

**THIS COLLECTIVE AGREEMENT (SESSIONAL ADJUNCTS)**

**between**

**QUEEN'S UNIVERSITY FACULTY ASSOCIATION  
(hereinafter called the Association)**

**and**

**QUEEN'S UNIVERSITY AT KINGSTON  
(hereinafter called the University)**

**(February 20, 2004 – April 30, 2006)**

**The Parties agree as follows:**

**Contact Information for the Parties:**

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**ARTICLE 1  
RECOGNITION AND DEFINITION OF THE BARGAINING UNIT**

1.1 The University recognizes the Association as the exclusive bargaining agent of the Members of the Bargaining Unit. Until the Parties agree otherwise, the Bargaining Unit is defined by the certificate of the Ontario Labour Relations Board, dated May 1, 2003. This certificate and subsequent amendments, if any, shall be deemed to be incorporated into and become part of this Collective Agreement.

1.2 Members in the Bargaining Unit are all academic staff of Queen's University at Kingston, in the province of Ontario, who, individually or jointly, are responsible for instruction and evaluation in degree-

credit courses, for pay, and who are persons coming within the definition of members of the adjunct academic staff, Group 1, as set out in the June 23, 1994 "Statement on Adjunct Academic Staff and Academic Assistants", as contained in Appendix A, save and except:

- (a) employees covered by subsisting collective agreements;
- (b) voting members of the Board of Trustees;
- (c) Associate Deans and persons above that rank including, without limitation, the Principal and Vice-Chancellor, Vice-Principals, Associate Vice-Principals, Deans, Vice-Deans, and persons providing confidential assistance in respect of labour relations to persons in one or more of those positions; and anyone who is appointed to act in those positions;
- (d) the University Librarian and the Associate University Librarian;
- (e) the University Archivist;
- (f) (f) physicians with or without academic rank to whom the Ontario Medical Association Dues Act, applies;
- (g) persons, including visiting fellows, employed by another university, institution, firm or government agency, and whose duties at Queen's University are part of their employment at their home university, institution, firm or government agency;
- (h) post-doctoral fellows and research fellows whose remuneration for teaching at Queen's University is from an external source;
- (i) teaching assistants;
- (j) academic assistants, as defined in the June 23, 1994 "Statement on Adjunct Academic Staff and Academic Assistants";
- (k) persons registered as students at Queen's University at Kingston who teach in the discipline in which they are registered;
- (l) persons whose appointments are exclusively for work outside of the Province of Ontario, including persons teaching at the International Study Centre at Herstmonceux Castle;
- (m) the Executive Director and Resident (Academic) Director at the International Study Centre at Herstmonceux Castle;
- (n) those persons who as guest lecturers provide only occasional instruction in a course;
- (o) persons engaged in supervision of students unless they are otherwise members of the Bargaining Unit.

1.3 Clarity note: Supervision of students in clinical, professional and other academic programs is not sufficient to justify inclusion of a person in the Bargaining Unit.

## ARTICLE 2 DEFINITIONS

2.1 Except where a word is given a different or a special meaning, the words listed below shall, for the purposes of this Agreement, have the meanings given in this Article.

**2.2 Academic Session**

A period of time during the year, the specific dates of which are set annually by Senate. There are two academic sessions: the Spring-Summer session and the Fall-Winter session.

**2.3 Academic Term**

A period of time during the year, the specific dates of which are set annually by Senate. There are four academic terms: the Spring term, the Summer term, the Fall term and the Winter term.

**2.4 Academic Year**

A period of twelve (12) calendar months which commences on the first day of July and ends on the last day of June in the next calendar year, inclusive. See also Fiscal Year (Article 2.16).

**2.5 Agreement**

The Agreement negotiated between and ratified by the University and the Association concerning the Sessional Adjunct Bargaining Unit.

**2.5 Appointment Dates**

The period of employment by the University.

**2.6 Association**

The Queen's University Faculty Association (QUFA).

**2.7 Bargaining Unit**

The Sessional Adjunct Bargaining Unit as defined by the Certificate issued by the Ontario Labour Relations Board (OLRB), dated May 1, 2003 as may be amended by the OLRB or by the Agreement of the Parties.

**2.8 Board**

The Board of Trustees of Queen's University at Kingston.

**2.9 Day**

A calendar day. See also Working Day (Article 2.33).

**2.10 Dean**

The senior academic officer of a Faculty, appointed in accordance with procedures laid down for the governance of the University by the Senate and the Board. Normally, the word Dean shall encompass anyone acting in that capacity, or delegated to do so in certain matters.

**2.11 Delegate**

A person expressly designated to act on behalf of another in certain matters.

**2.12 Department**

**An academic department, as duly constituted by the Senate and the Board.**

**2.13 Employer**

**Queen's University at Kingston.**

**2.14 Faculty**

An academic Faculty (including the School of Business and the School of Graduate Studies), as duly constituted by the Senate and the Board.

**2.15 Fiscal Year**

A period of twelve (12) calendar months which commences on the first day of May and ends on the last day of April in the next calendar year, inclusive. See also Academic Year (Article 2.4)

**2.16 Joint Committee on the Administration of the Agreement (JCAA)**

**The Committee as described in Article 12 of the Collective Agreement.**

**2.17 Member**

**A person included in the Sessional Adjunct Bargaining Unit as defined by the Certificate issued by the Ontario Labour Relations Board (OLRB), dated May 1, 2003 as may be amended by the OLRB or by agreement of the Parties.**

**2.18 PARTEQ**

**PARTEQ Development Research Innovations, a body corporate incorporated under the laws of the Province of Ontario.**

**2.19 Parties**

The Parties to this Collective Agreement, namely the Board of Trustees of Queen's University at Kingston and the Queen's University Faculty Association (QUFA).

**2.20 Plenary Meeting**

**A meeting of the unit that is open to all academic staff of the unit.**

**2.21 President**

The President of the Queen's University Faculty Association (QUFA).

**2.22 Principal**

**The Principal of Queen's University at Kingston.**

**2.23 Program**

**A related set of academic activities, normally leading to a degree, which may be within an academic unit, or may be supported by more than one (1) academic unit.**

**2.24 Queen's Gazette**

The Gazette published by Queen's University at Kingston.

**2.25 Senate**

The Senate of Queen's University at Kingston, as constituted by the Royal Charter of 1841 as amended from time to time.

**2.26 Sessional Adjunct**

A Member of the Bargaining Unit.

**2.27 University**

Queen's University at Kingston as established by the Royal Charter of 1841, as amended from time to time, or any officers authorized to act on behalf of the University.

**2.28 Unit**

An academic unit which is a faculty, school, or department headed by a Dean, Director, Head or Chair.

**2.29 Unit Head/Head of the Unit**

The Head, Chair, or Director of the Unit or the Dean of a non-departmentalized Faculty.

**2.30 Week**

Seven consecutive days.

**2.31 Working Day**

Monday through Friday of any week, excluding official holidays and periods during which the University is officially closed. See also Day (Article 2.9).

**ARTICLE 3  
DUES CHECK-OFF**

**3.1 Dues Check-off**

(a) Effective September 1, 2003, the University agrees to deduct:

- i. monthly dues or an equivalent amount from the salaries of all Members of the Bargaining Unit on a monthly basis; and
- ii. any other fees, levies, and assessments which may be authorized by the Association in writing to the University from time to time.

(b) A Member of the Bargaining Unit who affirmatively asserts an objection to the payment of dues or fees to a trade union on religious or conscientious grounds shall complete and file with the University a declaration explaining the nature of the religious or conscientious objection. A copy of the declaration shall be provided to the Association. So long as the University and Association agree that the objection would accord with principles established under the Ontario Labour Relations Act, a sum equivalent to monthly dues shall be deducted from that Member's salary and remitted to a registered charity chosen annually by the Member from a list of charities agreed upon from time to time by the University and the Association and set out in a Schedule hereto attached (Schedule A).

- (c) New or re-entering Members to the Bargaining Unit shall have four (4) months to declare their objection.

### 3.2 Dues Remittance

- (a) The amounts deducted under this Article shall be remitted monthly to the Association no later than the twentieth (20th) day of the following month. The University shall subtract any sum to be paid to charities prior to the monthly remittance.
- (b) The Association shall advise the University one (1) month in advance of the pay period to which changes apply in the monthly dues schedule, fees, levies and assessments. Such changes shall be limited to three (3) occasions in any one (1) year.
- (c) The University shall inform the Association of the name, rank or status, and salary of Members of the Bargaining Unit, and the amount deducted under this Article from every Member's salary on a monthly basis. The University shall advise the Association of changes to such information as part of the monthly return.
- (d) The University shall advise the Association of any entry, re-entry or departure of any person from the Bargaining Unit.

### 3.3 Protocol for Disputes

Monies that result out of any disputed objection shall be held in trust and any objections submitted in a group to the grievance procedure agreed upon in this Collective Agreement.

## ARTICLE 4 COPIES OF THE AGREEMENT

- 4.1 Parties shall jointly prepare the master copy of the draft form of the Agreement needed for ratification, including those appendices which the Parties agree should be distributed.
- 4.2 Subsequent to ratification, the Parties shall cooperate in any technical editing still required. This process shall not delay implementation or signing of the Agreement. Within ninety (90) days of the completion of technical editing by the Parties, the University shall provide each Member with one (1) copy of the final version, and further, shall provide the Association with fifty (50) copies for its own use. Members hired subsequent to the initial distribution shall receive copies from the University on taking up their employment. A copy shall be available for consultation by any person interviewed for a position within the Bargaining Unit.
- 4.3 The University shall also make the Agreement publicly accessible in an electronic form.

## ARTICLE 5 LEGAL LIABILITY

- 5.1 The University shall provide insurance coverage in respect of the liability of Members, while acting on behalf of the University, to the extent provided by the CURIE policies now in force. The University shall reimburse the Member for the costs incurred by the Member resulting from the application of the deductible provision in such insurance coverage, and for any costs incurred by the Member resulting from the failure of the University to meet the requirements for such insurance coverage.

## ARTICLE 6



**CORRESPONDENCE AND INFORMATION**

- 6.1 Except where otherwise specified in this Agreement, correspondence between the Association and the University arising out of this Agreement or incidental to it shall pass between the President and the Principal, or their designates.
- 6.2 The University shall provide the Association with the following information:
- (a) a list containing name, title, rank, staff number, contract start and end dates, gender, unit, University address, remuneration for each course, identification of course(s) and proportion of course(s) taught, for each Member no later than September 1 (for those teaching in the Fall term or the Fall-Winter session), January 1 (for those teaching in the Winter term), and May 1 (for those teaching in the Spring term, Summer term or Spring-Summer Session) every year;
  - (b) the list required by Article 6.2 (a) shall be supplemented with the names and information of any additional Member appointed under Article 23.2.4, Article 23.2.5, and Article 23.2.6 and with the names and details of any revisions to appointments for Members, as soon as possible after such appointments or revisions are made;
  - (c) the e-mail addresses for Members as soon as possible after their appointment begins;
  - (d) the names of all Members whose employment has been terminated for reasons other than expiration of contract, the dates of terminations, and the categories of termination such as death, resignation, retirement and dismissal within ninety (90) days of termination;
  - (e) such other information as may be set out elsewhere in this Agreement that is required to be given.
- 6.3 The Association agrees to provide the University with the following information:
- (a) a copy of each communication bulletin for Members of the Bargaining Unit;
  - (b) an up-to-date copy of the Constitution and Bylaws of the Association for Members of the Bargaining Unit;
  - (c) an up-to-date list of the Executive Committee of the Association and all other standing committees of the Executive;
  - (d) such other information as may be set out elsewhere in this Agreement that is required to be given;
  - (e) notice, agenda, and approved minutes of the Association's General Meetings (regular and special).
- 6.4 Unless otherwise provided by this Agreement, the University's internal mail shall be deemed adequate for correspondence between the Association and the University. All communications required by Article 17 and Article 18 between the University and Members shall be delivered by receipted, registered Canada Post, or other personal delivery for which signed acknowledgment of receipt has been received.

**ARTICLE 7  
ASSOCIATION RIGHTS**

**7.1 Support Stipends**

7.1.1 The University shall provide three stipends each year to support the work of the Association. The stipends shall be at the minimum rate for a half course in those units where the standard workload is 2.5 courses. The stipends shall be paid through the University payroll system to individuals designated by the Association. Stipend holders who are not Sessional Adjuncts shall have the same rights and protections with respect to e-mail and library access as Sessional Adjuncts, during the time when stipend holders are performing services for the Association.

**7.2 Services**

7.2.1 The Association can use all internal services to be charged at the internal user rate.

7.2.2 The Association can use the internal campus mail delivery service for the purpose of communicating with Members of the Bargaining Unit without restriction.

7.2.3 The University shall provide the Association access to meeting rooms on campus for Association business through Room Reservation Services in accordance with normal booking procedures and regulations.

7.2.4 The Association's staff will be paid through the University payroll system at the Association's expense and can participate in the range of benefit options available to the Association Members with the same costs and payments arrangements. Any employer's contribution will be paid by the Association.

**7.3 Work of the Association**

7.3.1 Work by Members of the Bargaining Unit and by stipend holders under Article 7.1.1 on the Association's Executive Committee, the Council of Representatives, or other committees or sub-committees shall be considered by the University as service to the academic community and such work shall be included in, and covered by, Article 5.1.

**ARTICLE 8  
MANAGEMENT RIGHTS**

8.1 The University retains the right to manage the University except to the extent modified by the terms in this Collective Agreement. Such rights shall be exercised in a fair and equitable manner consistent with the provisions of this Collective Agreement.

**ARTICLE 9  
NON-DISCRIMINATION**

9.1 There shall be no discrimination, interference, restriction or coercion exercised or practised regarding any term or condition of employment, by reason of sex, age, race, creed, colour, ancestry, national origin, place of birth, language (except where competence in the language is a bona fide occupational requirement), political or religious affiliation or belief, clerical or lay status, citizenship, sexual orientation, gender identity, physical attributes, spousal status, family relationship, physical or mental ill-health, illness or disability (provided that such condition does not interfere with the ability to carry out the essential duties of the position), place of residence (except where the place of residence would prevent the carrying out of any part of the required duties), or membership or participation in the Association.

9.2 This Article shall not preclude any equity measures agreed to by the Parties or required by law.

9.3 Policy(ies), practice(s) or act(s) which create(s), intentionally or unintentionally, a sustained negative working climate which can reasonably be attributed to any of the prohibitive grounds in Article 9.1 shall be considered discrimination.

