



FOR INFORMATION

PUBLIC

OPEN SESSION

TO: University Affairs Board

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DATE: September 25 for October 2, 2017

AGENDA ITEM: Item 4

ITEM IDENTIFICATION:

University-Mandated Leave of Absence Policy

JURISDICTIONAL INFORMATION:

Under Section 5.4 of its Terms of Reference, the following matters fall under the purview of the University Affairs Board:

“University-wide matters affecting members of the University community that are not governed by academic policies or employment policies are the responsibility of the Board. These include such matters as non-academic discipline, sexual harassment, freedom of speech, alcohol use on campus, and smoking policies. New policies or major changes to existing policies will normally require the approval of the Governing Council.”

GOVERNANCE PATH:

For Information and Discussion

1. **University Affairs Board [for information] (October 2, 2017)**
2. UTSC Campus Council [for information] (October 3, 2017)
3. UTM Campus Council [for information] (October 4, 2017)
4. Academic Board [for information] (October 5, 2017)

For Approval

1. **University Affairs Board [for recommendation] (November 20, 2017)**
2. UTM Campus Council [for information] (November 21, 2017)
3. UTSC Campus Council [for information] (November 22, 2017)
4. Academic Board [for recommendation] (November 23, 2017)
5. Executive Committee [for endorsement and forwarding] (December 5, 2017)
6. Governing Council [for approval] (December 14, 2017)

PREVIOUS ACTION TAKEN:

The University has been considering a *University-Mandated Leave of Absence Policy* for a few years. The need for such a Policy was noted by the Ombudsperson in her 2014-15 report and was also mentioned in the University's response to the 2015-16 report.

Initial consultations with Registrars, academic administrators, deans of students, health, wellness and counselling staff, and student groups highlight that this is a welcome Policy, in part because it provides a transparent and non-disciplinary process for the few students in this situation every year. Broad consultation with students, staff and faculty on the draft Policy is underway.

HIGHLIGHTS:

The draft *University-Mandated Leave of Absence Policy* is intended to provide a way in which a Student may be placed on a mandatory leave of absence when it becomes apparent that due to mental health or other similar personal issues, the Student's behaviour may pose a risk of serious harm to themselves or others, or significant impairment of the educational experience of other students, or is unable to engage in activities required to pursue an education – all in circumstances where accommodations and/or supportive resources have not been successful or are not feasible.

Under the draft *Policy*, students are encouraged, and supported, to agree to take a Voluntary Leave of absence. When a University-Mandated Leave of Absence is necessary, the proposed *Policy* will provide a clear pathway, and fair process including a review and appeal.

This is not a *Policy* a Student can choose to invoke. The application of the *Policy* is at the discretion of the University in appropriate circumstances.

The draft *Policy* is intended for a very small number of students who meet the high threshold for intervention as described in the draft *Policy* and the presence of mental health or other similar concerns provides a context for University action that is not disciplinary in nature. Until the creation of this *Policy*, students exhibiting behavioural concerns may have been subject to the *Student Code of Conduct*. This Policy does not preclude the operation of other laws, policies and procedures.

The draft *Policy* includes the following Guiding Principles:

- All Students in good standing at the University of Toronto should have the opportunity to pursue their academic aspirations.
- The University offers supportive resources to assist Students who are encountering academic difficulties, including where those difficulties may arise from health issues or personal problems.
- The University wishes to respond effectively and responsibly regarding Students whose behaviour causes concern regarding their own safety or the safety of others, or whose behaviour negatively impacts the learning environment of others including when such behaviour occurs in the context of mental health or other similar personal problems.
- The University has the right to address the conduct of a Student where it is necessary to do so in order to protect that Student and/or other members of the University, or to comply with legal duties, including statutory duties and those arising where it has a duty of care.
- A Leave of Absence from the University under this *Policy* is not to be treated, nor should it be perceived, as punitive or disciplinary.

RECOMMENDATION:

For Information

DOCUMENTATION PROVIDED:

- *University-Mandated Leave of Absence Policy [DRAFT]*

University-Mandated Leave of Absence Policy

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DEFINITIONS

The following definitions are intended to assist in the interpretation of this Policy.

