

Memorandum

Office of the Provost

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TO: Senate

FROM: Lydia White, Associate Provost (Policies, Procedures and Equity)

SUBJECT: Proposal to Review the *Policy on Harassment, Sexual Harassment and Discrimination Prohibited by Law*

DATE: 16 May 2012

DOCUMENT #: D11-67

ACTION REQUIRED: INFORMATION APPROVAL/DECISION

ISSUE: The *Policy on Harassment, Sexual Harassment and Discrimination Prohibited by Law* is up for review as of December 2012, if Senate so determines.

BACKGROUND & RATIONALE: According to section 8.1 of the *Policy on Harassment, Sexual Harassment and Discrimination Prohibited by Law*, Senate may determine that a review of the Policy be undertaken by a working group (see attached policy for composition of this group). Feedback from the groups and individuals consulted suggests that a review of this policy would be appropriate at the present time.

The *Policy* specifies that such a review should be undertaken by a working group of representatives from the Senate, the JBSCE, the SACOMSS, the SSMU, and the PGSS.

RESOLUTION FOR APPROVAL: Be it resolved that Senate determine that the *Policy on Harassment, Sexual Harassment and Discrimination Prohibited by Law* be reviewed in the Fall term of 2012.

PRIOR CONSULTATION: JBSCE, harassment assessors, SACOMSS, SSMU, PGSS

NEXT STEPS: N/A

APPENDICES: Appendix A: *Policy on Harassment, Sexual Harassment and Discrimination Prohibited by Law*

POLICY ON HARASSMENT, SEXUAL HARASSMENT AND

- 1.3 Subject to Section 5.4.5 nothing in this Policy precludes either party from exercising any internal or external recourse available.
- 1.3.1 Subject to section 1.3,2 in the event that a Complainant should concurrently seek resolution of a Complaint under any other internal or external recourse, any Complaint submitted under this Policy shall be deemed to have been withdrawn.
- 1.3.2 Section 1.3.1 shall not apply where a Complainant is obliged to initiate an external recourse prior to the completion of the processes provided under this Policy in order to preserve her or his right to the external recourse.

Section 2 – DEFINITIONS

- 2. For the purpose of this Policy:
 - 2.1 *Advisor* means a Member of the University Community so identified who has agreed to accompany the Complainant

- 4.5 The Assessors shall elect from amongst their members a Coordinating Assessor, who, in addition to being an Assessor, shall be responsible for coordinating the activities of the Assessors and reporting annually to the Provost.
- 4.5.1 In addition to serving as an Assessor, the Coordinating Assessor shall be responsible for:
- i) coordinating the activities of the Assessors;
 - ii) keeping a confidential record of all enquiries and Complaints and their disposition;
 - iii) ensuring an equitable distribution of work between assessors while taking into account as far as is feasible the wishes of Complainants;
 - iv) collecting the data necessary to allow for the preparation of reports on the operation of the Policy; and
 - v) reporting at least annually to the Provost on such matters as are necessary for the effective operation of the Policy.
- 4.6 Assessors shall be provided with appropriate training.

Section 5 – PROCEDURES

5.1 Mandate of the Assessors

- 5.1.1 Subject to Sections 5.2.1 and 5.3 of this Policy, the mandate of an Assessor shall be to receive a Complaint, investigate it, and to submit a report of the results of his or her investigation in writing to the Provost, as soon as possible but no later than thirty (30) working days after the initiation of a Complaint, unless the parties to a Complaint have consented in writing to a longer delay, which delay shall not exceed an additional period of 5.1.1

5.4 Investigation of Complaints

5.4.1 Upon the initiation of an investigation the Assessor shall provide the Respondent with a copy of the Complainant's written Complaint.

5.4.2 The Assessor shall investigate the Complaint fairly using such methods he or she deems appropriate in the circumstances which may include meeting with witnesses, reviewing files and documentation, and seeking information from third parties.

5.4.3 All members of the University community, including the parties and their respective Advisors, shall cooperate with the Assessor and respond in a timely fashion to his or her request for meetings or information.

5.4.4 The Assessor shall meet with the Complainant and the Respondent individually. Exceptionally, other reasonable means of communication may be substituted. The Assessor shall not hold a hearing.

5.4.5 The Assessor shall provide the Complainant and the Respondent a copy of the written report of the investigation.

- ii) institute disciplinary proceedings in accordance with the Regulations Relating to the Employment of Academic Staff, the Regulations Relating to the Employment of Librarian Staff, the Disciplinary Measures Policy for Non-Unionized Non-Academic Staff or the disciplinary process pursuant to the collective agreement to which the Respondent is subject, or the Code of Student Conduct and Disciplinary Procedures, as the case may be.

The time delays for taking disciplinary measures as set out in the disciplinary regulations or policies shall begin ten (10) working days from the date of the Provost's decision.

5.5.4 Where the Provost agrees with a recommendation that disciplinary action is not justified, the Provost shall so notify the parties within ten (10) working days from the date of receipt by the Provost of either the Assessor's report or the clarification or information requested pursuant to section 5.5.2.1, whichever is the later, giving his or her reasons in writing, with a copy to the Assessor who investigated the Complaint.

5.5.5 Where the Provost is tending to disagree with a recommendation of an Assessor, the Provost shall, within ten (10) working days, consult with one other Assessor, prior to making his or her decision.

5.5.5.1 Within ten (10) working days following such consultation the Provost shall:

- i) notify the parties of his or her decision; and
- ii) where appropriate, institute disciplinary proceedings in accordance with section 5.5.3.

5.5.6 The Provost is not required to meet with the Complainant or the Respondent before or after rendering his or her decision.

5.6

Section 6 – ANNUAL REPORT

6.1 The Provost shall report annually to Senate on the application of this Policy.

Section 7 – ACADEMIC FREEDOM

7.1 Nothing in this Policy shall abridge academic freedom in the University's educational mission. Prohibitions against Harassment, Sexual Harassment and Discrimination Prohibited by Law do not extend to statements or written materials that are relevant and appropriately related to the subject matter of courses.

Section 8 – REVIEW OF POLICY

8.1 After a further three years of its operation and if Senate so determines, this Policy shall be reviewed by a working group comprised of:

- i) one representative of each of MAUT, MUNASA, MUNACA, AGSEM, SSMU, PGSS, MACES, MCSS and JSBCE;
- ii) two persons representing the Trades and Services Unions;
- iii) the Coordinating Assessor;
- iv) the Director of the Social Equity and Diversity Education Office; and
- v) the Provost or his or her delegate.

Legislative History:

Approved:

Senate	December 7, 2005	Minute 5
Board of Governors	December 12, 2005	Minute 7

Amendments:

Senate	December 2, 2009	Minute 3.1
Executive Committee	December 7, 2009	Minute 5.1.2