**ARTICLE 10  
PAST PRACTICES**

- 10.1 Subject to the provisions of this Agreement and except as specifically agreed between the Parties, all recognized existing practices affecting the terms or conditions of employment of Members of the Bargaining Unit shall remain in effect and unaltered during the term of the Agreement and any extension thereof.
- 10.2 **“Recognized existing practices” are those practices which are university-wide, reasonable, certain, known and in force as of May 1, 2003 or such other practices as the Parties may identify.**
- 10.3 **The onus to show that such a practice exists rests upon the person seeking to rely upon the practice.**

**ARTICLE 11  
STRIKES BY OTHER BARGAINING UNITS**

- 11.1 **During any legal strike by another Bargaining Unit against the University, or during any lockout of another Bargaining Unit by the University, Members have the right to decline to perform the work of striking or locked-out employees.**
- 11.2 **No Member shall be disciplined for refusing to cross the picket line of another Bargaining Unit which is engaged in a legal strike against the University or has been locked out by the University, if any of the following apply:**
- (a) **the Member has reasonable grounds to believe that her/his personal safety may be jeopardized;**
  - (b) **the Member has scheduled duties that would be affected by declining to cross, but has advised the appropriate Head of the Unit as early as reasonably possible, and has made alternate arrangements for carrying out the scheduled duties;**
  - (c) **the Member has scheduled duties that will not be carried out, and has advised the appropriate Head of the Unit as early as reasonably possible that the Member will not be available, it being understood that for each scheduled classroom hour (or part thereof) for which this occurs, the Member will be deemed to have sought and been granted a pro rata leave without pay, based on the ratio between the scheduled classroom hours for which duties are not performed and twice the number of classroom hours in the course(s) for which the Member is appointed; or**
  - (d) **if such refusal will not constitute just cause for discipline pursuant to Article 18.**
- 11.3 Any dispute about any aspect of this provision or its application is subject to the grievance procedure pursuant to Article 17.

**ARTICLE 12  
JOINT COMMITTEE ON THE ADMINISTRATION OF THE AGREEMENT (JCAA)**

- 12.1 The Parties agree to establish a Joint Committee on the Administration of the Agreement.
- 12.2 **The JCAA shall be composed of three (3) representatives of the University and three (3) representatives of the Association. A quorum shall be four (4) members, providing two (2) representatives of each Party are present.**
- 12.3 **The Joint Committee on the Administration of the Agreement shall:**

- (a) endeavour to maintain and develop a spirit of cooperation and mutual respect;
  - (b) review matters arising from the administration, interpretation and operation of the Agreement and other matters of mutual concern but excluding any dispute which is currently being resolved under the grievance procedures in this Collective Agreement;
  - (c) endeavour to facilitate better working relationships between the University and the Association and its Members;
  - (d) endeavour to foster better communications between the various components of the University community;
  - (e) carry out functions specifically delegated by the Collective Agreement;
- 12.4 The JCAA shall not have the power to add or to modify in any way the terms of this Agreement, but shall function in an advisory capacity to the Association and/or the University and shall seek the timely correction of conditions which may give rise to misunderstandings.
- 12.5 The Parties agree to avoid unnecessary variations in the administration, interpretation and operation of this Agreement and the Collective Agreement between Queen's University and the Queen's Faculty Association covering faculty, librarians and archivists and dated 11 May 2002 to 30 April 2005. To this end, either party may identify an issue as common to both agreements and request that the Joint Committees on the Administration of the Collective Agreements meet together to discuss the issue.
- 12.6 The JCAA shall determine its own procedures, subject to the following provisions:
- (a) The Committee shall be chaired jointly by one (1) of the representatives of the Association and one (1) of the representatives of the University who shall together be responsible for preparing and distributing the agenda and minutes of the meetings.
  - (b) The JCAA shall meet not later than ten (10) working days after the request of either Party, but in any event the JCAA shall meet at least twice yearly during the academic year. Each member of the JCAA shall receive notice not less than five (5) working days before the scheduled date of the meeting, and shall receive the agenda of the meeting at least two (2) working days in advance.
  - (c) The Parties may, by mutual consent, expand the JCAA, to create sub-committees of the JCAA on a parity basis to perform particular functions assigned by particular Articles.

### ARTICLE 13 ACADEMIC FREEDOM

- 13.1 Generally:
- (a) The unimpeded search for knowledge and its free expression and exposition are vital to a University and to the common good of society;
  - (b) Members have the right to academic freedom which shall include the freedom, individually or collectively, to develop and transmit knowledge and opinion through research, study, discussion, documentation, production, creation, teaching, lecturing and publication, regardless of prescribed or official doctrine, and without limitation or constriction by institutional censorship;
  - (c) The Parties agree to uphold and to protect the principles of academic freedom, not to infringe upon or abridge academic freedom as set out in this Article, and to use all

reasonable means in their power to protect that freedom when it is threatened.

**13.2 Academic freedom includes the following interacting freedoms: freedom to teach, freedom to research, freedom to publish, freedom of expression, freedom to acquire materials. Academic freedom ensures that:**

- (a) Members teaching courses have the right to the free expression of their views, and may choose course content, use teaching methods and refer to materials without censorship or reference or adherence to prescribed doctrine;**
- (b) Members have the freedom to carry out scholarly research without reference or adherence to prescribed doctrine;**
- (c) Members have the right to publish the results of their research without interference or censorship by the institution, its agents or others;**
- (d) Members have the right to freedom of expression, including the right to criticize the government of the day, the administration of the University, or the Association;**
- (e) Members have the freedom to exercise professional judgment in the acquisition of materials, and in ensuring that these materials are freely accessible to all for bona fide teaching and research purposes, no matter how controversial these materials may be.**

**13.3 Academic freedom does not require neutrality; rather, it carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research, teaching, publication and other forms of scholarly expression on an honest search for knowledge. Academic freedom does not confer legal immunity; nor does it diminish the obligation of Members to meet their responsibilities to the University.**

In the exercise of academic freedom, Members shall respect the academic freedom of others.

## **ARTICLE 14 INTELLECTUAL PROPERTY**

### **14.1 Definition**

**14.1.1 Intellectual property means any result of intellectual or artistic activity, created by a Member, that can be owned by a person. This includes inventions, publications, computer software, works of art, industrial and artistic designs, as well as other creations that can be protected under patent, copyright, or trademark laws.**

**14.1.2 Any provisions of this Article apply as well to a creator of a portion of a piece of intellectual property, on a pro rata basis.**

### **14.2 Ownership and Rights of All Intellectual Property**

**14.2.1 All intellectual property is owned by the Members who create it, unless some other arrangement has been agreed to in advance for certain types of funding or by individual contract.**

**14.2.2 Alternative arrangements may be made when the intellectual property is created under a contract between the University and an outside sponsor only if the sponsor insists on such an arrangement as a condition of funding and this is acceptable under prevailing University guidelines for contract research.**

**14.2.3 The owners of intellectual property have the right to make all the decisions concerning the**

development and use of their property, including commercial use, as long as such decisions are consistent with the University's research policy and contractual constraints that may apply in individual cases by the application of Article 14.2.1.

14.2.4 No creator is obliged to engage in commercial exploitation. The creator is free to publish or use other means to place the intellectual property in the public domain as an alternative to the provisions contained herein.

### 14.3 The University's Licence

The University has a non-exclusive, royalty-free, fully paid-up licence to use for non-commercial educational and research purposes, all intellectual property developed by Members as part of their employment at Queen's.

### 14.4 Commercial Exploitation and Protection of Patentable Intellectual Property and Computer Software:

14.4.1 Members who wish to exploit the commercial potential of patentable intellectual property and computer software, must report, in writing, to the Vice-Principal (Research) prior to seeking protection or commercialization.

14.4.2 (a) Following the disclosure to the Vice-Principal (Research), if PARTEQ is a suitable vehicle for the exploitation of the intellectual property, it shall have an exclusive opportunity for sixty (60) days to make a proposal for exploitation acceptable to the creator. Any disclosure shall be kept in confidence by PARTEQ and the University. The creator has no obligation to accept a PARTEQ offer.

(b) Unsuitability of PARTEQ shall be based upon:

- i. an inadequate capacity to undertake the exploitation in an expeditious manner; or
- ii. insufficient prior experience with the type of intellectual property or with the types of exploitation which are likely to yield a good return for such intellectual property.

(c) Any dispute as to whether PARTEQ is a suitable vehicle for exploitation of specific intellectual property is grievable under Article 17 of this Agreement.

### 14.5 Commercialization Through PARTEQ

14.5.1 If the creator elects to use the services of PARTEQ and PARTEQ agrees to commit its resources to protection and commercialization, the sharing of net revenues will be in accordance with the business practices of PARTEQ, as approved by its Board of Directors.

14.5.2 All agreements between Members and PARTEQ made after ratification of this Agreement shall contain a provision for the settlement of disputes between PARTEQ and the Member by arbitration, with the costs to be divided equally. The University undertakes to make all reasonable efforts to assist in the resolution of such disputes. Any periodic review of the relationship with PARTEQ by the University shall take fully into account the level of satisfaction of the Members who have contracts with PARTEQ.

14.5.3 Creators have the right to withdraw from agreements with PARTEQ under certain circumstances:

- (a) where the restrictions associated with the exploitation are interfering with the ability of the Member to pursue the Member's scholarly research, and the creator agrees not to seek subsequently to exploit the intellectual property for commercial purposes; or

- (b) PARTEQ has failed to bring appropriate skills and effort to bear on the exploitation over a period of time.

14.5.4 The applicability of Article 14.5.3 may be the subject of a grievance under Article 17. In the case of Article 14.5.3 (a), the Member is not obliged to repay the disbursements of PARTEQ. In the case of Article 14.5.3(b), the Member shall arrange for PARTEQ to be reimbursed for its disbursements. The Member shall then be reassigned the title and beneficial interest in the intellectual property.

#### 14.6 Commercialization by Independent Action

14.6.1 If the creator elects to protect or exploit intellectual property without PARTEQ and if PARTEQ was a suitable vehicle for such exploitation, and if the creator receives any net proceeds of exploitation, the University shall, in lieu of costs, receive twenty-five per cent (25.0%) of any net proceeds of exploitation exceeding five hundred thousand dollars (\$500,000.00) for any piece of such intellectual property.

14.6.2 All costs recovered under Article 14.6.1 by the University shall be paid to a fund at the University to be used exclusively for direct support of research by Bargaining Unit Members.

14.6.3 The Association shall receive yearly accounts of the fund described in Article 14.6.2 and its disbursements.

### ARTICLE 15

#### FRAUD AND MISCONDUCT IN ACADEMIC RESEARCH AND SCHOLARLY ACTIVITY

##### 15.1 General

This Article pertains to academic activities related to Members' employment at the University and to academic activities in which a Member has identified an affiliation with Queen's University.

##### 15.2 Definition

15.2.1 Fraud and misconduct in academic activity includes, but is not limited to:

- (a) fabrication, falsification, or plagiarism;
- (b) failure to recognize by due acknowledgement the substantive contributions of others, including students, or the use of unpublished material of others without permission, or the use of archival materials in violation of the rules of the archival source. (This applies to the unattributed use of any work produced by others in all formal and informal teaching materials.);
- (c) failure to obtain the permission of the author before making significant use in any publication of new information, concepts or data obtained through access to manuscripts or grant applications during the peer review process;
- (d) attribution of authorship to persons other than those who have participated sufficiently in the work to take public responsibility for its intellectual content;
- (e) submission for publication of articles originally published elsewhere except where it is clearly indicated in the published work that the publication is intended to be a republication;

- (f) material failure to meet other relevant federal or provincial statutes or regulations for the protection of researchers, human subjects, or the health and safety of the public, or for the welfare of laboratory animals;
- (g) material failure to meet other relevant legal requirements that relate to the conduct or reporting of research and scholarly activity;
- (h) failure to reveal material conflict of interest to sponsors or to those who commission work, or when asked to undertake reviews of research grant applications or manuscripts for publication, or to test products for sale or for distribution to the public.

15.2.2 Nothing in Article 15.2.1 shall be construed to restrict the academic and artistic freedom of creative artists.

15.2.3 Factors intrinsic to the process of academic research and scholarly activity such as honest error, conflicting data, or differences in interpretation or assessment of data or of experimental design or practice do not constitute fraud or misconduct.

### 15.3 Retention of Research and Scholarly Materials

15.3.1 Members shall only be responsible for providing an arbitrator access to research and scholarly activity materials which are in their possession and not for research materials which may be stored in Archives, libraries or other institutions which the employer may consult at its expense and according to the rules of the host institution.

15.3.2 (a) Normally, Members shall retain research and scholarly activity materials that are within their personal control for five (5) years.

(b) No Member shall be dismissed for fraud or misconduct in academic research and scholarly activity when the Member cannot reasonably defend her/ himself because the means of proof is no longer available because of the effluxion of time.

### 15.4 Procedures

15.4.1 All allegations of fraud or misconduct in academic activity shall be in writing, with documented evidence, signed, dated and forwarded to the Principal. The Principal may refer the allegations to a designate.

15.4.2 The Principal or designate shall investigate the allegations in accordance with the provisions of Article 18.

15.4.3 No person consulted by any party concerning the case shall be appointed an arbitrator in any subsequent arbitration dealing with these allegations.

15.4.4 A statement from the University that a Member was guilty of fraud or misconduct in academic activity, with or without any formal sanctions as provided in Article 18, constitutes discipline and may be arbitrated. Any discipline imposed on a Member for fraud or misconduct in research and scholarly activity shall be subject to Article 17.

15.4.5 If the matter is referred to an arbitrator, the University shall bear the onus of proving just and sufficient cause. The arbitrator shall have the power to vary the penalty imposed by the University.

15.4.6 Any finding of fraud or misconduct in academic activity shall require clear, cogent and convincing proof of actual dishonest purpose and intent or reckless disregard for the likelihood to mislead.



- 15.4.7** If the University decides after investigation not to take disciplinary action against the Member named in the allegations or if an arbitrator decides in her/his favour, the University shall remove all documentation concerning the allegations from the Member's Official File, and shall, at the sole discretion of the Member, destroy the documentation or transfer it to the Member, except that it shall retain any arbitration report which shall be a public document.
- 15.5** The University shall take such steps as may be necessary and reasonable to:
- (a) protect the reputation and credibility of Members wrongfully accused of fraud or misconduct in academic activity, including written notification of the decision to all agencies, publishers, or individuals who were informed by the University of the investigation;
  - (b) protect the rights, positions and reputations of Members who in good faith make allegations of fraud or misconduct in academic activity, or whom it calls as witnesses in an investigation. Such protection shall include the provision of legal counsel and the payment of other reasonable legal and related costs should the Member be sued for her/his participation in any investigation or in arbitration proceedings;
  - (c) minimize disruption to the research of the person making the allegation and of any third party whose research may be affected by the securing of evidence relevant to the allegation during the course of the investigation; and
  - (d) ensure that any disruption in research, teaching or community service resulting from allegations of fraud or misconduct does not adversely affect future decisions concerning the careers of those referenced in (a) to (c) above.
- 15.6** The University shall, where practicable, take disciplinary action against employees or students who make unfounded allegations of fraud or misconduct in academic research and scholarly activity misconduct which are reckless, malicious or not in good faith.
- 15.7** If the University's investigation or the arbitrator sustains an accusation of fraud or misconduct in research, and if that research is funded by an outside agency or has been published or submitted for publication, the Principal shall inform the agency or publisher concerned of the decision, as well as the Association and the complainant and respondent. In any event, if the outside agency or publisher has been informed of the proceedings before a judgment has been rendered, the Principal shall send a copy of the decision of the University administration to the agency or publisher concerned.