Student – For the purposes of this policy, "Student" means any person:

- (i) engaged in any academic work which leads to the recording and/or issue of a mark, grade or statement of performance by the appropriate authority in the University or another institution; and/or
- (ii) associated with or registered as a participant in any course or program of study offered by or through a college, faculty, school, centre, institute or other academic unit or division of the University; and/or
- (iii) entitled to a valid student card who is between sessions but is entitled because of student status to use University facilities.

Division Head - Principal, Dean or director ("head") of a faculty, college or school in which the Student is registered. In the case of a graduate Student, the Division Head will be the Dean of the Faculty of the Student's academic program.

Student Case Manager – person designated by the Vice-Provost, Students to be the point of contact with the Student.

Student Support Team (SST) – a team established by the Vice-Provost, Students that may include student service representatives, registrarial personnel, medical professionals, academic administrators, campus safety personnel, and campus police or others.

For the purpose of this Policy, the responsibilities of the Vice-Provost, Students in this Policy may be transferred to their delegate where applicable.

I. INTRODUCTION

a. Guiding Principles

1. All Students in good standing at the University of Toronto ("the University") should have the opportunity to pursue their academic aspirations.
2. The University offers supportive resources to assist Students who are encountering academic difficulties, including where those difficulties may arise from health issues or personal problems.
3. The University is committed to compliance with the *Ontario Human Rights Code* (including its duty to accommodate persons with disabilities), to compliance with the *Accessibility for Ontarians with Disabilities Act*, and to the *Occupational Health and Safety Act*, including its obligations with respect to safety in the workplace.
4. The University wishes to respond effectively and responsibly regarding Students whose behaviour causes concern regarding their own safety or the safety of others, or whose behaviour negatively impacts the learning environment of others.
5. The University recognizes that some Students would benefit from support and assistance while not actively engaged in academic studies.

6. The University has the right to address conduct of a Student where it is necessary to do so in order to protect that Student and/or other members of the University, or to comply with legal duties, including statutory duties and those arising where it has a duty of care.
7. Prior to invoking this Policy, the University will generally have endeavoured to exhaust a number of other measures, including but not limited to: informal discussion and meetings with the Student and relevant student support services; referrals to campus resources; encouragement to seek treatment or seek other assistance voluntarily, and to utilize divisional leaves of absence protocols and accommodation policies.
8. In invoking this Policy, the goal of the University is that the Student can resume academic activities safely and with a reasonable prospect of engaging in the basic activities required to pursue an education at the University.
9. Any Leave of Absence from the University under this Policy is not to be treated or be perceived as punitive or disciplinary.

b. Application and Scope

10. This Policy applies to all Students as defined above.
11. This Policy provides a way in which a Student's registration and/or association with a course or program may be suspended or terms may be imposed on a student's participation in University activities or attendance on University premises when it becomes apparent that the Student may be exhibiting, or is exhibiting, behaviour that may pose a risk of harm to themselves, others, causing significant disruption to the educational process or the University community in general, or is unable to engage in activities required to pursue an education – all in circumstances where accommodations and/or supportive resources have not been successful or are not feasible. This may or may not involve allegations of non-academic misconduct by the Student.
12. Nothing in this Policy precludes the University from acting independently of this Policy, and pursuant to its duties under the *Occupational Health and Safety Act*, or its general duty of care, or under any applicable legislation or University policies, in any situation where it believes there to be an urgent and/or serious situation of risk or potential risk of serious harm of any kind to any members of its community, the Student, or to the public.
13. Nothing in this Policy precludes the operation of any other University policies, including but not limited to the *Code of Student Conduct*, applicable *Residence Codes*, the *Code of Behaviour on Academic Matters*, the *Policy on Sexual Violence and Sexual Harassment*, and University policies for assessing academic achievement and progress. Depending on the circumstances, other University policies may apply.
14. Nothing in this Policy precludes the operation of voluntary leave policies or guidelines adopted by divisions.
15. Some of the behaviour captured within the ambit of this Policy may fall within other policies, including those identified above. However, particularly where there are health or mental health components to the behaviour, this Policy is intended to provide an opportunity for the exploration of possible alternative approaches that may be better aligned to specific circumstances of the Student. Additionally, a Student may be governed by regulatory codes pertaining to specific professions (such as the health professions) or to licensing and accreditation requirements for specific designations. This Policy does not preclude the application of the obligations under those regulatory codes.

