able to flourish. While misunderstandings and conflicts will occur in a complex, demanding and diverse campus

environment where collaboration is essential to success, early and informal approaches to resolution should be sought whenever possible and appropriate.

13. To promote a respectful campus environment:

- 13.1.** The University will ensure that procedures are in place for the prevention of, and response to Harassment, Discrimination and other breaches of this policy.
- 13.2.** The University will provide information, instruction and assistance to University Members with respect to Harassment and Discrimination.
- 13.3.** The University will ~~provide ensure~~ Persons of Authority ~~are provided~~ with information and instruction that will enable them to recognize, assess and address Harassment and Discrimination, and to understand how to respond appropriately when such incidents are alleged. The University will also ~~provide ensure that~~ Persons of Authority with information and instruction that will enable them to understand their role in preventing incidents of Harassment and Discrimination by effectively and quickly addressing disrespectful behavior, Microaggressions and any other ~~behaviours that issues~~ negatively impacting group cohesion, ~~in an effective and timely manner. quickly~~
- 13.4.** Any University Member who believes they have been harassed or discriminated against, or have witnessed Harassment or Discrimination, is expected to make good faith efforts to resolve their concerns depending on the circumstances, and/or Report the situation in a timely manner.
- 13.5.** The University will administer the processes set out in applicable procedures responding to Reports fairly and promptly, with adequate regard to the unique circumstances of each particular case, and in a manner that prioritizes the dignity and privacy of individuals involved.
- 13.6.** Where applicable and appropriate, the University will make available informal dispute resolution processes such as Mediation in an attempt to resolve ~~the~~ disputes and underlying conflict at the heart of a Report.
- 13.7.** The University will inform and update Complainants, Respondents and relevant Persons of Authority (as appropriate) about the status of dispute resolution processes as they progress.
- 13.8.** University Members are protected against Reprisal for submitting a Report in good faith, or for participating in a related dispute resolution process. ~~This protection does not apply to a University Member who submits a Report that is determined to be frivolous or vexatious, or who exhibits bad faith and/or refuses to cooperate in the course of an investigation.~~ A University Member 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, and/or may pursue a Reprisal complaint through external processes.

~~13.8-13.9.~~ Reprisal This protection does not apply to a University Member who submits a Report that is determined to be frivolous or vexatious, or who exhibits bad faith and/or refuses to cooperate in the course of an investigation; each of which are considered breaches of this policy.

~~13.9.~~13.10. 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 University Members and/or restore the learning/work environment, or as otherwise required by law.

~~13.10.~~13.11. 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*, the *Occupational Health & Safety Act*, and any other applicable law and/or legal obligations, including any applicable collective agreement. 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 *Freedom of Information and Protection of Privacy Act* and Ontario Tech University's *Records Management Policy*.

~~13.11.~~13.12. University Members who engage in Harassment and/or Discrimination, Reprisal or other breaches of this policy will be held accountable and may be subject to disciplinary measures, up to and including termination of employment or academic expulsion.

ROLES AND RESPONSIBILITIES

14. All University Members

14.1. Have a shared responsibility for creating and maintaining a respectful environment that is free from Harassment and Discrimination.

~~14.1.~~14.2. Are responsible for familiarizing themselves with this Policy and related procedures;

~~14.2.~~14.3. Will refrain from engaging in Harassment, Discrimination, acts of Reprisal or other breaches of this policy.

~~14.3.~~14.4. Will build and maintain positive and productive relationships and demonstrate Respect in their interactions.

~~14.4.~~14.5. Will work cooperatively and constructively to resolve conflicts they encounter and seek assistance from a Person of Authority, as appropriate, regarding any escalating conflict they are unable to resolve themselves.

~~14.5.~~14.6. Will complete all required Discrimination and Harassment instruction and training within established timelines

~~14.6.~~14.7. Will exercise rights under this Policy in good faith using prescribed channels. For more information on reporting Harassment and Discrimination, refer to the procedures for Employees [\[link\]](#) and Students [\[link\]](#).

~~14.7.~~14.8. Will participate in and cooperate with the Reporting Process and/or any related investigation, including respecting confidentiality obligations.

~~14.8.~~14.9. Will comply with the corrective measures imposed by the University under this Policy, subject to relevant collective agreements and other appeal rights.