## **ARTICLE 16 CONFLICT OF INTEREST/CONFLICT OF COMMITMENT**

### **16.1 Conflict of Interest**

- 16.1.1** For the purposes of this Article, "immediate family member" means a spouse, partner, parent, child or sibling.
- 16.1.2** An actual or apparent conflict of interest arises when a Member is placed in a situation where his or her personal interest, financial or other, or that of an immediate family member or of a person with whom there exists, or has recently existed, a personal, intimate relationship, conflicts, or appears to conflict, with his or her responsibility to the University as defined in Article 27. Members are expected to avoid actual conflicts and apparent conflicts of interest.
- 16.1.3** No Member shall knowingly participate in any decision that directly and preferentially benefits the Member, or any individual with whom the Member has an immediate familial, sexual or financial relationship, except in accordance with the provisions of Article 16.1.4.
- 16.1.4** The existence of an actual or apparent conflict of interest does not necessarily preclude the involvement of the individual in the situation where the conflict has arisen, or may arise, but it

does require that the conflict be formally disclosed in writing to the person to whom the Member reports before any action or decision is taken. Where the person to whom the Member reports also has an interest in the matter, the disclosure shall be made in writing to the person at the next level of authority.

16.1.5 The person to whom the Member reports, following the receipt of the disclosure under Article 16.1.4, and after consultation with the Member and any other appropriate persons, shall determine whether a conflict, actual or apparent, exists, and shall determine an appropriate way to deal with the actual or apparent conflict of interest.

16.1.6 The resolution of the matter by the individual to whom the person reports shall be made in writing. Where no resolution of the matter is made at this level, the matter will be referred to the next higher level of authority for a decision.

## 16.2 Relations with Students

(a) Without limiting the generality of the above, Members shall not accept additional remuneration for tutoring any student enrolled in the University where such tutoring relates to the student's course or program at the University.

(b) Members who become involved in personal, intimate relationships with students with whom they have a supervisory or evaluative relationship have an obligation to disclose this relationship in accordance with Article 16.1.4.

(c) A Member who has an evaluative relationship with a student shall not employ that student in certain capacities (e.g. under contract, as a consultant, as an employee of a company in which the Member has a financial interest), without disclosure to, and the prior approval of, the Head of the Unit, as per Article 16.1.4. Members are not obligated to disclose the employment of a student as a research or teaching assistant.

(d) Members should not assign students to research projects sponsored by a business in which the Member or a member of his/her family has a financial interest without disclosure to the student, and disclosure and prior approval of the Head of the Unit.

## 16.3 Contractual and Financial Matters

16.3.1 Notwithstanding Article 16.1.4, a Member who has any interest, direct or indirect, in any contract, transaction, proposed contract or proposed transaction under consideration by the University and is part of the decision-making process shall:

(a) declare the nature and extent of the interest as soon as possible and no later than the meeting at which the matter is to be considered;

(b) refrain from taking part in any discussion or vote in relation to the matter;

(c) withdraw from the meeting when the matter is being discussed.

16.3.2 In particular, and without limiting the generality of the foregoing, unless specifically authorized by the Vice-Principal (Academic) or designate, after full written disclosure of the conflict, a Member shall not:

(a) with University funds or with funds administered by the University, knowingly authorize the purchase of equipment, supplies, services or real property from a source with which the Member, or any individual with whom she/he has an immediate familial, sexual or financial relationship, has a material financial interest;

(b) engage any individual with whom the Member has an immediate familial, sexual or financial relationship in any capacity for which remuneration comes from University

funds or from funds administered by the University.

## ARTICLE 17 GRIEVANCE AND ARBITRATION

### 17.1 General

- (a) The Parties agree to use every reasonable effort to resolve grievances arising from this Agreement informally, amicably and promptly. All exchanges of information, communications, and offers of settlement shall be kept confidential and shall be without prejudice.
- (b) A grievance is any dispute or difference arising out of the application, interpretation, administration, or alleged violation of the provisions of this Agreement.
- (c) The Association may assume any individual or group grievance at any stage. No individual or group grievance shall proceed to Step 2 unless it has been assumed by the Association and the Association commences the Step 2 process.
- (d) Any settlement, withdrawal or abandonment of an individual or group grievance by the grievor(s) prior to Step 2 without the Association's consent shall be without prejudice to the Association's right to assume the grievance and shall not be binding on the Association or set any precedent with respect to similar circumstances. Copies of any such settlements shall be delivered by the University to the Association within five (5) working days.

### 17.2 Types of Grievances

- (a) Individual grievance: an individual Member grieves against the University;
- (b) Group grievance: two (2) or more Members join together to grieve against the University for the same or similar reason, or based on the same or similar event, transaction or decision;
- (c) Association grievance: the Association grieves against the University's interpretation, application, administration or alleged violation of this Agreement;
- (d) University grievance: the University grieves against an action of the Association.

#### 17.3.1 Informal Grievance Process

Prior to proceeding to a Step 1 Grievance, a Member may, with or without the assistance of the Association, seek informal settlement.

Within fifteen (15) working days of an event, transaction, decision, or the end of a set of circumstances, or fifteen (15) working days from the date the grievor(s) knew or ought reasonably to have known of the relevant event, transaction, decision or set of circumstances, the grievor(s) may seek informal settlement of a grievance with or without the assistance of the Association.

Attempts at an informal settlement of a grievance shall proceed expeditiously and without prejudice.

If either Party makes an offer to settle the grievance informally, the other Party shall respond within five (5) working days.

If at any point in the Informal Grievance Process either Party or the Member determines that

the informal process has failed, a formal notification of intention to proceed to Step 1 process may be filed pursuant to Article 17.4.1.

If the grievance is settled by the Informal Process all decisions, agreements and resolutions shall, if the Parties agree, be committed to writing.

Any settlement committed to writing shall, to the extent possible, preserve the privacy of the Member, and shall be without prejudice and shall not constitute a precedent. The terms of the settlement shall be lodged in the Office of the Vice-Principal (Academic) and the Association, and access to it shall be limited.

#### 17.4 Step 1

17.4.1 Within fifteen (15) working days of an event, transaction, decision, or the end of a set of circumstances, or fifteen (15) working days from the date the grievor(s) knew or ought reasonably to have known of the relevant event, transaction, decision or set of circumstances, or ten (10) working days from the failure to reach an informal settlement under Article 17.3.1, the grievor(s) shall file a written Notice of Intention to Grieve with the University. The Notice of Intention to Grieve shall be in the form prescribed in Appendix B to this Agreement and shall set out the event, transaction, decision, or set of circumstances which are the subject matter of the grievance. The University shall notify the Association within two (2) working days of receipt of the notice.

- 17.4.2 (a) Within ten (10) working days of the receipt of Notice of Intention to Grieve, the University shall, after consultation with the grievor(s) and the Association, schedule and convene a Step 1 meeting. At the Step 1 meeting shall be the relevant University administrative officer with the jurisdictional authority to resolve the grievance, the official whose actions or decisions are the subject matter of the grievance, and the grievor(s). The Association shall send up to two (2) representatives unless it waives its right of participation by written notice to the University delivered prior to the Step 1 meeting. The University may send one (1) other representative if it chooses. The representative of either the University or the Association who attends a Step 1 meeting with the authority to resolve the grievance shall not be a person who has made or participated in the making of any decision which has led to the grievance. By the agreement of the Parties, the Step 1 meeting may comprise only the relevant University administrative officer with the jurisdictional authority to resolve the grievance and the Association's designated grievance officer.
- (b) No more than five (5) working days prior to the Step 1 meeting, the University, the grievor(s) and the Association, if it participates, shall, upon request, disclose all relevant documents. Disclosure is subject to a claim of confidentiality made by the participant who possesses the document or has it within her/his power, custody and control. A claim of confidentiality can be made by the participant who possesses the relevant document or has it within his/her power, custody and control if the disclosure might result in prejudice to another person or persons.
- (c) The purpose of the Step 1 meeting is to resolve informally the issue raised by the grievance. The meeting, if it is not by mutual agreement continued on a later date, shall end with a memorandum which either sets out the terms of resolution, or records the end of the meeting without resolution. If either Party concludes that a Step 1 meeting in progress is not contributing to the resolution of the matter, that Party can end the meeting, and the outcome of the Step 1 meeting shall be recorded as "without resolution", as provided for above. The memorandum shall be signed by the grievor (s), a representative of the University and a representative of the Association, if it participated. If the Association did not participate, a copy of the memorandum must be delivered to it by the University within two (2) working days.

#### 17.5 Referral to Step 2

- 17.5.1 If Step 1 does not resolve the issue, the Association has twenty (20) working days within which to file with the University a Notice of Intention to Proceed with Step 2.
- 17.5.2 The request for arbitration shall contain details of the grievance, the specific provision(s) or interpretation of the Agreement that allegedly has been violated, and the relief sought from the Arbitrator.
- 17.6 Step 2 – Arbitration
- 17.6.1 Upon receipt of a Notice of Intention to Proceed to Step 2, the University and the Association shall select an Arbitrator by mutual consent, or failing that shall select an Arbitrator by the method of alternating challenge from the list of Arbitrators in Appendix C to this Agreement. The procedure can be repeated if the selected Arbitrator cannot accept the appointment.
- 17.6.2 The Parties, prior to the appointment of the Arbitrator, shall indicate the expected duration of the hearing in days.
- 17.6.3 The Parties agree that the appointment of the Arbitrator shall be conditional upon the Arbitrator agreeing that:
- (a) the arbitration shall commence within sixty (60) days;
  - (b) the expected number of days needed to complete the arbitration shall be scheduled within a mutually agreeable time;
  - (c) the Parties intend that the award should be delivered within sixty (60) days of the completion of the evidence, unless the particular complexity of the evidence or issue (s), or other unusual circumstances warrant an extension;
  - (d) no bill shall be rendered by the arbitrator until the final award has been delivered.
- 17.6.4. Pre-hearing Stage
- 17.6.4.1 The Parties agree to encourage any reasonable steps which will expedite a fair hearing including:
- (a) a pre-arbitration hearing chaired by a Mediator under Article 17.9 or any other person agreed upon by the Parties for the purpose of discussing the issues and reviewing proposed lists of witnesses and exhibits to be delivered by both Parties, with a view to narrowing the issues and reducing the number of witnesses by agreement; and
  - (b) attempting to agree to a statement of some or all of the facts necessary to present the grievance where credibility is not in issue.
- 17.6.5 Powers of the Arbitrator
- 17.6.5.1 The arbitrator shall have the following powers:
- (a) to adjudicate all differences between the Parties, including the question of arbitrability of an issue, and the power to determine all questions of fact or law that arise;
  - (b) all the powers of an arbitrator as set out in ss. 48 (12) and (13) of the Ontario Labour Relations Act, as they existed on June 1, 1996, or as amended;
  - (c) to mediate the issue between the Parties at any stage in the proceedings with the consent of the Parties. If mediation is not successful, the arbitrator retains the power to determine the issue by arbitration;

- (d) to admit, in the interest of a fair and expeditious hearing, only evidence that is relevant and any objection to relevance must be determined by ruling;
- (e) to admit evidence that would not be admissible in a court of law but only if the arbitrator determines that the evidence is relevant, reliable and its probative value outweighs any prejudice which its admission might produce;
- (f) to determine the rules of procedure which shall be just and equitable, and intended to provide a fair and expeditious hearing;
- (g) to determine at the commencement of the Step 2 arbitration a disputed claim of confidentiality made under Article 17.4.2 (b);
- (h) to grant such interim orders, including interim relief, as the arbitrator considers appropriate except for interim re-instatement;
- (i) to make such orders or give such directions in proceedings as the arbitrator considers appropriate to expedite the proceedings or to prevent the abuse of the arbitration process; and
- (j) where the arbitrator determines that a Member has been dismissed or disciplined for cause but the Agreement does not contain a specific penalty for the infraction that is the subject matter of the grievance, to substitute such other penalty that seems just and reasonable in all the circumstances.

## 17.7 Costs of the Arbitration

17.7.1 Each Party shall bear the expenses of its representatives, participants, and witnesses and of the preparation and presentation of its own case. The costs of the arbitration, consisting of the fees and expenses of the Arbitrator, shall be borne equally by the Parties.

- (a) In the case of a successful grievance against the termination of a Member's employment, or a successful grievance where the Arbitrator finds that the member's academic freedom or rights of non-discrimination have been violated and certifies that this finding is central to the resolution of the grievance, the costs of the arbitration shall be borne entirely by the University. A successful grievance is one in which the Arbitrator grants in the full the remedy sought by the grievor or grants substantial relief and expressly finds that the grievor's position has been vindicated.
- (b) The costs of the arbitration for a grievance found to be frivolous or vexatious shall be borne entirely by the grieving Party.
- (c) If the primary issue in any grievance is the failure of a Party to perform an obligation under this Agreement to deliver data or information, and the Arbitrator finds that the Party failed, without reasonable justification, to perform its obligation, the costs of the arbitration shall be borne entirely by the unsuccessful Party.
- (d) If the subject matter of a grievance involves a process under this Agreement and the Arbitrator finds that:
  - i. adequate notice, as required by the Agreement, was not provided, or was not provided within a reasonable time; or
  - ii. an undertaking was breached,

and that material prejudice resulted there from, the Arbitrator shall have the power to award the fees and expenses of the Arbitrator, fully or in part, to the successful Party.

**No award of costs can be made unless the Parties have been given an opportunity to address the cost issue.**

**17.7.2 The University shall provide space on campus for the conduct of an arbitration hearing. If a hearing is held off campus at the request of the Arbitrator and with the agreement of both Parties, both Parties shall share any costs related to the use of off-campus facilities equally.**

**17.8 Procedural Defects**

**17.8.1 The Parties to a grievance may agree to extend any time limits specified in this Article. The Arbitrator shall have the power to relieve against non-compliance with any time limit.**

**17.8.2 A request to extend the time limit in Article 17.5 for a period of not more than fifteen (15) working days shall not be unreasonably refused.**

**17.8.3 No minor technical or clerical violation in the grievance procedure or any document required by it shall prevent a grievance from being heard on its merits or affect the jurisdiction of the Arbitrator.**

**17.9 Mediation**

**17.9.1 At any point in a grievance process, the grievor(s) or the University may request mediation of the dispute. The other Party has five (5) working days to indicate its consent to the mediation. Mediation will only proceed if both the grievor(s) and the University consent. A request for mediation does not, without the mutual consent of the Parties, extend the time available to commence a Step 2 proceeding.**

**17.10 Grievance Protection**

**17.10.1 A Member who has exercised his or her right to grieve under this Article shall not be subject to retribution.**

**ARTICLE 18  
DISCIPLINE**

**18.1 General**

**18.1.1 A Member may be disciplined only for just and sufficient cause, and only in accordance with the provisions of this Article.**

**18.1.2 A Member may not be disciplined for violation of a rule, regulation or instruction unless that rule, regulation or instruction has been promulgated and communicated by the appropriate authority and does not violate this Collective Agreement.**

**18.1.3 Disciplinary processes must be kept distinct from academic assessments. In particular:**

- (a) The fact that a disciplinary measure has been imposed or is contemplated cannot be considered in an academic assessment, but the findings which resulted, or may result, in the imposition of discipline can be considered if relevant to the academic assessment.**
- (b) The existence of an academic assessment, or findings arising from an academic assessment cannot lead to discipline unless the steps preceding discipline provided for in this Article, including notice and investigation, have been followed.**

**18.2 Forms of Discipline**

**18.2.1 The Parties accept that discipline shall be progressive with the aim of being corrective; the**

appropriateness of any disciplinary measure rests on both the cause and upon any relevant prior imposition of discipline.