c. Threshold for Intervention

16. This Policy may be invoked when the Division Head in which the Student is registered receives information or is aware of a situation that indicates that the Student's behaviour meets the threshold for intervention as described below and the Division Head believes that this Policy is appropriate to address the situation.

17. The threshold for intervention encompasses two potential scenarios:

Scenario 1: A Student's behaviour poses a risk of harm to self or others, including but not limited to a risk of imminent or serious physical or psychological harm, or harm that involves more than a minimal impairment of the educational experience of fellow students.

or

Scenario 2: While not posing a risk of harm to self or others as described in Scenario 1, the Student is unable to engage in activities required to pursue an education at the University notwithstanding accommodations or supportive resources that may be available.

II. PROCESS

a. Notification to the Vice-Provost, Students

18. Where the Division Head believes that the Student's behaviour meets the threshold for intervention as described above, the Division Head may request that the Vice-Provost, Students invoke this Policy.

19. Where the Student is a graduate student, the Vice-Provost, Graduate Research & Education, will also be informed.

20. The notification to the Vice-Provost, Students shall include:

- a. The name of the Student;
- b. Description of events/incidents, including location, behaviour, and any other information relevant to the assessment of whether the threshold has been met and to the assessment of the possibility of a leave;
- c. Additional relevant information such as other people involved and/or any witnesses;
- d. Supportive resources offered or engaged, accommodations if any, and interventions taken to date; and,
- e. Any other information that will assist the Vice-Provost, Students in making an informed assessment and a fair engagement with the Student who is the subject of the notification.

21. The Vice-Provost, Students will determine if initial action under this Policy, including the appointment of a Student Support Team (SST) and a Student Case Manager, is appropriate. If the decision is to take initial action under the Policy, the steps set out below will be taken.

b. Appointment of a Student Support Team and a Student Case Manager

22. As soon as practicable, and normally within three (3) business days of the notification, the Vice-Provost, Students, will designate the appointment of a Student Case Manager. The Student Case Manager is expected to engage with the Student and become a point of contact with the Student to assist the Student in accessing available resources and liaising with the Student's division.
23. The Vice-Provost, Students may also establish a SST.

c. Notification to Student of a Referral to the Vice-Provost, Students

24. The Student Case Manager will notify the Student in writing that the Student's behaviour has resulted in a referral to the Vice-Provost, Students for consideration under this Policy and provide for an opportunity for a discussion with the Student regarding this Policy.
25. The Student may seek the support of a family member, a health professional of their choice, a legal advocate or other support person at any time during the application of this Policy.

d. Availability of Accommodations

26. At any time during the application of this Policy, the Student Case Manager may facilitate the Student accessing accommodations and other resources that could assist the Student to continue in the academic program without a Leave of Absence arranged under this Policy.
27. Some of the other resources that may be made available to the Student include referrals and contact information for internal and external community services and resources; and the availability of academic accommodations in consultations with the divisional registrar or other appropriate divisional officials.
28. Wherever reasonably possible, the Student Case Manager should explore such alternatives in consultation with the Student, the Vice-Provost, Students, and the SST.

e. Voluntary Leave of Absence

29. At any time during the application of this Policy, the Student Case Manager may facilitate a Voluntary Leave of Absence. In the absence of a divisional Voluntary Leave of Absence policy or guideline, the following will apply:
 - a. Where the assessment of the SST, in consultation with the Student Case Manager, is that a Voluntary Leave of Absence would be appropriate, the SST will develop recommendations for the terms and conditions that would apply, for consideration by the Student and by the Vice-Provost, Students.
 - b. The Vice-Provost, Students will outline the circumstances giving rise to the decision to invoke this Policy, the process followed to arrive at this outcome, and terms and conditions of the recommended Voluntary Leave of Absence.
 - c. The Student may submit comments to the Vice-Provost, Students to accompany the recommendation.
 - d. If the Vice-Provost, Students agrees with the recommendation, and the Student also agrees, the terms and conditions will be signed off by the SST and the Student, and the implementation process for the Voluntary Leave shall begin.