15. Persons of Authority

Persons of Authority are responsible for supporting Ontario Tech University in its duty to create and maintain a respectful environment that is free from Harassment and Discrimination. Therefore, Persons of Authority have additional obligations in addition to the expectations for all University Members (above). Persons of Authority:

- 15.1. Will cultivate a respectful and inclusive environment where people feel safe to raise concerns;
- 15.2. Will ~~actively monitor the campus environment to~~ ensure expected standards under this Policy are adhered to, including addressing and resolving Microaggressions and other disrespectful behavior should they occur;
- 15.3. Will lead by example, acting with Respect and modelling positive relationship building and constructive conflict resolution skills in dealings with all University Members, and in particular, those under their authority;
- 15.4. Are responsible for ~~familiarizing themselves with this Policy and related procedures, and will~~ ensure University Members under their authority are aware of this Policy and its associated procedures;
- 15.5. Will avoid the appearance of favoritism and unfairness by following and promoting adherence to evidence-based decision-making and the principles of non-Discrimination outlined in this Policy;
- 15.6. Will consider seriously each incident, concern or Report brought forward by taking immediate action to stop any Discrimination, Harassment or other inappropriate behavior, whether the subject of a formal complaint or not, by following policies and procedures to the extent necessary to ensure compliance (note: a Person of Authority cannot agree “to do nothing,” even when that is requested by a University Member);
- ~~15.7. Will respond to requests for Accommodation in accordance with related Ontario Tech University policies and procedures, and in consultation with appropriate stakeholders;~~
- ~~15.8.~~15.7. Will inform ~~and consult senior people leaders, Human Resources and/or~~ the Human Rights Office ~~about~~ regarding all activities related to Discrimination and Harassment or other concerns and Reports related to this Policy; and,
- ~~15.9.~~15.8. Will cooperate with the Human Rights Office to implement recommendations and restore areas under their authority that have been disrupted by alleged or actual Policy violations, or complaint resolution processes.

16. Human Rights Office

- 16.1. The Human Rights Office will take primary responsibility for updating related procedures applicable to Employees and Students, ensuring that all related procedures are reviewed as often as is necessary, and in any event, at least annually, in consultation with all appropriate departments and the JHSC(s), and in accordance with the University’s Policy Framework and relevant collective agreements.

16.2. The Human Rights Office will oversee dispute resolution processes, determine needs and engage specialist support, as necessary, for investigation, fact finding, Mediation or other interventions required to restore the campus to a positive and productive environment, including:

- a) receiving and responding to Reports from all University Members while ensuring Reports are responded to appropriately using informal and formal dispute resolution methods in a timely and equitable manner, as outlined in this Policy and in related procedures;
- b) ensuring the appropriate departments and/or individuals are advised of a Report, where appropriate; and,
- c) ensuring the outcome of an investigation under this Policy, is communicated in writing to Complainant(s), Respondent(s) and relevant Persons of Authority to support corrective and restorative measures.

16.3. The Human Rights Office is also responsible for:

- a) ensuring that copies of this Policy and related procedures are posted on a University website; and,
- b) Submitting an Annual Report to the Board of Directors about statistics and trends in human rights complaint activities and other program initiatives

17. Human Resources

17.1. Human Resources is primarily responsible for the following overseeing compliance obligations under with the Occupational Health & Safety Act, including:

- a) providing Employees with appropriate information and instruction with respect to Workplace Harassment, including notifying them of this Policy and its related procedures;
- b) ensuring all Persons of Authority are provided with information and instruction that will enable them to recognize, assess and address Workplace Harassment in their respective workplaces, and will ensure Persons of Authority are aware of this Policy and related procedures;
- c) ensuring that copies of this Policy and employment-related procedures are posted on the established health and safety bulletin boards where it is likely to come to the attention of Employees; and,
- d) ensuring the corrective actions taken as a result of an investigation (if any), are communicated in writing to Complainant(s) and Respondent(s) who are Employees;

17.2. Human Resources is also responsible for:

- a) providing Employees and Persons of Authority with appropriate information and instruction with respect to Discrimination and Discriminatory Harassment, including notifying them of this Policy and its related procedures;

- b) Assisting Persons of Authority, in consultation with the Human Rights Office, to address Microaggressions and other disrespectful behaviors that occur in the employment context; and,
- c) Assisting Persons of Authority to implement corrective and restorative measures in areas under their authority that have been disrupted by alleged or actual Policy violations, or complaint resolution processes.