**18.2.2** The only disciplinary measures that may be taken by the University against a Member are the following:

- (a) written warning or reprimand
- (b) suspension with pay
- (c) suspension without pay
- (d) dismissal

**18.2.3** Dismissal means the termination of appointment before the end of the Member's contract.

The standard for dismissal shall only be gross misconduct, incompetence or persistent neglect of academic duties. Gross misconduct includes a pattern of serious misconduct.

Suspension means relieving a Member of all University duties and some or all of the Member's University privileges for cause without her or his consent.

**18.2.4** A written warning or reprimand must be specific and must be clearly identified as being a disciplinary measure.

Any record of a written warning or reprimand shall be removed from a Member's Official File after forty-eight (48) months from the date of the alleged infraction provided that no subsequent discipline has been imposed within that period. After removal, such discipline cannot be offered in aggravation of penalty in a subsequent disciplinary proceeding.

**18.3** Representation

**18.3.1** All disciplinary measures are grievable. In all matters of discipline, a Member shall be entitled to be represented or accompanied by a person appointed for that purpose by the Association. In all cases, the burden of proof is on the University.

**18.4** Investigative Process

**18.4.1** The Dean, Vice-Principal or Principal may investigate any allegation about a Member if she or he reasonably believes that a situation may exist that would warrant disciplinary proceedings against the Member. The investigation is not a disciplinary matter. The mere fact of an investigation is not grounds for grievance although a Member may grieve whether the conduct of the investigation conforms to Articles 18.4.1 and 18.4.2 respectively. A Member's privacy shall be respected during an investigation although it is understood that some revelation of the allegation may be unavoidable in order not to seriously compromise the investigation. The conduct of all or part of such investigations may be delegated to appropriate persons. Where an investigation respecting an allegation about a Member is required, the person leading the investigation shall be an individual who has had no previous decision-making authority respecting it.

If the alleged facts occurred more than six (6) months before the allegation was received by the Dean, Vice-Principal or Principal, the University shall normally not investigate and the matter shall be considered closed. However, for serious reasons, including, but not limited to, safety concerns, the acquisition of evidence not previously available, a continuing pattern of conduct, the request by the Member who is the subject of allegations, or the requirements of any external funding agency, the University may, in its discretion, investigate the matter, and, if warranted, discipline the Member.



18.4.2 As soon as practicable after commencing an investigation, the Dean, Vice-Principal or Principal:

(a) i. shall promptly and fully advise the Member in writing of the nature and substance of the allegation, and the scope of the investigation, including advising the Member of her or his right to seek advice from the Association, and inviting the Member to respond to the allegation in person or in writing or both as the Member sees fit. If the Dean, Vice-Principal or Principal invites the Member to meet to discuss the allegation, the invitation must be in writing and must allow the Member at least two (2) full working days to obtain advice or assistance from the Association;

ii. may only withhold information, or delay notification, if the Dean, Vice-Principal or Principal has reasonable grounds to believe that disclosure will produce a risk of harm to another person or that it will jeopardize the investigation. If there is any withholding or delay in notification on either of these grounds when the Member is first notified, the notice shall include notice of the withholding or delay and an explanation of the basis for it. No withholding of information or delay in notification can extend beyond the Article 18.4.2 (d) stage at which point all relevant information must be, or have been, disclosed;

(b) shall give due consideration to any suggestions or evidence from the Member which might expedite or simplify the investigation, or render it unnecessary; it is understood that any statement made by any person at this stage is without prejudice;

(c) shall take reasonable steps to maintain the confidentiality of the investigative process and its findings, until the imposition of discipline, if any, unless the Dean, Vice-Principal or Principal has reasonable grounds to believe that such confidentiality may place a person at risk of harm; and

(d) shall notify the Member of the tentative results of the investigation within five (5) working days of such results being known.

18.4.3 The notification of Article 18.4.2 (d) shall either advise the Member that discipline is not warranted and that no discipline will be imposed, or shall advise that a meeting should be convened to afford the Member an opportunity to make submissions, including documents or oral evidence, with respect to the tentative results of the investigation or any proposed discipline, before the investigation is closed and before any disciplinary measure is imposed. If the Head of the Unit has conducted part or all of the investigation, the Dean, Vice-Principal or Principal may invite the Head of the Unit to attend such meeting.

18.5 When the alleged cause is of a type for which a separate institutional policy exists, the procedures of such a policy should be followed to the extent that they are not in conflict with this Collective Agreement, but in the event that such a policy is inconsistent with this Collective Agreement and either the Complainant or Respondent is a Member, this Collective Agreement shall prevail.

(a) The University shall instruct all of the employees who have the responsibility to carry out any of these separate procedures to notify affected Members that they may in confidence seek the advice of the Association.

(b) The Parties agree to consult in order to identify the responsible employees referred to in paragraph (a).

18.6 Failure of a Member to grieve a written warning or reprimand shall not be deemed an admission of the validity of the warning or reprimand, provided that the Member has indicated in writing, within the time limits provided for initiating a grievance, that the Member is in disagreement with the warning or reprimand and does not waive any right to grieve any subsequent imposition of discipline for similar cause.

18.7 Only the Dean, or the Dean on the recommendation of the Head of the Unit, can suspend or dismiss a Member. Suspensions and dismissals take effect immediately except that if a

Member grieves a suspension without pay, the Member shall continue to receive salary until the grievance is decided or the term of the Member's employment contract has expired, whichever is the lesser period. In the case of dismissals based on grounds of incompetence or persistent neglect of academic duties, the Member's salary shall be continued until the time available to initiate a grievance has passed. If a Notice of Intention to Grieve is filed, the Member shall continue to receive salary until the grievance is decided, or the term of the Member's employment contract has expired, whichever is the lesser period. In the case of a dismissal based on the grounds of gross misconduct where a Notice of Intention to Assume the Grievance is filed by the Association, the Member shall receive salary until the grievance is decided or the term of the Member's employment contract has expired, whichever is the lesser period.

In all discipline grievances, the Arbitrator is empowered to award any remedy considered just and equitable. If an award includes any monies owed to the grievor for salary, these shall be paid to the grievor with interest accruing from the date the salary should have been paid at a rate equal to two per cent (2.0%) above the prime rate at the Bank of Montreal.

#### 18.8 Emergency Suspension with Pay

Notwithstanding the above, the University may suspend a Member with full pay and may relieve a Member of some or all of the Member's duties and/or privileges in accordance with the provisions in Article 20.

### ARTICLE 19 HARASSMENT

- 19.1 The Parties consider harassment as described in the University's Harassment/Discrimination Complaint Policy and Procedure, ratified by the Board of Trustees on May 6, 2000, to be a serious offence which violates fundamental human rights, personal dignity and integrity.
- 19.2 Except as hereinafter provided, the University's Harassment/Discrimination Complaint Policy and Procedure (the "Policy"), attached as Appendix E forms part of this Agreement and applies to all Members of the Bargaining Unit. There shall be no amendments to the Policy insofar as it applies to the Members of the Bargaining Unit during the term of this Collective Agreement without the consent of the Association.
- 19.3 A Member is bound by the provisions of the Policy until such time as a formal hearing has been completed and a sanction, if any, has been imposed on the Member pursuant to the provisions of s.56 through 62 of the Policy.
- 19.4 The Member may either appeal the finding of harassment/discrimination and/or the sanction determined by the Complaint Board in accordance with the appeal procedures set out in the Policy or pursuant to the provisions of the grievance procedure set out in Article 17.
- 19.5 The Member shall, within two (2) weeks of the final disposition of the matter by the Complaint Board as set out in paragraph 71 of the Policy, advise the Secretary of the University in writing that the Member wishes to appeal and/or grieve the decision of the Complaint Board as to responsibility and/or sanction. In the event that a Complainant seeks to appeal the decision of the Complaint Board as to responsibility and/or sanction, the rights of appeal or grievance of the Respondent Member shall be held in abeyance pending the conclusion of the Complainant's appeal.
- 19.6 Following the disposition of the Complainant's appeal, if any, or the filing by the Respondent of a Notice of Appeal, the Respondent shall consult with the Association to determine whether the Association will support a grievance in respect of the finding of responsibility and/or sanction. Within two (2) weeks of the initiation of consultation with the Association, the Member shall advise the Secretary of the University as to whether the Member wishes to either continue with the appeal procedure under the Policy or to pursue a grievance under the provisions of this Collective Agreement. It is understood that the Member must choose one

(1) procedure or the other in totality. It is further understood that no grievance may proceed to arbitration without the consent and support of the Association pursuant to Article 19 of the Collective Agreement.

- 19.7 In the event that a grievance is pursued with respect to the issue of responsibility and sanctions, the matter shall be dealt with de novo and no regard shall be had either in the grievance procedure or before the arbitrator to the evidence and arguments before the Complaint Board. In the event that the grievance is filed with respect to the sanction only, the Parties shall rely on the written Statement of Reasons produced by the Complaint Board pursuant to s.57 of the Policy. The Parties may, however, adduce any evidence and make any additional arguments in respect of the appropriate sanction to be imposed.
- 19.8 The arbitrator shall have full authority to make any determination with respect to fact and law that the arbitrator deems to be necessary and appropriate and to substitute any sanction ordered by the Complaint Board that the arbitrator determines to be just and equitable in the circumstances.
- 19.9 At any arbitration proceeding, a Complainant who is a Member is entitled to attend as an observer throughout the hearing and can make a final submission on the evidence personally or through counsel. This Complainant may, with the permission of the arbitrator, adduce relevant evidence in addition to that which has been adduced by the Parties if the arbitrator concludes that such evidence will assist the disposition of the matter.
- 19.10 In the event that a complaint against the Member is upheld following the grievance/arbitration procedure or the appeal procedure of the Policy, and the University takes disciplinary action against the Member, a record of the disciplinary action shall be placed in the Member's Official File. In addition, all documents relating to the complaint shall be kept confidential by the Office of Human Rights.
- 19.11 In the event that the complaint against a Member is not upheld, which here shall mean that there is no finding of harassment or other misconduct whatsoever by the Member, no reference shall be placed or retained in the Member's Official File and no regard may be had to the fact of the complaint in any proceeding or in any other consideration of rights, privileges or benefits of the Member. In the case of such an outcome, any documents in the possession of the University relating to the complaint shall be destroyed following the conclusion of the appeal and/or grievance/arbitration process except that the record of the finding of the appeal body or of the grievance/arbitration process shall be retained by the Human Rights Office. This record shall only be used for statistical or archival purposes and shall be kept confidential. The names of the complainants and respondents shall not be disclosed to anyone.
- 19.12 In all dealings with the University on matters of harassment, Members, whether complainants, respondents or witnesses, have the right to be represented or accompanied by someone of the Member's choosing; at the Member's option this may be someone appointed by the Association.
- 19.13 In the event of a conflict between this Agreement and the Policy, this Agreement shall take precedence.

## ARTICLE 20

### PUBLIC SAFETY AND SECURITY: EMERGENCY SUSPENSION WITH PAY

- 20.1 Notwithstanding the provisions of Articles 18, the University may suspend a Member with full pay and may relieve a Member of some or all of the Member's duties and/or privileges where:
- (a) the University has reasonable and probable grounds to believe that the failure to take the action outlined herein would result in significant harm to a person associated with the University or University property; and
  - (b) the University has considered all reasonable alternatives; and

- (c) the basis of the University's actions have been fully disclosed to the Association and the Member affected; and
- (d) the Association and Member affected have been given reasonable opportunity to address the basis for such belief should they choose to do so and to suggest alternatives to the suspension; and
- (e) the suspension of the Member under the provisions of this Article are for a period no longer than reasonably necessary to address the concern of the University in paragraph (a) hereof.

20.2 Notwithstanding the foregoing, the University's actions under this section shall be grievable under the provisions of Article 17. The University shall, in any such grievance, have the onus of establishing that it has met the conditions set out herein.

## **ARTICLE 21 HEALTH SAFETY AND SECURITY**

21.1 The University recognizes a responsibility to provide an environment which protects the health, safety and security of Members as they carry out their responsibilities. To that end, the University agrees:

- (a) to maintain a committee on environmental health and safety with broad representation drawn from all sectors of the University, including at least one (1) person appointed by the Association;
- (b) to cooperate with the Association in making those provisions which are reasonable for the safety, health and security of Members;
- (c) to take those measures which are reasonable to protect the health, safety and security of Members;
- (d) to take those measures which are reasonable to maintain the security of the buildings and grounds while at the same time maintaining reasonable access for Members who have a need for such access at times other than during regular working hours;
- (e) to ensure that the Association has the right to appoint at least one (1) person to any representative committee whose terms of reference specifically include the health, safety and security of Members as they carry out their responsibilities; and
- (f) to comply with the Occupational Health and Safety Act, R.S.O. 1990, c.0.1, as amended from time to time.

## **ARTICLE 22 EMPLOYMENT EQUITY**

22.1 In accordance with the Parties' commitment to non-discrimination as contained in Article 9, and to the principles of employment equity, the University and the Association recognize that particular measures are required to promote equity in the employment of women, visible minorities, aboriginal people, persons with disabilities, persons of any sexual orientation or gender identity, and such other groups as may be designated by legislation.

22.2 Consistent with principles of employment equity, the Parties agree that:

- (a) the primary criterion for appointment to positions at the University is academic and professional excellence; and

- (b) no candidate shall be recommended who does not meet the criteria for the appointment in question.
- 22.3 Consistent with principles of employment equity, the University is committed to eliminating or modifying those human resource policies, practices, and systems, whether formal or informal, shown to have an unfavourable effect on the appointment and reappointment, including reappointment at a higher rank, of members of designated groups.
- 22.4 The University shall utilize search procedures which require an active search for qualified members of under-represented groups, including:
- (a) Postings for Sessional Adjunct positions shall include the following statement: “The University invites applications from all qualified individuals. Queen’s is committed to employment equity and diversity in the workplace and welcomes applications from women, visible minorities, aboriginal people, persons with disabilities, and persons of any sexual orientation or gender identity.”
- (b) Other such measures as recommended by either Party or by the University Advisor on Equity, and agreed to by the Parties.
- 22.5 Consistent with the principle that the primary criterion for appointment to positions at the University is academic and professional excellence, the Parties agree that:
- (a) when candidates’ qualifications are substantially equal and meet the criteria established for the appointment in question, in compliance with federal law, the candidate who is Canadian or a Permanent Resident of Canada shall be recommended for appointments; and,
- (b) appointment committees shall take special care not to eliminate potentially strong candidates who are women, visible minorities, aboriginal people or persons with disabilities.
- 22.5.1 (a) In units where women, visible minorities, aboriginal persons or persons with disabilities are under-represented (using the diversity of the population of Canada as a benchmark), a candidate from the most under-represented of these groups as identified in the most recent report from the Office of the University Advisory on Equity for the Federal Contractors Program who fulfills the position requirements shall be offered the appointment, unless there is a demonstrably superior candidate.
- (b) When there are two or more candidates from the most under-represented groups noted in Article 22.5.1 (a), and one of these candidates who fulfills the position requirements is also from one of the other under-represented groups as identified in the most recent report from the Office of the University Advisory on Equity for the Federal Contractors Program, that candidate shall be offered an appointment, unless there is a demonstrably superior candidate.
- (c) If no candidate from the most under-represented group noted in Article 22.5.1 (a) is to be offered an appointment under Article 22.5.1 (a) and Article 22.5.1 (b), then a candidate from one of the other under-represented groups identified in the most recent report from the Office of the University Advisory on Equity for the Federal Contractors Program who fulfills the position requirements shall be offered the position, unless there is a demonstrably superior candidate.
- 22.6 Persons chosen to serve on appointment committees for Sessional Adjunct positions may only carry out such functions after successfully completing a familiarization and training workshop which shall cover the principles, objectives, recent history, best practices, and rules and institutional expectations with respect to employment equity. The program of such workshops shall be agreed between the

Parties, with advice from the University Advisor on Equity.