- e. If the student is a Complainant or Respondent under the *Code of Student Conduct*, and if the Division Head agrees, any proceedings under the *Code* may be stayed until the Student returns, or until a time to be specified by the Division head.
- f. When the Voluntary Leave is implemented, the Student Information System will reflect the fact that the Student is on a Leave of Absence under the terms of this Policy.

f. University-Mandated Leave of Absence

- 30. The Vice-Provost, Students may place the Student on a University-Mandated Leave of Absence after following the process set out below when:
 - a. a Student's behaviour meets the threshold for intervention,
 - b. reasonable efforts have been made to enable the Student to continue in their studies and to facilitate reasonable accommodations but such efforts have not been successful, and
 - c. a Voluntary Leave of Absence has not been agreed to by the Student.
- 31. Where the Vice-Provost, Students is considering placing the Student on a University-Mandated Leave of Absence, the Student Case Manager will advise the Student that a University-Mandated Leave of Absence is under consideration.
- 32. As part of the consideration of the University-Mandated Leave of Absence, the Vice-Provost, Students has the discretion to seek whatever information is deemed useful, including via expert external assistance. Such expert external assistance could include, for example, a risk assessment such as a psychiatric risk assessment, or medical or behavioural assessments, at the University's expense and with the Student's consent to disclosure of the information obtained.
- 33. The SST, in consultation with the Student Case Manager, will develop recommendations for the terms and conditions of the potential University-Mandated Leave of Absence and return to studies, for consideration by the Vice-Provost, Students.
- 34. Prior to imposing a University-Mandated Leave of Absence, the Vice-Provost, Students will write to the Student and outline the circumstances giving rise to the decision to invoke this Policy, the circumstances giving rise to the view that a University-Mandated Leave of Absence should be considered, and the recommended terms and conditions of the University-Mandated Leave of Absence. The Student will be given an opportunity to provide information the Student believes to be relevant (wherever time permits).
- 35. The Vice-Provost, Students, will decide based on the information available whether to impose a University-Mandated Leave of Absence, and communicate the decision to the Student in writing including the basis for the decision, and will provide information as to how to seek a review of the decision as set out below.
- 36. The Student Information System will reflect that the Student is on a Leave of Absence under the terms of this Policy.
- 37. While a University-Mandated Leave of Absence is under consideration, nothing precludes the Vice-Provost, Students and the Student from entering into a Voluntary Leave as specified in section e above.
- 38. In some urgent situations such as those involving serious threats or violent behaviour, it may be necessary to remove the student from the University immediately. In such cases, the Vice Provost, Students may temporarily place a student on University-Mandated Leave of Absence without following the above process, for up to five business days if, in the opinion of the Vice-Provost,

Students, there is a reasonable apprehension that the safety of the Student or others is endangered, damage to University property is likely to occur, or the continued presence of the Student would be disruptive to the legitimate operations of the University. The Student will be informed immediately of the reasons for the University-Mandated Leave of Absence and shall be afforded the opportunity to respond. The temporary University-Mandated Leave of Absence will be reviewed by the Vice Provost, Students within the five business days period and notify the Student whether or not the University-Mandated Leave of Absence is continued. The Student may seek review and appeal of that decision as set out below.

g. Terms and Conditions

39. Terms and conditions of Leaves of Absences agreed to or mandated under this Policy are to be tailored to the Student's individual circumstances, and, wherever feasible (except in urgent University-Mandated Leave of Absence cases), shall consider input from the Student. The terms and conditions may include but are not limited to:

