UOITFA Response to UOIT's Draft *Policy Against Violence, Sexual Violence, Harassment and Discrimination*, as posted 15 September 2016

19 September 2016

Statement of Principles:

The University of Ontario Institute of Technology Faculty Association (UOITFA) is an organization representing tenured, tenure-track and teaching faculty at the University of Ontario Institute of Technology (UOIT). Its primary obligation is to advance and protect its constitutional objectives, the collective agreements, and legislative rights of its members. Anything contained herein is without prejudice to upholding these principles and defending these rights.

Preamble:

The Association appreciates UOIT's willingness to consult in this matter, particularly in the past few weeks, and UOIT's acceptance of several of the recommendations put forward by the Association. The Association also supports the intention of Bill 132 and UOIT in its intent to comply with this legislation.

The Association remains very concerned with UOIT's response to, in particular, Schedule 4 of Bill 132 which amended the Occupational Health and Safety Act effective September 8, 2016, as well as how our Members may potentially be impacted by the procedures and other policy instruments referred to in the Draft Policy, but to date have not been made available as part of the consultation process.

As such, and in accordance with the Statement of Principles above, the Association reserves the right to grieve any parts of this Policy or subsequent policy instruments or their impact on our Members, whether referred to in this letter or not.

Academic Council Report, Cheryl Foy, dated September 13, 2016

Previously, the Association has expressed concern that a single parent policy would be sufficient to cover a wide range of legislation, university members and the many diverse potential issues that may fall under such an umbrella. It is with hesitation that we review this proposed policy, particularly with the policy instruments not yet available for consultation.

Consultation has occurred, but our understanding is that this has been quite limited in terms of student consultation, which is required in Bill 132, and no consultation has yet occurred with the Health and Safety Committee, which is also required by the Occupational Health and Safety Act amendments effective September 8, 2016.

Furthermore, although draft documents have been circulated, the Association was only provided in August with the draft of a Student Sexual Violence Policy dated May 2016 (which had already been superseded by a very different draft). It was only in the past few weeks that we first saw the draft Violence, Harassment and Discrimination policy. None of those addressed the new OHSA requirements.

Draft Policy Recommendations:

Definitions:

The expansion and clarification in this latest draft are noted. We would like to re-iterate some of our previous recommendations and respond to the draft definitions.

With regards to “Consent,” which was added recently, many other such policies are clearer that Consent can be revoked and generally have a stronger emphasis on an “unimpaired” requirement.

There is no definition of “Disclosure;” however it is used repeatedly in the policy, for example in the definition of “Disclosure Recipient”.

In the definition of “Poisoned Environment,” “harassing behaviour” and “discriminatory behaviour" which are not defined, are used instead of “Harassment” and “Discrimination,” which are defined. The “and” in the first sentence should be “and/or”.

The definition of “UOIT Recipient” refers to providing aid to Disclosers; however, in some cases the Discloser might be a Disclosure Recipient who then might disclose to a UOIT Recipient, as discussed with Mr Bowman earlier. As noted in previous consultations, a mechanism for launching a formal complaint (versus informal disclosure to anyone on campus) should be clearly laid out in the policy.

5. b) “UOIT’s discretion” in this matter is not appropriate.

9. The first sentence referring to adherence to core values is vague and does not add anything to this policy.

12.2. Is the intention of this list a) to h) to indicate that some forms of discrimination or reasons for violence and harassment are more important that others? It may be more appropriate to reference the prohibited grounds in the definition of Discrimination and then add other considerations.

14.1. This needs to respect the legal bargaining agents and representatives for certain UOIT Members, for example this Association. We have recommended language that appears in many other university policies to account for campus bargaining unit members, and again recommend this be incorporated.

15.1. There is no requirement for a Disclosure Recipient to take any action. Again, the process for making a formal versus informal disclosure needs to be clearly outlined.

15.2. "Reprisal" is defined here, not in the definitions section.

17.2. This falls under the "Alternate Paths" section, but it would be the only path to follow. It (and 14.1.) also does not address the situation where such a Member would be the subject of the Complaint.

18. Most policies include an Informal and a Formal resolution process; this does not.

18.1. This should be Violence, Harassment and***/or*** Discrimination, and in 18.1. a).

19. The OHSA, as amended by Bill 132, requires the Health and Safety Committee to be part of the review process.

General Recommendations:

The Association strongly recommends that policy instruments be made available for discussion as soon as possible, and that this draft Policy be reconsidered at that time.

We also recommend that come into compliance with the OHSA by having policy and programs that:

1) Have been consulted on by the health and safety committee;

2) Have measures and procedures for workers to report incidents of workplace harassment to a person other than the employer or supervisor, if the employer or supervisor is the alleged harasser;
3) Provides workers with information and instruction that is appropriate for the worker on the contents of the policy and program with respect to workplace harassment; and
4) Cover the other requirements of the Act.