- 22.7** One (1) member of each such committee shall have explicit responsibility for the committee adhering to the rules and expected practices which assure equity, as well as being responsible for reportage in this area to the JCAA. The Committee member charged with this responsibility shall be selected by the Committee, and shall be a person who understands and is sympathetic to the objectives of this Article. Persons with this responsibility will require training in excess of that foreseen in Article 22.5, unless waived by the Parties.
- 22.8** In the evaluation of candidates for appointment or reappointment, including reappointment at a higher rank, the criteria adopted must not systematically discriminate against members of designated groups and shall be reviewed periodically to ensure that they do not undervalue work which is done predominantly by members of the designated groups.
- 22.9** Candidates shall not be disadvantaged in appointment or reappointment, including reappointment at a higher rank, by reason of minor career interruptions caused by family responsibilities.
- 22.10** The University Advisor on Equity shall monitor the progress made in the Bargaining Unit and report her/his findings annually to the Parties. The report of the University Advisor on Equity shall document the progress made in meeting the goals of Article 22.1 and Article 9.

## **ARTICLE 23 APPOINTMENT OF MEMBERS**

### **23.1 General**

**23.1.1** Sessional Adjuncts are employed for instruction and evaluation in degree-credit courses.

**23.1.2 (a)** A Sessional Adjunct appointment is a limited term appointment, with academic rank, for a single academic session (Spring-Summer or Fall-Winter) or a portion thereof, or a single academic term (Spring, Summer, Fall or Winter) or a portion thereof.

**(b)** Appointment dates for teaching in the academic terms and sessions shall be as follows (unless adjusted for partial course responsibility):

<u>Term</u>	<u>Appointment dates</u>
Spring	May 1* – June 30
Summer	July 1 – August 31
Fall	September 1 – December 31
Winter	January 1 – April 30

<u>Session</u>	<u>Appointment dates</u>
Spring-Summer	May 1* – August 31
Fall-Winter	September 1 – April 30

\* In years when the Spring term and Spring-Summer session begin before May 1, the appointment will begin on the first day of the term or session.

**23.1.3 (a)** Members shall be appointed at one of the following ranks:

**Professor Emeritus**  
**Adjunct Professor**  
Adjunct Associate Professor

**Adjunct Assistant Professor**  
Adjunct Lecturer

- (b) Members will normally be appointed at the rank of Adjunct Lecturer if they have not yet earned a degree that is considered a prerequisite for a tenure-track appointment in the discipline.
- (c) Members will normally be appointed at the rank of Adjunct Assistant Professor if they have earned a degree, usually a doctorate, that is considered a prerequisite for a tenure-track appointment in the discipline.
- (d) Members will normally be appointed at the rank of Adjunct Associate Professor if they qualify for appointment at the Adjunct Professor rank and have a strong continuing record of research and/or creative work, appropriate to the Assistant teaching, and discipline.
- (e) Members will normally be appointed at the rank of Adjunct Professor if they have a distinguished record in teaching, and research and/or creative work and/or professional experience.
- (f) Members who have earned a degree, usually a doctorate, that is considered a prerequisite for a tenure-track appointment in the discipline shall not be appointed below the rank of Adjunct Assistant Professor.

- 23.1.4 Sessional Adjunct appointments at the rank of Adjunct Associate Professor or Adjunct Professor for the first time in a unit must be approved by the Principal.
- 23.1.5 On the recommendation of the Sessional Adjunct Appointment Committee, a Member may be reappointed at a higher rank, subject to Article 23.1.4, if he or she meets the criteria of Article 23.1.3.
- 23.1.6 Members holding an appointment under this Article may apply for an appointment which may lead to tenure, and their application shall not be prejudiced because of the nature and responsibilities of their current appointment.
- 23.2 **Appointments Process**
- 23.2.1 The availability of a Sessional Adjunct position shall be posted for ten (10) working days and circulated internally within a Department or Faculty and placed on the Department or Faculty website, except as noted in Articles 23.2.5 and 23.2.6.
- 23.2.2 Postings shall identify: the date of the posting, the academic term(s) or academic session(s), the unit, the course name and course number, the starting date and duration, the location (on/off campus), the course type (for example, lecture, seminar), the course level (introductory, upper-year, graduate), the approximate anticipated course enrolment, requirements for supervision of laboratory/practicum work, the qualifications for the appointment, the required application materials and the application deadline. No offer of appointment shall be made before the application deadline.
- 23.2.3 Notices for spring term, summer term and spring-summer session courses shall be posted on or before March 1; for fall term, winter term and fall-winter session courses on or before June 1; and for winter term courses still unfilled on or before October 15.
- 23.2.4 Posting after the dates provided in 23.2.3 may occur if a position becomes unexpectedly open due to the unavailability of an appointed Member or other faculty member, or due to the funding of an additional course or section or other unforeseen circumstances.

- 23.2.5** Posting of an available Sessional Adjunct position may be waived or the period of posting shortened should a position become open less than twenty (20) working days before the first day of the academic session or academic term in which the course is to be offered.
- 23.2.6** Where there is an opportunity to integrate a distinguished member of a professional community into the academic program of a Department or Faculty, the requirement to post the available Sessional Adjunct position is waived.
- 23.2.7** QUFA shall be notified of all appointments made under Articles 23.2.4, 23.2.5 and 23.2.6.
- 23.2.8** An applicant for a Sessional Adjunct position shall submit an application in writing to the Head of the Unit. The application shall include a complete and current curriculum vitae (CV), any other materials the applicant wishes to submit (such as a teaching dossier), and the names of two referees who may be contacted. An applicant who has held an academic appointment in the Unit in the twelve (12) months preceding a posting may apply for a posted position by submitting a letter of interest and referring to relevant materials in her/his Official File.
- 23.2.9** The Official File, including the record of employment, teaching and other evaluations, shall be provided to the Sessional Adjunct Appointments Committee when applicable.

### **23.3 Sessional Adjunct Appointments Committee**

- 23.3.1** Each Unit shall have an advisory committee on the appointments of Sessional Adjuncts. This Committee shall be the Head of the Unit (or designate), and two elected members, one of whom shall have explicit responsibility for the Committee adhering to the rules and practices which assure equity as per Article 22.7.
- 23.3.2** The Sessional Adjunct Appointment Committee shall make recommendations for appointment to the Dean.

### **23.4 Criteria for Appointment**

In reviewing applications, the Sessional Adjunct Appointments Committee and the Dean shall assess candidates in accordance with the criteria listed below:

- (a) the applicant has the requisite academic qualifications for the position, i.e., the relevant academic degree or certificate, education in the academic specialty, other relevant qualifications including scholarship in the field, and/or relevant professional training or experience;
- (b) the applicant has a good record of teaching as evaluated under Article 24;
- (c) the applicant has teaching experience in the posted course or similar courses.

### **23.5 Letter of Appointment**

- 23.5.1** The letter of appointment shall describe the Member's responsibilities for the academic session or academic term for which he or she is appointed. The letter shall include the Member's rank; the start and end dates of the appointment; identification of the course(s) which will be taught by the Member, the location of the course (s) (on/off campus), the type of course(s) (for example, lecture, seminar), the level of the course(s) (introductory, upper-year, graduate), the approximate anticipated enrolment for the course(s), requirements for supervision of laboratory/practicum work, the percentage(s) of the course(s) for which the Member will be responsible; the Member's compensation for each course; and identification of any other assigned duties and the compensation for those duties.
- 23.5.2** Where a Member has agreed to a request from the Head of the Unit to perform other instructional and



supervisory needs in relation to any academic program not covered by the Member's original letter of appointment, the Member shall be appropriately compensated according to Article 29. The Member's additional duties and compensation shall be outlined in a supplementary letter of appointment.

Refusal to assume such additional duties after an original letter of appointment has been issued shall not prejudice a Member's eligibility for reappointment.

## **23.6 Reappointment**

23.6.1 Sessional Adjuncts may or may not be offered reappointment. No one shall be denied reappointment for reasons that are contrary to Article 9 and Article 13.

23.6.2 **A Sessional Adjunct who has taught a full (1.0) course or half (0.5) course at Queen's as a Sessional Adjunct at least two (2) times over a minimum of two (2) academic years shall be offered reappointment to teach that full (1.0) or half (0.5) course in subsequent academic years, provided there is a record of good teaching as per Article 24 and satisfactory performance of assigned duties, based on at least two (2) evaluations as per Article 24, unless:**

- (a) the Member has been dismissed for cause or suspended for cause without pay for at least (1) month; or
- (b) the course is being assigned to a Tenure-track/Tenured Member of Faculty or to a Continuing-track/Continuing/Initial/Renewable or Term Adjunct with a right of renewal; or to a Teaching Fellow who would not otherwise have an opportunity to teach as a Teaching Fellow as part of her/his graduate education; or
- (c) the course is not being offered.

23.6.3 In cases where two or more Sessional Adjuncts have earned a right of reappointment for a specific course but fewer appointments than applicants are available, the following shall apply:

- (a) The Sessional Adjunct with the longest record of teaching that course as an adjunct at Queen's shall be appointed.
- (b) If two or more Sessional Adjuncts have an equally long record of teaching that course as an adjunct at Queen's, the Sessional Adjunct who has taught the course most recently shall be appointed.

23.6.4 For the purposes of this Agreement, prior teaching of a course as specified in Article 23.6.2 shall date from May 1, 2000.

23.6.5 No Member shall be denied the opportunity to teach an additional course or provide other services which the Member is demonstrably qualified to teach or provide solely to prevent the Member from becoming a Term Adjunct.

## **ARTICLE 24 EVALUATION**

### **24.1 General**

24.1.1 Prior to the end of an appointment, the Head of the Unit shall notify the Member that an assessment of his/her performance of assigned duties will be made per the provisions of Article 24. The Member may, but is not required to, submit any materials relevant to her or his academic or professional activity or accomplishments. The notice shall give the Member reasonable time to respond before the assessment is made.

- 24.1.2** A Member's performance shall be assessed following each appointment. The appropriate criteria for assessing a Member's performance shall be based on the Member's assigned duties.
- 24.1.3** The performance of a Member shall not be assessed by anyone with a real or apparent conflict of interest.
- 24.2** Evaluation of Teaching
- 24.2.1** Evidence of a Member's teaching performance shall be reviewed by the Head of the Unit following each appointment. The assessment for each Member shall be based on:
- (a)** the University Surveys of Student Assessment of Teaching (USAT);
  - (b)** the Teaching Dossier (if provided by the Member);
  - (c)** any materials that are relevant in assessment of teaching and that have been placed in the Official File;
  - (d)** any relevant materials the Member may choose to submit.
- 24.2.2** Data and statistical measures derived from the University Surveys of Student Assessment of Teaching (USAT) which conform to the provisions of this Article, and which have been placed in the Member's Official File shall be used in the University's assessment of a Member's teaching performance.
- (a)** In using the USAT in evaluating Members' teaching, Heads and Deans shall consider, any relevant factor, including but not limited to, whether the course is elective or required, introductory or advanced, whether it is being taught for the first time, whether new or alternative teaching approaches are being used, the facilities available given the requirements of the course, the subject matter, and any issues related to Article 9.
  - (b)** The USAT shall be administered through the Office of the University Registrar, and in such a way as to afford all the students in a given course or class a reasonable chance to respond. All questions shall conform to the requirements of Article 9 and Article 13.
  - (c)** The scheduling of the USAT survey shall be determined by the Sessional Adjunct responsible for the course in consultation with the students on a date within the last three (3) weeks of the course and announced at least one (1) class in advance. In courses with multiple instructors, a separate survey shall be done for each instructor responsible for a major block of time. Such surveys may be grouped at the end of the course or administered at the end of the block given by an instructor to be assessed, as appropriate. The survey form shall be distributed and collected and returned by someone other than the Member, who shall leave the room during the surveying process. After the surveys have been completed, they should be placed in a sealed envelope. This envelope shall not be opened until the final marks for the class have been submitted to the appropriate administrative office.
  - (d)** Quantitative responses to the questionnaires shall be sent to the Member, the Head and the appropriate Dean(s) after the data have been converted into a report and following the submission of final grades. Student responses to the University's questionnaire shall be aggregated in such a way as to present a fair and accurate picture of the opinions of the respondents. All responses to each question shall be aggregated, and the mean, standard deviation, frequency and number of eligible respondents shall be calculated.

- (e) The USAT form shall not be signed by the student. Qualitative responses shall be sent only to the Member, and the University will take the appropriate measures to ensure that only the Member receives such responses.

24.2.3 In order to improve course design and/or teaching effectiveness, a Member may conduct a written evaluation of his/her teaching performance in his/her class(es), provided that the students consent to participate and provided that the procedures of the survey protect student confidentiality and are carried out in a way which prevents confusion with the USAT. A Member's course evaluation is not for the same purposes as the USAT and shall not be used in its stead, in whole or in part. Nonetheless, a Member's course evaluation may supplement other information about a Member's teaching, provided that full details of the instrument and its administration are included.

24.2.4 Teaching Dossiers are intended to provide a description of a Member's major teaching accomplishments and strengths in a manner that conveys the scope and quality of the individual's teaching. Responsibility for gathering and collecting the evidence for a dossier is the Member's. The contents of the Teaching Dossier may include, but should not be restricted to, such items as the following:

- (a) a statement of the Member's philosophy, objectives and methods of teaching, including reference to institutional and departmental teaching goals;
- (b) a list of undergraduate and graduate courses, including directed studies and thesis supervisions, taught by the Member;
- (c) examples of course revision, curriculum development, and teaching methods such as evidenced by course outlines, assignments, final examinations and other materials the Member deems appropriate;
- (d) a record of the Member's role in curriculum and instructional developments such as administrative and committee service for the Department, Faculty, or Senate related to pedagogy, and including directing and coordinating programs, guest lectures, and other presentations;
- (e) data from students including USAT and the Member's Course Evaluation per Article 24.2.3, letters and testimonials;
- (f) a record of the Member's special contribution to teaching including teaching awards, publications and presentations, instructional development grants, participation in conferences and seminars on education/pedagogy, and other such evidence as the Member deems appropriate.

#### 24.3 Evaluation of Non-Teaching Assigned Duties

24.3.1 If there are non-teaching assigned duties in the Member's letter of appointment, the performance of these duties shall be reviewed by the head of the unit. Any relevant materials which the Member may wish to provide shall be considered in the review.