- any notation that will be placed on the Student's academic transcript, and provision for removing such a notation, if applicable;
- where appropriate, the availability of academic credit for any academic work or academic research already completed;
- the financial implications to the Student of the proposed Leave of Absence including any tuition reimbursement arrangements and changes to the status of any awards, stipends, or scholarships;
- any limitations on the Student's access to University premises or activities;
- where appropriate, the cessation of the Student's involvement in co-curricular and student life activities for the duration of the proposed Leave of Absence;
- where appropriate, alternate housing arrangements if the Student is living in a University Residence;
- where appropriate, consideration of the Student's access to health care at a campus Health, Counselling and Wellness Centre;
- where appropriate, the cessation of the Student's University-related work, research, or teaching obligations;
- the method of communication between the Student and University for the duration of the proposed Leave of Absence;
- the support available to the Student while on leave and steps the Student will take while on leave, including a commitment to specific forms of treatment or counselling; and
- such other terms as the University considers appropriate.

40. In the case of a Leave of Absence that has been based, in whole or in part, on safety considerations, the terms and conditions will set out any requirements set by the University for the Student's safe "Return to Studies", which may include:

- Verification that it is safe for the Student to return;
- an outline of the support available to the Student upon return, including any accommodations;
- an indication that the Student may be subject to ongoing conditions;
- an indication of who will be responsible for monitoring the Student's return to studies;
- any provision for the periodic review or adjustment of the conditions; and
- the conditions that the Student will have to meet to have the terms and conditions lifted following a successful return to studies.

41. The terms and conditions must clearly set out the duration of the Leave of Absence and the conditions and process for a return to studies.
42. The terms and conditions of the Leave of Absence should address the consequences of non-compliance with either the Leave of Absence or the return to studies.
43. Where the University considers it appropriate, the terms and conditions may include a provision limiting the Student's ability to be on University premises or part of the premises for the duration of the Leave of Absence. The terms and conditions could include that the Student may visit the University only if authorized in writing by the Student Case Manager, and may only communicate with designated University personnel and only for purposes related to the application of this Policy.
44. In the case of Voluntary Leaves, the terms and conditions are as agreed by the Vice-Provost, Students and the Student, or in the case of University-Mandated Leaves of Absence, are imposed by the Vice-Provost, Students and set out in a written notification to the Student.

III. REVIEW BY THE PROVOST

45. A Student may request that the Provost review the decision of the Vice-Provost, Students to place the Student on a University-Mandated Leave of Absence by making a request in writing, no later than 10 business days after the decision.
46. The Provost shall review and respond to the request within 10 business days of receipt.
47. The Provost shall consider written submissions, if any, from the Student, as well as any new or additional information that the Student wishes to submit.
48. The Provost may consult with the SST and the Student Case Manager, or anyone else whom the Provost believes may have pertinent information.
49. The Provost will render a decision in writing with reasons.
50. The Provost may vary or confirm the Vice-Provost, Students' decision to place the Student on a University-Mandated Leave of Absence, or may refer the matter back to the Vice-Provost, Students for further consideration with whatever guidance the Provost deems appropriate.
51. While a matter is under review by the Provost, the conditions of the University-Mandated Leave of Absence as determined by the Vice-Provost, Students shall continue to apply.
52. At any time during this review process, a Student may elect to explore the possibility of Voluntary Leave of Absence under a Divisional Policy, or in the absence of a Divisional Policy, this Policy. If the Voluntary Leave of Absence is agreed upon jointly by the Vice-Provost, Students, and the Student, the review by the Provost shall be discontinued.

IV. APPEAL TO THE UNIVERSITY TRIBUNAL

53. A Student may appeal the decision of the Provost to the Senior Chair (or delegate), or the Associate Chair (or delegate) of the Discipline Appeals Board of the University Tribunal by filing a written notice of appeal, together with any submissions the Student wishes to be considered, within 15 business days of the Provost's decision. The Provost may also make submissions in response to the appeal.

54. The time limit for appealing may be extended by agreement between the Student and the Provost or by the decision of the Senior Chair where they are satisfied that neither party has been prejudiced by the delay.
55. While the decision is under appeal, the terms and conditions of the University-Mandated Leave of Absence shall continue to apply.
56. The Senior Chair will hear and decide the appeal.
57. The decision of the Senior Chair is final.
58. At any time during the appeal process, a Student may elect to explore the possibility of Voluntary Leave of Absence under a Divisional Policy, or in the absence of a Divisional Policy, this Policy. If the Voluntary Leave of Absence is agreed upon jointly by the Vice-Provost, Students, and the Student, the appeal of the Provost's Decision shall be discontinued.

