



General Faculties Council
Campus Law Review Committee
Approved Open Session Minutes

Thursday, October 27, 2016
2-31 South Academic Building (SAB)
9:30 AM - 11:00 AM

ATTENDEES:

Voting Members:

Steven Penney	Chair, Academic Staff Elected from at-large, appointed by GFC Executive Committee
Maxine Clarke	Member, Staff selected from Categories A1.0, A2.0 and/or B1.0
André Costopoulos	Member, Vice-Provost and Dean of Students
Deborah Eerkes	Member, Discipline Officer, Office of Student Judicial Affairs
Francesca El Ghossein	Member (Delegate), Representative of the Students' Union Executive, appointed by the SU Executive
Brent Epperson	Member (Delegate), Representative of the Student Ombudservice
Elaine Geddes	Member, Academic Staff and Associate Dean (Categories A1.1, A1.5 or counterpart in A1.6) who is a current Associate Dean
Sarang Gumfekar	Member, Student-at-large (Graduate)
Mackenzie Martin	Member, Student-at-large (Undergraduate)
Sasha Van der Klein	Member, Representative of the Graduate Students' Association, appointed by the GSA Executive

Non-Voting Members:

Meg Brolley	Member, General Faculties Council Secretary and Manager of GFC Services
Michael Peterson	Member, Appeals and Compliance Officer

Presenter(s):

Steven Penney	Professor, Faculty of Law and Chair, GFC Campus Law Review Committee (CLRC)
André Costopoulos	Vice-Provost and Dean of Students

Staff:

Andrea Patrick, Coordinator, GFC Campus Law Review Committee
Marion Haggarty-France, University Secretary

OPENING SESSION

1. Approval of Agenda

Materials before members are contained in the official meeting file.

Motion: Eerkes/Gumfekar

THAT the GFC Campus Law Review Committee approve the Agenda.

CARRIED

2. Approval of the Open Session Minutes of September 22, 2016

Materials before members are contained in the official meeting file.

Motion: Van der Klein/Gumfekar

THAT the GFC Campus Law Review Committee approve the Minutes of September 22, 2016.

CARRIED

3. Comments from the Chair

The Chair invited members to introduce themselves.

DISCUSSION ITEMS

4. Proposed changes to the Helping Individuals at Risk (HIAR) Policy and Procedure (UAPPOL)

Materials before members are contained in the official meeting file.

Presenter(s): André Costopoulos

Purpose of the Proposal: The Helping Individuals at Risk (HIAR) Policy and Procedure (UAPPOL) was approved in 2010. The policy requires that a review of the suite be conducted after three years.

Discussion:

Dr Costopoulos provided members with a brief summary of this proposal.

A member commended Dr Costopoulos on this proposal.

There was no further discussion.

5. Sexual Violence Policy and Procedure: Development Update

Materials before members are contained in the official meeting file.

Presenter(s): André Costopoulos;

Purpose of the Proposal: To discuss the continuing development of the Sexual Violence Policy and Procedures.

Discussion:

Dr Costopoulos explained that the Policy itself is a visible statement to the community about supporting survivors and allowing due process, and as well, that the University is committed to providing education on sexual violence. In regards to this educational piece, he reported that it will include information on disclosure and additional relevant information for those who would play a role in handling complaints.

The Procedure, he added, will point to policies such as the Code of Student Behaviour and various staff collective agreements. He also clarified that the Procedure will include the addition of formalized interim measures following a disclosure.

A member sought clarification regarding interim measures, and Ms Eerkes explained that these include measures to protect the complainant, such as no-contact instructions, and that they are designed to be non-

punitive. On this point, Dr Costopoulos added that interim measures are meant to manage an individual's privileges rather than their rights. A member suggested that there could be cases where interim measures do impact a student's program, such as situations where individuals are in the same class. Dr Costopoulos explained, in response, that interim measures could be used alongside voluntary measures, especially in cases where there have been a disclosure but not a complaint. He added that although the different interim measures may vary, that the principles behind them do not. Members discussed the process of determining interim measures and those who are involved in creating these steps. On the decision to impose interim measures, the University Secretary enquired about source of delegated authority for the decision makers listed in the Procedure and suggested that further documentation be included to indicate specific Board of Governors delegations, adding that the community has asked for clearer lines of delegations of authority throughout institutional policies and procedures.

As the discussion continued, a member sought clarification in relation to requirement of the employer to accommodate without conditions, as contained within the draft Policy.

Members also expressed questions regarding the training requirement, including whether the training is evidence-based and concerns that this may impact the impartiality of the judiciary process. The Chair acknowledged that this element may represent a vulnerability to the University, adding that the University must demonstrate a fair process for appellants. He commented that the balance between community expectations and fair process must be closely examined to ensure that an appellant's rights are not impeded. He reminded members that these cases are subject to judicial review, and that a negative outcome would be a risk to the institution. He explained that in law, there needs to be a clear line drawn around what is prohibited, and that although it is crucial to protect individuals, it would be equally damaging to impose processes which may cause harmful stigma and anxiety to individuals when there could be alternate measures in place to deal with less harmful conduct.

During a lengthy discussion of the definitions, Committee members expressed concern with the definitions of sexual violence, psychological violence, stalking, and the distribution of intimate images. Members discussed harassment in relation to repeated attempts to contact, the possibility of individuals being accused of misconduct based on one image or text as well as the differing individual interpretations of sexual harassment. There was discussion on the use of the reasonable person standard in such situations and it was suggested that the definitions needed further work to ensure these perspectives are represented.

The Chair thanked the presenters and noted that the Policy would be a valuable tool for the University.

6. Question Period

There were no questions.

INFORMATION REPORTS

7. Items Approved by the GFC Campus Law Review Committee by E-Mail Ballots

There were no items.

8. Information Items Forwarded to Committee Members Between Meetings

There were no items.

CLOSING SESSION

9. Adjournment

The Chair adjourned the meeting at 10:50 a.m.