18. Student Life

18.1. Student Life is responsible for:

- a) Providing Students with appropriate information with respect to Discriminatory Harassment and Discrimination, including notifying them of this Policy and its related procedures; and,
- b) Assisting Persons of Authority, in consultation with Human Resources and/or the Human Rights Office, to address Microaggressions and other disrespectful behaviors that occur in the academic or on-campus housing context.

MONITORING AND REVIEW

19. This Policy will be reviewed as necessary and at least every year. The University Secretary and General Counsel, or successor thereof, is responsible to monitor and review this Policy.

RELEVANT LEGISLATION

20. Human Rights Code, R.S.O. 1990, c. H.19
 Accessibility for Ontarians with Disabilities Act, 2005, S.O. 2005
 Occupational Health and Safety Act, R.S.O. 1990, c O.1, as amended
 Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F. 31

RELATED POLICIES, PROCEDURES & DOCUMENTS

21. [NTD: Policy Superseded]Academic Accommodation for Students with Disabilities
[\[Procedures\]](#)

Access to Information and Protection of Privacy Policy

Accessibility [\[Policy\]](#)

Accessible Customer Service [\[Policy\]](#)

Accommodation for Employees and Job Applicants with Disabilities [\[Procedures\]](#)

Change of Gender [\[Policy\]](#)

Exempt Academic Staff [Policy] [NTD: Employment policy]

Exempt Academic Staff Employment (Deans, Associate Deans and Teaching Staff Governors [Procedures] [NTD: Employment policy]

Freedom of Expression [Policy]

Limited Term Academic Associates [Procedures] [NTD: Employment policy]

Emergency Management Plan and Procedures

Fair Processes Policy

Non-Academic Staff Policies

Student Sexual Violence Policy and Procedures

Procedures to Prevent and Address Harassment and Discrimination in the Workplace [NTD: name tbc]

Harassment and Discrimination Procedures for Students [NTD: name tbc]

Records Management Policy

Joint Health and Safety Committee Terms of Reference

Occupational Health and Safety Management System

Student Conduct Policy

Medical Cannabis Use by Students [[Procedures](#)]

Service Animals [Procedures]

Use of Memory Aids by Students with Disabilities [[Directives](#)] Use of Audio Recording of Lectures by Students with Disabilities [[Directives](#)]

Procedures for Accommodating Employees and Job Applicants with Disabilities

Procedures for Academic Accommodation for Students with Disabilities

Respectful Campus Policy

Classification Number	<i>To be completed by the Policy Office</i>
Parent Policy	Respectful Campus Policy
Framework Category	Legal, Compliance and Governance
Approving Authority	Audit and Finance Committee
Policy Owner	University Secretary and General Counsel
Approval Date	DRAFT FOR CONSULTATION
Review Date	
Supersedes	

PROCEDURES TO PREVENT AND ADDRESS DISCRIMINATION AND HARASSMENT BY OR AGAINST EMPLOYEES

PURPOSE

1. The purpose of this procedure is to establish a dispute resolution framework for the prevention and handling of Employee-based Reports of Harassment, Discrimination and/or Reprisal; ensuring the University effectively addresses and responds to these Reports consistent with legislative obligations.

DEFINITIONS

2. For the purposes of these Procedures the following definitions apply:

“Administrative Fairness” means that the procedures used in the investigation and decision-making processes adhere to the following elements:

- The Complainant, if any, is given a full and fair opportunity to raise allegations and provide relevant and material evidence in support of those allegations;
- The Respondent knows what the allegations are issue is and receives enough information to provide a meaningful response;
- The Respondent is given a full and fair opportunity to defend against the allegations and provide relevant and material evidence rebutting those allegations;
- The parties receive adequate notice of the nature of the proceedings and of the issue to be decided.
- The parties have a right to an impartial decision maker and freedom from bias
- The decision maker is required to consider all of the relevant evidence and information pertaining to a specific case.
- The decision-making processes run in a timely fashion
- The parties Respondent have ves a right to a support person and/or representation during dispute resolution meeting; and
- The parties are provided the reasons for the decision.

“Balance of Probabilities” means an investigative standard that must be met to determine whether a violation of the policy has occurred based on a finding that “it was more likely than not” that the offence at issue was committed by the Respondent. This is a lower standard than beyond a reasonable doubt, but more than mere suspicion.

“Complainant” refers to an individual who is alleged to have experienced Discrimination, Harassment and/or Reprisal.