#### 24.4 Record of Assessment

24.4.1 The Head of the Unit shall prepare a written assessment of the Member's performance of assigned duties and shall provide the Member with a copy. Each Member shall have an opportunity to meet with the Head of the Unit to discuss the assessment if requested by the Member. This assessment shall be signed by both the Head of the Unit and the Member. Members may add written comments to the assessment prior to signing the document. Each Member shall be given a copy of the signed document.

**24.5 Exclusion of Individual Evaluative Material in Internal Academic Reviews**

**24.5.1 Evaluative material respecting individual Members of the Bargaining Unit shall not be included in the internal academic review reports. Accordingly, heads of Units and Chairs of Internal Academic Review Committees shall advise committee members of this requirement so that inappropriate comments are not included in such reports.**

**ARTICLE 25  
OFFICIAL FILE****25.1 General**

**25.1.1 All documents and materials in the possession of the University that relate to the employment status of, or the evaluation of the professional performance of a Member, shall be placed in an Official File established for that Member. The Official File shall be the only file used in decisions respecting any and all terms and conditions of employment of a Member. The documents constituting the Official File shall be the paper originals, or in the event the original document is received in facsimile or electronic form, an accurate paper copy.**

**25.1.2 The Official File shall be kept in the Office of the Dean of the Member's Faculty in non-departmentalized Faculties. In the case of departmentalized Faculties, part of the Official File shall be located in the Office of the Dean and the other part in the Office of the Head. Together these two files in departmentalized Faculties shall constitute the Official File. The Official File shall be clearly marked as "Confidential".**

**25.1.3 Copies of some or all of these materials may be used for normal University administrative purposes. Copies of these documents may be filed elsewhere for such purposes and any copies of documents shall be clearly marked as "Confidential". All restrictions specified in this Article which apply to the Official File apply equally to all copies of the files.**

**25.2 Contents of the Official File**

**25.2.1 The Official File of each Member shall contain only material pertaining to the employment of the Member.**

**25.2.2 The documents and materials retained shall include, but are not limited to, materials such as the Member's curriculum vitae, university transcripts, letters of application, references, salary and work history, student evaluations, disciplinary letters, commendatory letters, correspondence, curriculum vitae updates, and copies of materials reflecting professional development and achievement.**

**25.2.3 No anonymous material shall be kept in the Official File or submitted as evidence in any formal decision or action involving a Member except as provided in Article 25.4.**

**25.3 Examination and Copying of the Contents of the Official File**

**25.3.1 Within twelve (12) months following the ratification of this Collective Agreement, Members should visit the Office of the Dean in non-departmentalized Faculties or the Offices of the Dean and the Head of the Unit in departmentalized Faculties to ascertain and note the contents of their Official File.**

**25.3.2 Members have the right to examine the entire contents of their Official Files during normal business hours. The examination shall be carried out in the presence of a person designated by the Dean or Head of the Unit. If staff are not immediately available to oversee the process, the examination may be delayed to a time specified by the Dean or Head of the Unit, which will normally be before the end of the next working day. Members may be required to produce identification before access to their Official Files is granted. Members shall not remove their Official File, or parts thereof from the office where it is held. Members may, upon written request, obtain a copy of any document in their Official**

File to which they have a right of examination on a cost recovery basis. For documents that have not been copied to the Member, she/he shall be entitled to one (1) copy at no cost.

**25.3.3** A record shall be kept of the names of all persons granted access to the Official File together with the date and the reason, except for those adding routine financial information or conducting routine file maintenance as provided for in Article 25.6. Such record shall be contained in the Official File.

**25.3.4** If copies are made of documents in the Official File, a record shall be kept of which documents were copied, and where they were placed. It is understood that copying of documents containing only routine financial or administrative material that is not evaluative and that does not contain personal information which ought to be kept confidential, is not subject to such recording.

**25.4** Information on Student Assessment of Teaching in the Official File

**25.4.1** Numerical data and statistical measures from the University Surveys of Student Assessment of Teaching (USAT) shall be placed in the Official File.

**25.5** Member's Rights to Comment on Material in the Official File

**25.5.1** The Member shall have the right to have included in her/his Official File written comments on the accuracy, relevance, meaning or completeness of the contents of the Member's Official File. These comments may include supplementary documents considered relevant by the Member.

**25.5.2** Members have the right to have removed from their Official Files material which is false, inaccurate or irrelevant to the purposes for which the Official File is kept.

**25.5.3** The Member shall make an application in writing to the Head of the Unit who shall decide within twenty (20) working days whether the impugned material is false, inaccurate or irrelevant to the purposes for which the Official File is kept.

**25.6** Addition of Information to the Official File

**25.6.1** Members shall be informed in writing of any additions of material, excluding routine financial information, USAT evaluations, and routine file maintenance, to their Official Files within thirty (30) working days of such addition. No material shall be deleted from the file without the express written permission of the Member.

**25.7** Release of Information from the Official File

**25.7.1** None of the contents of the Official File shall be released or made available to any person without the express written consent of the Member concerned, except when required:

- (a) for official university administrative purposes;
- (b) for grievance and arbitration purposes;
- (c) by this Agreement;
- (d) by law.

Access to the contents of an Official File for (d) above shall be granted only to individuals who show proof that such access is required by law. Such access shall be granted only by the Vice-Principal (Academic) or someone designated by her/him in writing. The Vice-Principal (Academic) shall notify the Member concerned immediately, identifying the person or persons

granted access and stating the legal reasons for granting this access unless such notification is prohibited by legal statute.

#### 25.8 Archiving of the Official File

25.8.1 Members' Official Files will be archived following a minimum of three years of continuous non-appointment at the University.

### ARTICLE 26 LEAVES

#### 26.1 Bereavement and Compassionate Leave

26.1.1 In the event of a death in a Member's immediate family, the Member shall be entitled to relief with pay from all duties for up to one week following the death. Immediate family is defined as spouse, common-law spouse, same-sex partner, child, sibling, parent, mother/father-in-law, grandparent or grandchild, foster parent, ward or any other individual close to the employee.

26.1.2 In the event of a serious illness or injury in a Member's immediate family, the Member shall be entitled to relief from all duties for up to one week as compassionate leave with pay. Immediate family is defined as spouse, common-law spouse, same-sex partner, child, sibling, parent, mother/father-in-law, grandparent or grandchild, foster parent, ward or any other individual close to the employee.

26.1.3 Additional bereavement or compassionate leave with or without pay may be granted by the Head of the Unit.

#### 26.2 Sick Leave

26.2.1 Members who are unable to carry out their assigned duties because of illness or accident are entitled to sick leave with pay for up to six (6) months or until the end of their appointment, whichever first occurs.

26.2.2 If a medical certificate is required to establish the state of the Member's health, the Director of Human Resources shall request that the Member provide a certificate dealing with the Member's ability to perform her/his responsibilities. If the Director of Human Resources has reason not to be satisfied, a second opinion may be sought from a physician agreed to by the University and the Member.

#### 26.3 Child Care Leave

26.3.1 A Member who gives birth or is the biological or adoptive parent of an infant child is entitled to leave for any period provided by law.

#### 26.4 Court and Related Leave

26.4.1 Upon application to the Member's Unit Head, a Member shall be granted a leave of absence with pay when the Member:

- (a) is called for jury duty; or
- (b) is subpoenaed as a witness; or
- (c) is required to attend court as a defendant, respondent or accused.

#### 26.5 Member's Status while on Leave

26.5.1 A Member shall continue to have the status of a Sessional Adjunct while on leave under this

**Article.****ARTICLE 27  
ACADEMIC RESPONSIBILITIES****27.1 General**

**27.1.1 Members are appointed to instruct and evaluate, individually or jointly, degree-credit courses as set out in their letter of appointment. Any other compensated duties shall be specified in their letter of appointment or amendment thereto.**

**27.1.2 Members shall meet their assigned duties in a professional manner.**

**Examples of obligations in instruction and evaluation include:**

- (a) performing assigned instruction, course design and evaluation duties;**
- (b) maintaining a positive learning environment in which the expression of differing points of view is encouraged;**
- (c) making good use of teaching time, through effective preparation, organization and use of materials, techniques and activities;**
- (d) being fair in relations with students and in grading of student assignments or in the assessment of research by students, including making criteria known; and**
- (e) being reasonably accessible to students for consultations, including regular accessibility on campus during a reasonable number of scheduled and publicized times.**

**27.1.3 Members' participation in the collegial bodies of the University shall be voluntary and such service shall not be part of a Member's academic responsibilities. Members may attend plenary meetings of the Unit in which they teach. Voting privileges for Sessional Adjuncts are established at the Unit level. Should a Member, at the request of the Principal, Vice-Principal, Dean or head of a Unit, agree to assume committee responsibilities, the Member shall be compensated at an appropriate rate. Refusal to assume such committee work shall not prejudice a Member's eligibility for reappointment.**

**27.2 Freedom of Expression**

**27.2.1 In any exercise of freedom of expression, Members should not purport to speak on behalf of the University unless so authorized. An indication of affiliation with the University should not be construed as speaking on behalf of the University.**

**27.3 Place of Work**

**27.3.1 Normally, instruction takes place on the Queen's campus. Members are not required to be on campus to fulfill their non-classroom responsibilities as outlined in this Agreement, whenever another location is appropriate for that purpose.**

**ARTICLE 28  
WORKING CONDITIONS**

**28.1 Within the framework of institutional resources, the University shall provide adequate facilities and support to enable Members to fulfil academic responsibilities as defined in Article 27.**

- 28.2 While it is recognized that it may not always be possible to provide Members with private offices and telephones, every reasonable effort shall be made to provide such facilities, including an office, which may be shared, unless other working spaces suitable to their function are provided. If, for good reasons, it should prove impossible to provide office space, space for lockable storage of personal property will be provided, as will space for private meetings with students during a reasonable number of scheduled office hours.
- 28.3 **Members shall be assigned a University e-mail address as soon as practicable after they accept an offer of employment This e-mail address shall be functional for eight (8) months following the end of the Member's appointment, unless otherwise directed by the Head of the Unit.**
- 28.4 **Members shall be entitled to free access at an on-campus location with appropriate equipment to the University's computer system which will permit access to e-mail, QCAT, Web CT, and Internet services. The location may be in a private or shared space but shall allow for confidential communication.**
- 28.5 **It is recognized that Members need to send and receive mail at their Unit addresses. Postage relating to their assigned academic responsibilities shall be provided by the University, while duplication and office supplies for these purposes shall be provided by the Unit. As well, the Unit shall provide resources agreed to in advance by the Head of the Unit.**
- 28.6 Members shall have reasonable access to the University's Library services, collections and facilities from the time they accept an offer of employment to up to eight months following the end of their appointment. Library access granted before and following the actual term of the appointment shall be arranged by a letter from the Head of the Unit to the Library.
- 28.7 **The University's on-line directory shall include all Members for the duration of their appointment as set out in their letter of appointment.**
- 28.8 **Any Member who is required to travel away from the main or west campus for University teaching purposes shall be reimbursed for travel expenses on the basis of the University's Travel and Subsistence Policy as amended from time to time and available from the Office of Financial Services or at [http://www.queensu.ca/fins/policies/travel\\_sub.html](http://www.queensu.ca/fins/policies/travel_sub.html).**
- 28.9 **Members who reside more than seventy-five (75) kilometres from Kingston and who have been appointed as commuting adjuncts in their letters of appointment shall be eligible for reimbursement for certain bona fide travelling and accommodation expenses as set out in Appendix D, incurred because of their travel to Kingston to complete their duties for the University.**
- 28.10 **The Parties recognize that Members may incur expenses related to the duties identified in their letter of appointment. The University shall reimburse Members for such expenses to a maximum of one hundred and fifty dollars (\$150) per half-credit (0.5) course equivalent. Members may claim reimbursement one time per academic term, at a time of their choosing, by submission of bona fide receipts to the Head of the Unit.**
- 28.11 **Members shall receive the same support by way of markers and teaching assistants as is available to tenure-track or tenured faculty in the Unit.**
- 28.12 **Within the constraints of the University's responsibility to make time tabling arrangements for its academic programs in a timely manner and according to the policies and practices established by the University Timetable Committee, the University shall make reasonable attempts to accommodate the requests of a Member concerning the scheduling of the Member's teaching.**
- 28.13 **A fund of twenty thousand dollars (\$20,000) per annum, to be known as the "Fund for Scholarly and Professional Development (Sessional Adjuncts)" shall be established. The Fund will provide support in the form of a research/professional development grant (provided as a research/professional development account) for research, scholarship, creative work and/or**



professional development undertaken by eligible Members. Members shall be eligible to apply for support from the Fund. The Fund shall be disbursed by a joint University-QUFA committee on the basis of submission of a proposal from the Member, outlining the Member's plan for research, scholarship, creative work and/or professional development. Competitions shall be held three times per academic year, with proposals submitted by mid-May, mid-September and mid-January. The maximum annual award to a Member shall be one thousand five hundred dollars (\$1,500). Unspent money in the Fund in any fiscal year shall carry forward for disbursement in the subsequent fiscal year.

## ARTICLE 29 COMPENSATION AND BENEFITS

### 29.1 Compensation

29.1.1 The minimum salary stipends per half-course for Sessional Adjuncts shall be as set out in Table A, following, with the exception of the practica courses noted in Table A, and for courses in Music or Continuing and Distance Studies.

The minimum stipend for a full-course shall be twice that of a half-course. Stipends shall be pro-rated for co-teaching appointments, based on the percentage of the course taught by the Member. Where more than one appointee is assigned to the course, the percentage responsibilities shall sum to one hundred per cent (100.0%).

Table A

Fiscal Year	2003-04	2004-05	2005-06
Unit Workload	Minimum Stipend per Half-Course Equivalent	Minimum Stipend per Half-Course Equivalent (plus payment in lieu of benefits)	Minimum Stipend per Half-Course Equivalent (plus payment in lieu of benefits)
2.5 full-courses (or more)	\$5,000.00	\$5,000.00 + negotiated scale (plus 3.0% payment in lieu of benefits)	2004-05 minimum + negotiated scale (plus 3.0% payment in lieu of benefits)
2.0 full-courses	\$5,632.00	\$5,632.00 + negotiated scale (plus 3.0% payment in lieu of benefits)	2004-05 minimum + negotiated scale (plus 3.0% payment in lieu of benefits)
1.5 full-courses (or less)	\$6,843.00	\$6,843.00 + negotiated scale (plus 3.0% payment in lieu of benefits)	2004-05 minimum + negotiated scale (plus 3.0% payment in lieu of benefits)
<b>Practica:</b>			
PHED 107, PHED 207, LAW 325	\$2,816.00	\$2,816.00 + negotiated scale (plus 3.0% payment in lieu of benefits)	2004-05 minimum + negotiated scale (plus 3.0% payment in lieu of benefits)
PRAC 190, PRAC 194 (per multiple of approximately 18 enrolments)	\$3,194.00	\$3,194.00 + negotiated scale (plus 3.0% payment in lieu of benefits)	2004-05 minimum + negotiated scale (plus 3.0% payment in lieu of benefits)

All stipends, whether at the minimum level or higher, include:

- (a) Vacation pay of four per cent (4.0%)
- (b) An allowance for course-related administrative duties

### 29.1.2 Scale

Effective May 1, 2004, and May 1, 2005 the minimum stipends shall be increased by an annual scale increment, the amount of which shall be equal to that which is negotiated for the same year between QUFA and the University for Members of the Faculty, Librarians and Archivists Bargaining Unit.