V. ONGOING ABILITY TO PROVIDE INFORMATION

59. At any stage during the review or appeal process, if a Student has new information that the Student believes may be relevant to the implementation of the University-Mandated Leave of Absence, it can be provided to the Vice-Provost, Students. The Vice-Provost, Students will determine if the information is relevant. This will not result in a new right of review or appeal, but may result in a discretionary decision to alter the terms and conditions of a University-Mandated Leave of Absence, or to its discontinuance. Any such changes will only occur after consultation with the Student.

VI. RETURN TO STUDIES AFTER A LEAVE OF ABSENCE

60. Following a Leave of Absence under this Policy, the Student must apply in writing to the Vice-Provost, Students in order to return to studies.
61. Unless otherwise specified, the application to return must be submitted at least 30 days prior to the term in which the Student wishes to enrol.
62. The Student's return to studies application should include information demonstrating that all terms and conditions associated with the Leave of Absence have been met and any supporting information that the Student chooses to submit, including updated medical information.
63. The Student is encouraged to provide information from any treating health specialists, and in particular, an opinion from a treating health professional that the Student is able to return safely to studies.
64. As a condition of the Student returning to their program, the Vice-Provost, Students has the discretion to seek expert external assistance, including for example, a psychiatric risk assessment, or medical or behavioural assessments, at the University's expense and with the Student's consent to disclosure of the information obtained. The Student Case Manager, in consultation with the Vice-Provost, Students, will be responsible for implementing any terms and conditions of the return to studies Program and the development of a monitoring program during the Student's return to studies.
65. If, based on the available information, the Vice-Provost, Students is of the view that the Student is unable to return to studies safely and/or to engage in the basic activities required to pursue an education at the University, the Vice-Provost, Students can continue the University-Mandated Leave

of Absence under this Policy, or in the case of a Voluntary Leave, can seek the Student's agreement to continue it. In the case of a decision to continue a University-Mandated Leave of Absence, or to convert a Voluntary Leave to a University-Mandated Leave of Absence, the decision of the Vice-Provost, Students is subject to review and appeal as described in sections II, III, and IV.

66. If the Student does not contact the University within the timeframe specified in the terms and conditions, the University may take steps to terminate the Student's registration and/or association with the University.

VII. CONFIDENTIALITY and PRIVACY

67. The University is committed to compliance with legislation dealing with the protection of privacy, including the Freedom of Information and Protection of Privacy Act, and it confirms that collection, use, and disclosure of personal information pursuant to this Policy shall be in accordance with relevant law.
68. It is understood that safety considerations are paramount, and may result in a need to disclose personal information without consent, including potentially beyond those who need to know it for the purposes of implementing the Policy. For example, confidentiality cannot be maintained where information needs to be disclosed in order to address a risk to the health and safety of Members of the University Community, or where the University is obliged by law to disclose the information. Examples include where:
- a. an individual is at risk of imminent and serious harm to themselves or others;
 - b. members of the University Community may be at risk of harm; and/or
 - c. reporting or investigation is required by law

VIII. ANNUAL REPORTING AND PERIODIC REVIEW

69. The Office of the Vice-Provost, Students, shall prepare and submit annually to the University Affairs Board a Report consisting of a narrative of the functioning of the Policy over the course of the preceding academic year, and also of statistics in aggregate form, without names or any identifying personal information, of the numbers of Students agreeing to a Voluntary Leave, or being subject to a University-Mandated Leave of Absence decision under this Policy, and the numbers of any of those Students returning to registered status at the University during the academic year.
70. The Provost undertakes to review the Policy in the third academic year of its operation, and to report to the Governing Council about that review. Subsequent reviews shall be as requested by the Governing Council or as suggested by the Provost.

Approved _____
Effective _____