"Discrimination" is a distinction, without lawful justification, whether intentional or not, which has the effect of denying benefits to, or otherwise disadvantaging, an individual on the basis of a Protected Ground (defined below). Discrimination may involve direct actions that are discriminatory on their face, or it may involve rules, practices or procedures that appear neutral, but have the effect of disadvantaging one or more groups of people.

"Discriminatory Harassment" means engaging in a course of vexatious comment or conduct, against a University Member in the course of employment or receipt of service, based on any Protected Ground, that is known or ought reasonably to be known to be unwelcome. Discriminatory Harassment may include, for example, taunting or mocking someone’s race, ridiculing an individual’s disability or targeting others with sexual, gender-based or homophobic slurs.

"Employee" means job applicants and individuals performing services directly on the University’s behalf, including administrative staff members, Faculty, volunteers and contract employees. Students who are employed during the course of their studies, are “Employees” for the purposes of this Policy when they are engaged in employment activities, but not otherwise. ~~means any individual employed by the University, including but not limited to Employees who are members of a bargaining unit and Employees who are not. Students who are employed during the course of their studies, are “Employees” for the purposes of this Policy when they are engaged in employment activities, but not otherwise.~~

“Extenuating Circumstances” means circumstances outside of the investigator’s control that result in delays in the dispute resolution processes described in this procedure. Extenuating circumstances include, but are not limited to, having multiple witnesses, difficulty in scheduling interviews, availability of resource persons or materials, time of year, involvement of law enforcement or existence of a judicial hearing, or other circumstances that may arise through the course of the investigation.

“Faculty” includes a Faculty Member, or previous Faculty Member, at Ontario Tech University, and includes those with both limited term and indefinite term appointments, as well as those with paid, unpaid and honorific appointments. For greater certainty, “Faculty” also includes visiting scholars and emeritus professors.

“Harassment” Is the term used in this policy instrument to represent all forms of harassment: Discriminatory Harassment, Workplace Harassment and Sexual Harassment.

“Interim Measures” means temporary measures designed to prevent additional acts of Harassment or Discrimination and/or to protect the safety of the Complainant or others. Interim Measures are instituted at any point following a Report and prior to a determination being made under this Policy. Interim Measures take into consideration the severity of the allegations and the varying risks associated with the potential for subsequent acts of Harassment or Discrimination. Examples of interim measures include, but are no limited to, For example, an Employee may be transferred to a different work location, placed on administrative leave

pending the outcome of an investigation, and/or no contact orders, may be required to refrain from interacting with the Complainant or other witnesses.

"Investigation" means a part of the Dispute Resolution Process in which the University conducts a systematic inquiry into allegations.

"Investigator" means an individual who has the required training and experience to conduct a fair and objective Investigation.

"Mediation" is a structured process in which parties in dispute are assisted by a third-party to discuss a dispute and attempt to arrive at a mutually agreeable resolution. Mediation is a voluntary process and can only proceed if all parties involved agree to participate. Depending on the circumstances, mediation may result in a signed agreement summarizing the agreed upon terms of settlement.

"JHSC" means the Joint Health & Safety Committee(s) at Ontario Tech University.

"Person(s) of Authority" include, for the purposes of this policy and related procedures, any person who has charge of a workplace, authority over another Employee or authority in the administration of education, including supervisors, managers, senior management and Faculty leadership (e.g. Deans, Associates Deans, etc.).

~~**"Person(s) of Authority"** includes any person who has charge of a workplace, authority over another Employee or authority in the administration of education. Anyone who supervises an Employee at Ontario Tech University is a Person of Authority. Faculty members, Teaching Assistants and Faculty Leadership (e.g. Deans, Associates Deans, etc.) are also considered Persons of Authority vis-à-vis their relationship to students.~~

"Protected Ground(s)" are the Grounds contained in the Ontario Human Rights Code under which individuals are protected against discrimination and harassment. All University Members are protected under the following Grounds: "race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, marital status, family status and disability.," Employees are additionally protected under the ground "record of offences." ~~**"Protected Ground(s)"** are the grounds contained in the Ontario Human Rights Code under which individuals are protected against discrimination and harassment. Protected Grounds for Students include "race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, gender identity, gender expression, age, 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. Protected Grounds for Employees are the same, but include the additional ground of "record of offences."~~

"Report" refers to a complaint of Harassment, Discrimination and/or Reprisal made by or against a University Employee.