#### **29.1.3 Payment in Lieu of Benefits**

Effective May 1, 2004, the minimum stipends shall be supplemented by a three per cent (3.0%) payment in lieu of benefits as shown in Table A. The payment in lieu of benefits shall be calculated as a percentage of that year's minimum stipend.

#### **29.1.4 Stipends Above the Minima**

Individual negotiation, based on factors such as the Unit's hiring market, may determine an actual per course stipend for a Sessional Adjunct above the established minima. Stipends above the minima are not subject to scale increases as outlined in Article 29.1.2. Stipends above the minima are not subject to payment in lieu of benefits as outlined in Article 29.1.3.

#### **29.1.5 Course Cancellation Payment**

If a course is cancelled within two weeks of the start of the term or session in which it is scheduled, the Member shall be paid a course cancellation fee of one thousand dollars (\$1,000), pro rata to a Member's percentage responsibility for the course.

#### **29.1.6 Additional Duties**

Any additional duties for which compensation is paid, such as those in Article 23.5.2, and the agreed compensation for those duties, shall be outlined in a supplementary letter of appointment.

#### **29.2 Child-Care Plan**

29.2.1 Members with dependent children under the age of six (6) years shall be eligible for reimbursement of child-care costs as follows:

- (a) Members must provide receipts by February 1 for expenses incurred during the previous calendar year.
- (b) Reimbursement will be made only for child-care expense payments that meet the Canada Customs and Revenue Agency definitions for Child-Care Expense Deduction.
- (c) Reimbursement will be made for each day that the Member has assigned teaching duties during the term or session.
- (d) If both parents are eligible for a child-care benefit at Queen's University, only one may claim a benefit for any one child under any one child-care benefit plan.
- (e) The maximum reimbursement will be one thousand dollars (\$1,000.00) per child annually, based on a calendar year. There are no carry-over provisions if the full one thousand dollars (\$1,000.00) is not used in any given year.
- (f) Eligible dependent children are natural, step, common-law, or adopted children or wards under the age of six (6) years.

**29.2.2 The University shall establish an annual fund of thirty-five thousand dollars (\$35,000.00) to cover the child-care claims provided by Article 29.2.1. Any surplus in the plan at the end of**

each calendar year shall carry forward to the subsequent year. Should the eligible claims exceed the total amount available per year then the amount per eligible claim shall be pro-rated. The participation rate, reimbursement levels, funding and administration of the plan shall be evaluated each year. The fund shall first be disbursed for expenses incurred in the 2004 calendar year.

#### **ARTICLE 30 NO STRIKES OR LOCKOUTS**

30.1 The University shall not lock out Members of the Bargaining Unit, and the Association and its Members shall not strike, during the term of this Collective Agreement.

#### **ARTICLE 31 DURATION**

31.1 This agreement shall be in force as soon as it is ratified by both Parties and shall remain in force until April 30, 2006. Except for the compensation provisions for 2003-04 which shall have effect retroactive to May 1, 2003, no provision of this agreement shall be retroactive, except where a separate agreement exists.

#### **APPENDIX A EXCERPT FROM THE STATEMENT ON ADJUNCT ACADEMIC STAFF AND ACADEMIC ASSISTANTS (LAST REVISED JUNE 23, 1994)**

Approved October 19, 1984.

Revised January 24, 1991; December 17, 1992; and June 23, 1994.

Students registered at Queen's University are not subject to these regulations, but will be governed by the policy of the School of Graduate Studies & Research on Teaching Assistants.

#### **Preamble**

Queen's University employs many people who contribute to the academic activities of the University, but who do not hold an appointment under the Regulations Governing Appointment, Renewal of Appointment, Tenure and Termination. The background, qualifications and responsibilities of these people are exceedingly diverse, ranging from those who assist in marking assignments to those who have been responsible for teaching courses for many years. University policies divide the appointments held by these people into the following categories:

- (a) adjunct academic staff, Group I,
- (b) adjunct academic staff, Group II,
- (c) continuing adjunct academic staff, Group III,
- (d) academic assistants.

In this document, the mechanisms of appointment of adjunct academic staff members and academic assistants are set out. In addition, the rights and entitlements of members of the adjunct academic staff and academic assistants are specified.

#### **I. Definitions**

1. A "member of the adjunct academic staff" means a person engaged to perform a prescribed and limited range of academic duties, principally teaching and principally part-time, which may include the responsibility to organize, plan and conduct courses independently or with only slight guidance from members of the regular academic staff.

The category of adjunct academic staff is in itself diverse and includes three major groups:

- (a) Group I appointees. Persons, usually members of professions, who give their services to the University for some or no return; persons who normally teach fewer than the

equivalent of two full courses per year for remuneration;

- (b) Group II appointees. Persons who have served fewer than five years and who normally teach the equivalent of two or more full courses per year, or whose remuneration for teaching duties and related activities is more than 50% of the floor salary for a regular assistant professor; it also includes those whose teaching and related academic activities at the University comprise an annual workload equivalent to either of the groups noted immediately above.
  - (c) Group III appointees. Persons who have served five years or longer as Group II appointees, excluding one or more years of approved leave. The transition from Group II to Group III is set out in Part III (A) 3. and 4., below. An appointee hired after retiring from an appointment as a member of the regular academic staff at Queen's University is not normally eligible to become a Group III appointee.
2. An "academic assistant" means a person who acts as an assistant to a member of the regular or adjunct academic staff and who performs such duties as tutoring, grading, lab assistance, and research assistance. Academic assistants will normally work under the direct supervision of a member of the academic staff.
  3. A "member of the regular academic staff" means a person who holds an appointment under the Regulations Governing Appointment, Renewal of Appointment, Tenure and Termination for Academic Staff (October 1979: Queen's Gazette, Supplement to Volume XI, Number 46, 20 November 1979).

The entire policy can be found at:

<http://www.queensu.ca/secretariat/senate/policies/adjunct/index.html>

## APPENDIX B

### NOTICE OF INTENTION TO GRIEVE PURSUANT TO ARTICLE 17.4.1

#### NOTICE OF INTENTION TO GRIEVE

NAME:

DEPARTMENT:

FACULTY:

POSITION/RANK:

I, \_\_\_\_\_ of \_\_\_\_\_, do hereby give my notice of  
Name Faculty/Unit

intention to grieve to the University. My reasons for doing so are noted below.

#### Reasons for Grievance:

(Please outline in detail the event, transaction, decision, or the end of a set of circumstances which you are grieving. Please append any materials you consider necessary).

---

Signature of Member

---

Date

**APPENDIX C  
LIST OF ARBITRATORS PURSUANT TO ARTICLE 17.6.1**

**LIST OF EIGHT (8) ARBITRATORS  
PURSUANT TO ARTICLE 17.6.1  
OF THE GRIEVANCE AND ARBITRATION ARTICLE**

1. Kevin Burkett
2. Innis Christie
3. William Kaplan
4. Paula Knopf
5. Howard Snow
6. Susan Stewart
7. Ken Swan
8. Kevin Whittaker

**APPENDIX D  
COMMUTING ADJUNCT TRAVEL EXPENSE POLICY**

1. Sessional adjuncts who reside more than seventy-five (75) kilometres from Kingston and who have been reappointed as commuting sessional adjuncts in their letters of appointment shall be eligible for reimbursement for certain bona fide travelling and accommodation expenses as set out below, incurred because of their travel to Kingston to complete their assigned duties for the University.
2. Claims for such bona fide expenses shall be supported by receipts, except as noted below. The following limits apply per trip:

**Transportation:**

- (a) Train: Advanced Return Fare (five (5) days advance purchase). Regular Return Fare will be approved when the Advanced Return Fare ticket was not available, provided that the Member seeks such Advanced Fare Ticket prior to ten (10) working days before the required attendance, plus taxi fare to a maximum total of twenty dollars (\$20.00) for transportation to

and from the railway station; or

(b) **Bus:** Bus Fare plus taxi fare to a maximum total of twenty dollars (\$20.00) for transportation to and from the bus station; or

(c) **Car:** claim amounts equivalent to Regular train fare (receipts not required).

**Accommodation:**

For Sessional Adjuncts who reside more than one-hundred (100) kilometres from Kingston: bed and breakfast: twenty dollars (\$20.00) per night (receipts not required) or seventy dollars (\$70.00) per night (receipts required).

3. **Parking fees on or off campus are the Sessional Adjunct's responsibility.**
4. **Where a Sessional Adjunct Member is charged any fee for a change of train reservations, the University shall reimburse the Member when the change has been necessitated by unit requirements.**

**APPENDIX E  
HARASSMENT/DISCRIMINATION COMPLAINT POLICY AND PROCEDURE**

**Harassment/Discrimination Complaint Policy and Procedure**

**Approved by the Senate March 30, 2000**

**Ratified By the Board of Trustees on May 6, 2000**

**This document replaces the Harassment/Discrimination  
Complaint Policy and Procedure  
(1995)**

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**A. POLICY**

Queen's University believes in the necessity of providing safeguards for its members against harassment and discrimination. This includes harassment and discrimination on the basis of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, gender identification, sexual orientation, age, marital status, family status and handicap (disability). In addition, the University has the duty to do so under Ontario and Federal law. This duty is

also met by special programs designed to relieve hardship or economic disadvantage or to assist disadvantaged persons or groups to achieve or attempt to achieve equal opportunity or that are likely to contribute to the elimination of harassment and discrimination. Implicit in the duty not to harass or discriminate is a positive duty to accommodate.

That duty includes a responsibility on the part of all supervisors, both academic and staff, to strive to create an environment free of harassment and discrimination in their area of responsibility. Included within the ambit of that responsibility is an awareness of what constitutes harassment and discrimination based on human rights grounds, a knowledge of the procedures that are in place for dealing with allegations of harassment and discrimination, and cooperation in the processing of complaints made under this procedure.

It also means that supervisors will not condone or ignore activities within their areas of responsibility which violate the rights of students, faculty or staff. It means that they will ensure that all those for whom they have responsibility are aware that any form of harassment and discrimination based on the grounds enumerated above or analogous grounds, in all its manifestations is prohibited. They will ensure that any complaints will be attended to immediately and effectively.

In the fulfilment of these obligations, the University has established a Human Rights Office and provided for the appointment of a Director and Coordinators responsible for issues of human rights. Among the responsibilities of the Office are those of increasing awareness among the University community of the effects of harassment and discrimination, of providing educational programs to all segments of the community, including supervisory personnel, of providing support for individuals and groups who are the targets of harassment and discrimination, and of administering the Procedure established under this document.

This document assumes that a centralized procedure is necessary to ensure uniformity and fairness in dealing with complaints, whether they are made by students, staff or faculty. The Procedure is designed, in part, to prevent harassment and discrimination by educating members of the University community as to what constitutes such behaviour. It is also intended to provide a framework which is accessible to complainants in the sense of protecting their anonymity and ensuring that, as far as possible, the initiation and pursuit of a complaint will not be an intimidating experience.

Thus, the emphasis is on informal resolution, using facilitation/negotiation, save where the nature of the matter necessitates a more formal process. It is intended that the existence of this document should help create the kind of environment which nurtures and supports the work of all faculty, staff and students.

Academic excellence can only be achieved when all members of the community are free to work, teach and learn in an environment which does not exclude or discriminate against them. This policy and procedure have been formulated to ensure the protection of these essential elements of academic freedom.

## B. DEFINITIONS

1. Queen's University recognizes that all members of the University Community have the right to be free from harassment and discrimination. This includes sexual harassment, harassment based on gender, race, ethnicity, religion, creed and sexual orientation or analogous grounds. Such harassment and discrimination has the purpose or effect of unreasonably interfering with an individual's or a group's work or academic performance, or of creating an intimidating, hostile or offensive working, living or academic environment. Individuals or groups who are not the direct target of the conduct in question may also suffer harassment and discrimination as a result of being present when such conduct takes place.

Any definition of harassment or discrimination may be subject to [Article 14](#) of the QUFA - Queen's University Collective Agreement or other documents related to academic freedom, as well as legal or constitutional documents.



It should be noted that personal/workplace harassment which is not based on one of the grounds enumerated above, is not covered under the following procedure.

**2. Harassment And Discrimination Are Exacerbated Where**

- a) submission to such conduct is made or threatened to be made either explicitly or implicitly a term or condition of an individual's employment, academic status or accreditation.
- b) submission to or rejection of such conduct is used or threatened to be used as a factor in employment, academic status, grade, accreditation or other decisions affecting that individual or as the basis for any other form of advantage or reprisal.

**3. Definition Of Sexual Harassment**

Sexual harassment means engaging in comment or conduct of a sexual nature which is known or ought reasonably to be known to be unwelcome. It includes but is not limited to:

- a) sexual solicitations, advances, remarks, suggestive comments and gestures.
- b) the inappropriate display of sexually suggestive pictures, posters, objects or graffiti.
- c) physical contact of a sexual nature (including sexual assault under the Criminal Code.)
- d) sexual conduct that interferes with an individual's dignity or privacy such as voyeurism, and exhibitionism.

**4. Definition of Race and Racism**

By racism we mean the negative valuing, stereotyping, and discriminatory treatment of individuals and groups on the basis of their race.

- a) Racism directed at any individual or group is unacceptable. In this Procedure, the term race is intended to focus on racial minorities and First Nations peoples.
- b) Racism can be detected by its effects. Racism can be manifested in both personal attacks and insults, and in the structure of social institutions. There is a well-known distinction between personal racism (insults, harassment and discrimination directed at an individual), and institutional or systemic racism (the conventional practices or structures of institutions which have the effect of excluding, or discriminating against individuals or groups, or of creating a hostile environment.) Thus, racism can be present in hostile acts, as well as in apparently neutral arrangements.
- c) Racism may be intentional or unintentional. It can be the result of activity or arrangements that set out to discriminate or harm, or it can result from ignorance or inadvertence.
- d) Racism involves carrying into effect one's prejudices, resulting in discrimination, inequality or exclusion.
- e) Racism may include, but is not limited to:
  - i. behaviour such as the dissemination of hate literature, graffiti, racial slurs and

jokes, derogatory remarks and gestures, and physical attacks,

- ii. bias in administrative decisions, employment and workplace practices, tenure, promotion, appointment, leave, and salary increases,
- iii. bias in academic decisions such as grades, marks, in the choice of scheduling of academic activities, and decisions related to the content of courses and course materials,
- iv. behaviour which could reasonably be interpreted as offensive and patronizing, and as undermining self respect or adversely affecting performance or working conditions,
- v. discrimination in the provision of goods and services, or access to premises, accommodation and other facilities.

#### 5. Definition of Heterosexism

Heterosexism is the negative valuing, stereotyping, and discriminatory treatment of individuals and groups who are lesbian, gay, bisexual or trans-identified, those perceived to be so, and those affiliated with them.

