



**FOR INFORMATION**

**PUBLIC**

**OPEN SESSION**

**TO:** Governing Council

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**DATE:** October 20, 2016 for October 27, 2016

**AGENDA ITEM:** 5

**ITEM IDENTIFICATION:**

Amendments to the *Policy with Respect to Workplace Harassment* (dated May 13, 2010)

**JURISDICTIONAL INFORMATION:**

Under Section 5 of its Terms of Reference, “Monitoring and recommending policy on the occupational health and safety of members of the staff of the University and other policy pertaining to the health and safety of all members of, and visitors to, the University except for those matters falling within the terms of reference of the University Affairs Board” fall within the Business Board’s areas of responsibility.

Under Section 5.12 (“Health and safety”) of its Terms of Reference, the Business Board also has responsibility for “approval of policies concerning the health and safety of members of the University and its visitors.”

**GOVERNANCE PATH:**

1. Business Board [for information] (September 22, 2016)
2. Executive Committee [for information] (October 19, 2016)
3. **Governing Council [for information] (October 27, 2016)**

## PREVIOUS ACTION TAKEN:

The *Policy with Respect to Workplace Harassment* was introduced and approved by Governing Council on May 13, 2010.

## HIGHLIGHTS:

This policy, which was originally approved May 13, 2010, has been updated as a result of legislated amendments as outlined below, and which took effect September 8, 2016. This item is being brought forward for information only.

In March 2015, the Government of Ontario released “*It’s Never Okay: An Action plan to Stop Sexual Violence and Harassment.*” The Action Plan outlined steps to help change attitudes, provide more supports for victims, and make campuses safer and more responsive to complaints about sexual violence and harassment. These objectives were enshrined in legislation one year later, when Bill 132, *Sexual Violence and Harassment Action Plan Act, 2016*, received Royal Assent.

Schedule 4 of the *Act* modifies the definition of “workplace harassment” as stated in the *Occupational Health and Safety Act (OHSA)* to include “workplace sexual harassment,” which is in turn defined as:

“(a) engaging in a course of vexatious comment or conduct against a worker in a workplace because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or

(b) making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome”

Schedule 4 also creates certain new requirements with respect to an employer’s workplace harassment program and protecting employees from workplace harassment. These changes come into force on September 8, 2016.

The administration has reviewed its workplace harassment policy and program, including consulting with legal counsel, and has made the necessary amendments to comply with the legislation. The amendments presented in the revised draft *Policy* (attached) replace the previous definition of “workplace harassment” with the new definition, including “workplace sexual harassment,” and add reference to the *Guideline for Employees on Concerns and Complaints regarding Prohibited Discrimination and Discriminatory Harassment*, thus bringing the University into compliance with the *Act* ahead of the September 8 deadline. Both guidelines that constitute the University’s workplace harassment program under OHSA are also appended.

Schedule 3 of the *Act* requires all Ontario universities to have a sexual violence policy that addresses sexual violence involving students and sets out the process for how the university will respond to and address incidents and complaints of sexual violence, and to provide awareness training on the sexual violence policy to faculty, staff, students, and other members of the University community. Under the legislation, these requirements must be met by January 1, 2017. Further revision of the *Policy* and accompanying guidelines may be required in the coming months to bring them in line with the requirements under Schedule 3 of the *Act*.

The amendments presented here have been discussed with members of the UTFA executive, and are also being discussed with the United Steel Workers (USW) and Canadian Union of Public Employees (CUPE).

**FINANCIAL IMPLICATIONS:**

Not applicable.

**RECOMMENDATION:**

For information.

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**DOCUMENTATION PROVIDED:**

- *Policy with Respect to Workplace Harassment* (dated May 31, 2016)
- *Human Resources Guideline on Civil Conduct* (dated August 4, 2016)
- *Guideline for Employees on Concerns and Complaints Regarding Prohibited Discrimination and Discriminatory Harassment* (dated August 4, 2016)