"Reprisal" includes retaliation, coercion, dismissal, threats or intimidation of anyone who in good faith: raises complaints or concerns, exercises their rights or participates in a remedial process under ~~this~~ the Respectful Campus Policy.

"Respondent" refers to anyone who is alleged to have engaged in Harassment, Discrimination or Reprisal in a Report.

"Sexual Harassment" means,

1. engaging in a course of vexatious comment or conduct 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
2. 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 and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

Sexual Harassment includes but is not limited to, sexually suggestive or obscene remarks or gestures, negative stereotypical comments based on gender, sex or sexual orientation, gender identity and gender expression, and showing or sending pornography. For the purposes of this Procedure the term "Sexual Harassment" includes incidents of [Student Sexual Violence](#) involving an Employee.

"Student" includes any student who is registered, or was previously registered, at Ontario Tech University.

"University Member" means any individual who:

- is employed by the University or holds an appointment with the University, including paid, unpaid and/or honorific appointments ("Employee");
- is registered as a student, in accordance with the academic regulations of the University ("Student"); and/or
- Is otherwise subject to University policies by virtue of the requirements of a specific policy (e.g. Booking and Use of University Space) and/or the terms of an agreement or contract.

"Workplace" means any place where Employees engage in any facet of employment activity (e.g. recruitment, training, evaluation and development), including employment activities online, outside the normal place of work, and employment activities that occur outside of normal working hours.

"Workplace Harassment" means,

1. 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, and/or
2. Workplace Sexual Harassment (defined as Sexual Harassment against an Employee in the workplace).

SCOPE AND AUTHORITY

3. The University Secretary and General Counsel is the Policy Owner. The Policy Owner is responsible for overseeing the implementation, administration, interpretation and application of these Procedures.

4. The Policy Owner will ensure the Procedures are reviewed as often as is necessary, and in any event, at least annually, in consultation with all appropriate departments and the JHSC(s), and in accordance with the University's Policy Framework and relevant Collective Agreements.

3.

4.5. This Procedure applies to Reports made by or against Employees in the Workplace. This procedure necessarily overlaps with other University procedures that are concerned with preventing and addressing incidents of Harassment, Discrimination and Reprisal. Ontario Tech University will administer the overlap according to the following principles:

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

4.2.5.2. Where it is alleged that a Student has, in their capacity as a Student, engaged in Harassment against an Employee, then the matter will be addressed in conjunction with the relevant Student procedures [\[hyperlink\]](#).

4.3.5.3. Allegations involving a Student who is also an Employee of the University, and who allegedly engaged in Harassment, Discrimination or Reprisal in the course of their employment, will be handled under this Policy instrument.

4.4.5.4. Where an individual, other than a University Member, is alleged to have engaged in Harassment or Discrimination against an Employee, Human Resources and/or the Office of Campus Safety 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. Because the University does not have the jurisdiction to compel statements from members of the general public, or to impose sanctions upon them, it will not normally conduct a formal Investigation in such cases.

5.6. This procedure is a mechanism for alternative dispute resolution. It does not preclude complainants from pursuing resolution through external resources and processes, including those offered [through grievance arbitration, or](#) by the Human Rights Legal Support Centre, the Human Rights Tribunal of Ontario- and the Ontario Labour Relations Board-. However, The Human Rights Office may not accept a complaint or may halt dispute resolution processes under this procedure if a complainant decides to pursue external processes or grievance mechanisms on the same or similar matter unless an Investigation is legislatively required.

PROCEDURE

6.7. Confidentiality: Information collected under this procedure will be used only for the purposes of administering related policy instruments 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:

6.1.7.1. 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.

6.2.7.2. 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.

6.3.7.3. Complainants and Respondents who are Employees will be advised of the outcome of an Investigation and the corrective actions taken, if any.

6.4.7.4. All records will be maintained in a confidential file, including all related communications, memoranda, reports, statements and evidence. Reasonable steps will be taken to protect against unauthorized access to such documents. These records will be retained, and disposed of, in accordance with the Freedom of Information and Protection of Privacy Act and Ontario Tech University's Records Management Policy.

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

8.9. **Right to a Support Person(s).** Individuals who attend an interview in an Investigation under this procedure may be accompanied by a support person. The role of a support person is to provide moral support. Individuals who choose to attend an interview with a support person must choose a support person who is not otherwise connected to the matter under Investigation (e.g. a witness or fellow Complainant) and will notify the investigator of their support person'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 support person may be a union representative. During the interview, a support person 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.

9.10. **Safety is Paramount:** Ontario Tech University has an overriding obligation to protect the safety of all University Members. When a University Member is at risk of imminent harm, we reserve the right to investigate and respond appropriately, independent of a Complainant's and/or Respondent's course of action under this procedure.

10.11. **Support Services:** The Employee Family Assistance Program has appropriate support services for Employees who experience Harassment, Discrimination and/or Reprisal or to assist Employees who are involved in dispute resolution processes described in this Procedure.

PREVENTATIVE MEASURES

11.12. **Training:** Human Resources will ensure information and instruction is provided to Employees regarding Harassment, Discrimination and Reprisal. Training programs are available on the Health and Safety Website (<http://healthandsafety.ontariotechu.ca/>).

12.13. **Range of Dispute Resolution Options:** Several options to resolve Harassment and Discrimination concerns are available for Complainants. Informal approaches can foster prompt resolution and prevent escalation; particularly when concerns are raised expeditiously. These are opportunities for parties to resolve a dispute, ensure the Workplace is free from Harassment and Discrimination and address broader issues that caused or contributed to the dispute.

13.14. **Talk to the person about their behaviour:** Where appropriate, Complainants are expected to make good faith efforts to attempt to resolve matters themselves before filing a complaint. If a

person feels they are experiencing Harassment or Discrimination, they should immediately make known to the person responsible that the conduct is unwelcome or offensive. It is important that this message be clear and unambiguous. When presented with a legitimate concern, University Members are expected to make reasonable adjustments to their behaviour to resolve the matter. If addressing the person responsible could lead to safety risks, or is not appropriate, Complainants may pursue other resolution options outlined in these procedures.

14.15. Consultation: Employees may benefit from having expert information and advice before deciding how to proceed with a concern related to this procedure. Complainants can consult a Person of Authority or may make an appointment with the Human Rights Office. Consultations are confidential and can provide advice, assistance, coaching, and referrals to assist Complainants.

REPORTING

15.16. The Reporting Process

Incidents of Harassment, Discrimination and/or Reprisal should be promptly reported to a Person of Authority and/or the Human Rights Office, and no later than one (1) year after the last incident of alleged harassment, discrimination or reprisal. If the Report is related to an Employee in the Human Rights Office, the report should be directed to the University's General Counsel, in which case the General Counsel will have the responsibilities assigned to the Human Rights Office below.

Step 1 – Submitting a Report

16.1. A "Report", and the corresponding "Reporting Process", is initiated when an individual completes the Report form (website here; Appendix X) that is available from the Human Rights Office.

16.2. Person(s) of Authority who witness or are made aware of incidents of Harassment, Discrimination and/or Reprisal must initiate a Report to the Human Rights Office.

15.1.16.3. The Human Rights Office will, on its own initiative, initiate a Report when it receives information regarding an incident of Harassment, Discrimination and/or Reprisal in the Workplace, unless such a Report has already been submitted by an individual.

Step 2 – Interim Measures

15.2.16.4. Upon receiving a Report, the University will immediately determine whether Interim Measures are necessary, considering the severity of the allegations, and the potential risks to University Members. ~~For example, an Employee may be transferred to a different work location, placed on 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.

~~15.3.16.5.~~ Further Interim Measures will be implemented where reasonable and appropriate in the circumstances. Person(s) of Authority, the Complainant, Respondent, the Office of Campus Safety or any other relevant stakeholder, may be consulted on a confidential basis, to determine appropriate Interim Measures.

Step 3 – Assessment

~~15.4.16.6.~~ The Human Rights Office will review the Report and determine if the conduct alleged in the Report would amount to Discrimination, Harassment and/or Reprisal. This determination will be based on an assumption that all of the alleged facts were true. If the allegations set out in the Report would not, if true, amount to Discrimination, Harassment and/or Reprisal, the Human Rights Office will respond to the individual submitting the Report in writing, usually within ~~360~~ days, advising that the Report has been reviewed, and that the information provided does not support an allegation of Discrimination, Harassment and/or Reprisal under the Respectful Campus Policy. The individual submitting the Report will also be advised that the Human Rights Office 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.

~~15.5.16.7.~~ If, on the other hand, the information provided would, assuming the alleged facts were true, support a finding that Discrimination, Harassment and/or Reprisal had occurred, dispute Resolution options will be considered.

Step 4 – Informal Resolution

~~16.8.~~ Where appropriate, an informal resolution process, such as Mediation, can be pursued if the Complainant and Respondent consent to an informal resolution processes being pursued and to its format (Note: informal resolution options are not available related to allegations of Workplace Harassment, which require an investigation).

~~16.9.~~ Where those involved in the informal resolution process reach an agreed resolution, that resolution will become binding.

~~15.6.16.10.~~ Once an informal resolution process has commenced, the Investigation may be delayed for a maximum period of 30 calendar days, after which, unless a resolution has been reached ~~and approved~~, the Investigation will be re-commenced.

Step 5 – Investigation

~~15.7.16.11.~~ An Investigation will be conducted if informal resolution options are not appropriate in the circumstances or were not successful in resolving the dispute. The purpose of an Investigation is to: gather evidence and witness statements; weigh the evidence; make findings of fact based on the evidence; and, produce an Investigative report. In an investigation under this Procedure, the Investigator must make a determination having weighed the evidence on a Balance of Probabilities that either: (1) a policy breach occurred; or (2) a policy breach did not occur.

~~15.8.16.12.~~ The Human Rights Office will ensure an Investigation process that is appropriate in the circumstances and that complies with Administrative Fairness requirements. At this stage, consideration will be given to whether the investigation will be conducted internally or externally. ~~Under no circumstances will an Investigation be conducted by an individual who was directly involved in the events in issue, or by an individual whose involvement would give rise to a conflict of interest or a perception of a conflict of interest. No individual who was involved in or who has a personal stake in the events in issue will be involved in an Investigation (other than as a witness).~~ The Human Rights Office 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.

~~15.9.16.13.~~ The Human Rights Office will ensure the complainant and respondents ~~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 6 – Determination & Corrective Action

~~15.10.16.14.~~ The Human Rights Office will ensure that the results of the investigation are brought to the attention of, and reviewed by, the appropriate Person(s) of Authority.

~~15.11.16.15.~~ In the event that the Investigation found a breach of policy, the investigator will make recommendations to adequately resolve the inappropriate behavior and restore the Workplace. 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.

~~15.12.16.16.~~ Where an Employee is found to have engaged in acts of 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 ensure such reasonable steps are taken to prevent a recurrence.

~~15.13.16.17.~~ Employees that are members of a bargaining unit shall have any corrective measure(s) imposed in accordance with applicable collective agreement requirements.

~~15.14.16.18.~~ Information about investigation outcomes or corrective actions will be provided in accordance with the procedural requirements of any relevant collective agreement and any applicable laws. At the conclusion of an investigation, The Human Rights Office will ensure that any Complainant and any Respondent are informed, in writing, of the outcome of the investigation. Human Resources will ensure that any corrective actions taken or that will be taken are communicated to the Complainant (Employee) and Respondent (Employee) in writing.

~~15.15.16.19.~~ The Relevant Person(s) of Authority will be responsible for implementing recommendations (including corrective action) in consultation and

with the support of Human Resources.

MONITORING AND REVIEW

16.17. This Procedure will be reviewed as necessary and at least every year. The University Secretary and General Counsel, or successor thereof, is responsible to monitor and review this Policy.

RELEVANT LEGISLATION

17.18. Human Rights Code, R.S.O. 1990, c. H.19

Occupational Health and Safety Act, R.S.O. 1990, c O.1, as amended

Freedom of Information and Protection of Privacy Act, R.S.O. 1990, c F. 31

RELATED POLICIES, PROCEDURES & DOCUMENTS

18.19. [NTD: Policy Superseded]Academic Accommodation for Students with Disabilities [[Procedures](#)]

Academic Staff Employment Policies

Access to Information and Protection of Privacy Policy

Emergency Management Plan and Procedures

Fair Processes Policy

Non-Academic Staff Policies

Policy Against Violence, Harassment and Discrimination in the Workplace

Policy to Prevent and Respond to Sexual Violence for Students

Procedures for Responding to Incidents of Sexual Violence

Records Management Policy

Joint Health and Safety Committee Terms of Reference

Occupational Health and Safety Management System

Student Conduct Policy

Ontario Tech-Durham College Threat Assessment Procedures

Work Refusal Procedures

Workplace Violence Incident Report