- a) The expression of dislike, hate or fear based on heterosexism is known as homophobia. When directed at women it is referred to as lesbophobia. When directed at bisexual women and men it is referred to as biphobia.
- b) Heterosexism can be detected by its effects. Heterosexism can be manifested in both personal attacks and insults and in the structure of social institutions. There is a distinction between personal heterosexism (insults, harassment and discrimination directed at individuals), and in institutional or systemic heterosexism (the conventional practices which have the effect of excluding or discriminating against lesbians, gay men, bisexuals and trans-identified people as individuals and as groups, and which may create a hostile environment.) Thus, heterosexism can be present in hostile acts or comments, as well as in apparently neutral arrangements.
- c) Heterosexism may be intentional or unintentional. It can be the result of activity or arrangements that set out to discriminate or harm, or it can result from ignorance or inadvertence.
- d) Heterosexism involves carrying into effect one's prejudices, resulting in discrimination, inequality and exclusion.
- e) Examples of heterosexism include, but are not limited to:
  - i. behaviour such as the dissemination of hate literature, graffiti, name calling, derogatory remarks, jokes and slurs, gestures and physical attacks,
  - ii. bias in administrative decisions, employment and workplace practices, promotion, appointment, tenure, leave and salary increases,
  - iii. bias in academic decisions such as grades, marks, and in the choice of curriculum and course content,
  - iv. behaviour, language or terminology which could reasonably be interpreted as offensive and patronizing and as undermining self respect or adversely affecting performance or working conditions.
  - v. discrimination in the provision of goods and services, or access to premises, accommodation and other facilities.

## 6. Definition of Transphobia

Transphobia is the negative valuing, stereotyping and discriminatory treatment of individuals who do not conform in appearance and/or identity, to conventional conceptions of gender. Trans-identified (transgendered) individuals, lesbians, gay men, bisexuals and their supporters are typically the targets of transphobia.

- a) Transphobia can be detected by its effects. Transphobia can be manifested in both personal attacks and insults, and in the structure of social institutions. There is a distinction between personal transphobia (insults, harassment and discrimination directed at individuals) and institutional, or systemic, transphobia (conventional practices which have the effect of excluding or discriminating against individuals or a group). Thus transphobia can be present in hostile acts as well as in apparently neutral arrangements.
- b) Transphobia may be intentional or unintentional. It can be the result of activity or arrangements that set out to discriminate or harm, or it can result from ignorance or inadvertence.
- c) Transphobia is more than prejudice; it involves carrying into effect one's prejudices, resulting in discrimination, inequality and exclusion.
- d) Examples of transphobia include, but are not limited to:
  - i. behaviour such as name-calling, slurs and jokes, derogatory remarks, gestures and physical attack.
  - ii. bias in administrative decisions, employment and workplace practices, promotion, appointment, tenure, leave and salary increases.
  - iii. bias in academic decisions such as grades, marks, and in the choice of curriculum and course content.
  - iv. behaviour, language or terminology which could reasonably be interpreted as patronizing and as undermining self-respect or adversely affecting performance or working conditions.
  - v. discrimination in the provision of goods and services, or access to premises, accommodation and other facilities.

## C. PROCEDURE

### I. APPLICABILITY OF PROCEDURE

#### 1. Who may utilize the Procedure

This Procedure may be utilized by groups as well as individuals and may involve complaints against one or more individuals as well as the University and its various operating units.

The conduct in question may constitute harassment, and a complaint may be brought under this Procedure, whether the conduct occurs on or off campus, and whether it occurs during or outside of working hours.

Members of the community for the purposes of making a complaint under this Procedure, includes former members complaining of any harassment or discrimination suffered while still members of the Community.

Non-community members may also make a complaint against a member of the Queen's community under this policy when the alleged conduct occurred on the Queen's campus, or at any Queen's University sanctioned event, whether this event takes place on or off-campus.

As per Article 21.3 of the Collective Agreement, Faculty Members are bound by the provision of this policy, until the conclusion of a formal hearing.

#### Grounds Covered

2. Cases dealt with under this Procedure may involve one or more forms of harassment or discrimination on the grounds enumerated in the Policy.

#### Involvement of External Agencies

3. There may be cases in which the use of external agencies will be more appropriate, such as the police for example, if assault is alleged to be involved, or the Ontario Human Rights Commission.
4. The Ontario Human Rights Commission generally follows its policy of not pursuing an investigation until internal remedies have been sought. However, should the Commission begin an investigation with respect to the subject matter of a complaint being dealt with under this Procedure, action under this Procedure will cease at least until the complaint before the Commission is discontinued or brought to a conclusion.
5. Commencement of proceedings in the courts under criminal or civil law with respect to the subject matter being dealt with under this procedure will not necessarily affect the processing of complaints under this procedure.

#### Reprisals

6. Any reprisal, or expressed or implied threat of reprisal, for making and pursuing a complaint under this Procedure is itself considered a breach of this policy.

#### Residences

7. When a complaint involving a breach of the Policy is made in a residence setting, those in authority are responsible for advising the complainant of her or his entitlements under this Procedure and for ensuring a liaison between the Human Rights Office and the Residence system in the resolution of such a case.

In matters of security, this does not preclude the appropriate Officer of the University from taking action, as per Item 8 below. Notification of such action will be sent to SONAD for ratification.

#### Emergency Action

8. This Procedure is without prejudice to the entitlement of the University to suspend any faculty member, student, or member of staff, (where it is decided that the ongoing security of members of the community requires such action), through the appropriate officers (VP Operations and Finance.)

#### Third Party Complaints

9. Although most complaints made under this Procedure will be made by persons who are the direct recipients of harassment or discrimination, persons who are not the direct recipient, but whose living, working or learning environment is adversely affected by the

conduct may also make a complaint under this Procedure.

## II. ADVISERS - APPOINTMENT AND FUNCTIONS

### Appointment

1. The Principal will maintain a roster of volunteer Human Rights Advisers, appointing a minimum of four such Advisers on the recommendation of the Human Rights Office. This roster will include at least one male and one female faculty member/librarian/archivist, and one male and one female staff member. Volunteer Advisers (named as Advisers for the purposes of this procedure) will ordinarily be appointed for a term of two years. Their appointment may be renewed. The Principal will make every effort to appoint one of these Advisers with special responsibility for the residence system.

### Role of Advisers and Coordinator/Advisers

2. The primary duty of Advisers and Coordinator/Advisers is to address complaints of discrimination and harassment using this prescribed policy and procedure.

### Legal Assistance

3. Should the need arise, Advisers may, either generally, or within the context of a specific complaint, and with the permission of the appropriate Coordinator/Adviser, seek legal assistance on the meaning and operation of this Procedure and their role and obligations under it.

### Relations with the Media

4. In the event that, at any stage of the complaint process, a complaint attracts media attention, the appropriate Adviser or Coordinator/Adviser shall inform the media that the policies of confidentiality preclude us from confirming or denying the existence of a complaint.

### Respondents' Advisers

5. The Principal will endeavour to have full representation of Respondent Advisers to assist respondents named in a complaint made under this Policy. Such an Adviser reports to the University Secretariat, and is empowered to act on behalf of a respondent. A Respondent Adviser may, with the permission of the University Secretariat, seek legal advice on the meaning and operation of this Procedure and the role and obligations of a Respondent Adviser under it.

### Responsibilities of Respondent Advisers

6. Respondent Advisers will be responsible for advising the respondent concerning their rights and responsibilities under the Policy and Procedure, for assisting the respondent in understanding the complaint, and supporting the respondent through this process when requested to do so by the respondent.

### Training of Advisers

7. The Office of the Secretary of the University and the Human Rights Office will be jointly responsible for the training of Advisers under this procedure.

## III. COMPLAINT PROCEDURE

### Responsibilities of Supervisory Personnel

1. While every member of Queen's has a responsibility to be aware of human rights policies at Queen's, administrators and supervisors have the responsibility to advise persons whom they believe may have been harassed, of the assistance available through the Human Rights Office. "Administrators and supervisors" may include, but are not limited to, the following: AMS and SGPS officers, academic staff, medical and counselling personnel, campus security staff, residence staff, lab demonstrators, and coaches.
2. Such personnel may, without revealing the identity of the persons involved, also seek advice from any of the Advisers as to how to proceed in those instances where a person alleging to have been subject to harassment is unwilling to take the matter to an Adviser.
3. In cases of apparent systemic harassment, such personnel may themselves take a complaint to an Adviser on behalf of those allegedly harassed.
4. In situations where the interests of the University and the protection of the members of the community require it, such personnel may, with the consent of the appropriate Coordinator/adviser, take a complaint as far as a formal hearing notwithstanding the absence of consent of the person or persons allegedly harassed.
5. Such personnel must cooperate with and facilitate initiatives taken under Item 9.

#### **INFORMAL COMPLAINTS**

##### **Initiation of Informal Procedure**

6. Any member of the University community may seek informal assistance or advice from an Adviser, who shall as a first step, ensure that this person receives written information regarding the Procedure and a copy of this Procedure. The Adviser will attempt to, at this time, make a determination as to the nature of the complaint. All such consultations will be confidential unless otherwise provided by law. Members of the University community may also, simultaneously, seek advice from their professional associations or certified unions.

##### **Informal Settlement**

7. With the consent of the complainant, and in consultation with the appropriate Coordinator/Adviser, an Adviser may take any steps deemed appropriate in order to effect a resolution at this time, and keeping in mind the principles of natural justice at all times.

Respondents will be notified that they will normally be entitled to at least 2 working days to seek advice before any meeting to discuss the allegations with any University officer. In the case of situations where respondents and complainants are living communally in a residential setting, the time allowed for seeking advice may be shortened.

#### **FORMAL COMPLAINTS**

##### **Initiation of Formal Complaint**

8. If a complainant wishes to make a formal complaint, it shall be initiated by filing with an appropriate Adviser, written details of the alleged harassment including dates, times, places, names of individuals involved as well as an indication of any specific remedy being sought. Where necessary, the Adviser shall assist the complainant in the preparation of this document and, in particular, shall ensure that the complainant has identified the appropriate respondent or respondents. In the case of complaints against the University, the respondent will be the Principal as representative of the University, while in complaints against one of the University's operating units or any group or

society, it will be the Dean, Head, Director, Chair or President as the case may be, as representative of the operating unit, group or society. The Adviser will also ensure that the complainant has a copy of this Procedure and respond to requests for information about the process. Complainants may also, simultaneously, seek advice from their professional associations or certified unions.

#### Critical Intervention

9. At this time, or at any time prior to the hearing, the Adviser may attempt to resolve the complaint, with the agreement of the complainant, and with the assistance of the appropriate supervisor, unit head or senior administrator.
10. An Adviser who chooses to undertake critical intervention shall notify the Coordinator/adviser of this fact. The Coordinator/adviser will choose an appropriate time frame for the intervention to take place and will notify the appropriate supervisor, unit head or senior administrator of any resolution achieved. All time limits pertaining to formal board proceedings will be suspended until such time as critical intervention has proven to be unsuccessful.
11. A settlement of a complaint under Items 9 - 10 may provide for the disposition of the written complaint itself and any other written material accumulated in association with the complaint. If the settlement does not so provide, the written complaint and any other material accumulated in association with the complaint will be retained in confidence by the appropriate Coordinator/adviser and, if informed under Items 9 - 10, by the appropriate officer for a period of two years from the date of settlement. After that period, the appropriate Coordinator/adviser and, in applicable cases, the appropriate officer will either destroy the material or arrange for its deposit in the University Archives with names deleted under the appropriate section of the Freedom of Information and Protection of Privacy Guidelines.
12. If no settlement of the complaint is reached under Item 9, and if the complaint is not proceeded with within the time limits set out in the formal procedure, the complaint will be deemed to have lapsed. In such a case, the written complaint and any other documents related to the complaint will be retained in confidence by the appropriate Coordinator/adviser and, in applicable cases, the appropriate officer for a period of six months from the lapse of the complaint at which time the complaint and record will be destroyed.

#### Time Limits

13. Normally a written complaint must be filed within six months of the incident complained of, or where the matter complained of consists of a series of related incidents, within six months of the most recent incident.
14. In the case of complaints filed outside the normal six-month period, the Coordinator/Adviser, will advise the complainant whether the complaint should be allowed to proceed. A final and binding decision will be made by the Board. Cases in which extensions will be favourably considered include but are not restricted to those in which there has been a continuing academic, professional or employment connection between the complainant and the respondent.

#### Holding Complaints in Abeyance

15. A written complaint may be held in abeyance for up to three months after filing at the request of the complainant, and, in the case of a student complainant, may be held for three months after filing or up to one month after the end of the academic session in which the student is enrolled, whichever is later.
16. While a written complaint is held in abeyance, it will be retained in complete confidence

by the adviser and will be treated for all purposes as if no written complaint had been filed.

17. If the complainant does not direct that a written complaint held in abeyance be proceeded with within the time limits specified in Item 15 above, the complaint will be destroyed and will be treated for all purposes as if it had never been filed.

#### Establishing Jurisdiction Over Formal Complaints

18. An Adviser who has received a written complaint will disclose the complaint to the appropriate Coordinator/adviser, who will ensure that the same complaint is not being proceeded with by another Adviser. The Adviser may also consult the appropriate Coordinator/adviser, and with their consent, may consult other Advisers or seek legal advice, as to whether the incident complained of constitutes harassment or discrimination covered by this procedure.
19. If a complaint is not considered to involve an allegation of harassment or discrimination covered by this procedure, the Adviser will inform the complainant in writing. That communication will also advise the complainant of the right to seek a ruling on the matter from the Chair of the Harassment/Complaint Board (as detailed in Item 20 below). It will also outline any alternative University Grievance routes. In these situations, the time for initiating a complaint in any alternative forum will run from the date on which the complainant is notified by the Adviser and/or the Board that the complaint is not considered to be one of harassment and/or discrimination covered by this procedure.
20. Any request for a ruling by the Chair of the Harassment/Discrimination Complaint Board, on whether a matter involves an allegation of harassment or discrimination covered by this procedure, must be made within one week of receiving the opinion of the Adviser under Item 19 above. The Chair will make a ruling within one week of such a request being received. The running of time limits for further steps under this Procedure will be suspended until the issuance of a ruling by the Chair.

#### Notice of Complaints

21. Within ten days of the receipt of the written complaint, or if the complaint has been held in abeyance under Item 15, within ten days of the complainant notifying the Adviser to proceed with the complaint, the Adviser will send the respondent a copy of the complaint and, if not already provided, this Procedure and the names and contact numbers of the Respondent Advisers.
22. On filing a written complaint, a complainant may request that communications concerning the complaint from the respondent to the complainant be made only through their respective Advisers, or to the complainant in the presence of their Advisers. The respondent will be informed of such a request in writing at the time the respondent first receives the written complaint from the Adviser.

#### Facilitation of a Resolution to a Complaint

23. The complainant may choose to attempt to have the matter dealt with through a process of alternative dispute resolution. In such a case, the Respondent Adviser will provide the respondent with the list of individuals knowledgeable in the area of human rights (as designated under Item 24) and ask the respondent to indicate within ten days of receipt of the complaint whether he or she is willing to consider alternative dispute resolution. The respondent will also be informed that a failure to so indicate may lead to the matter proceeding directly to a formal hearing as provided in Item 29.

Any attempt at critical intervention shall be held in abeyance during any alternative dispute resolution process.



24. To assist the parties in appointing a facilitator, the Principal will ensure that a list of individuals knowledgeable in human rights selected from the Kingston community is maintained. Both parties must agree to the choice of the facilitator who may be selected from this list or who may be any other member of the university community upon whom the parties can agree, and who agrees to serve.
25. Within four weeks from the date of the agreement on a particular facilitator, the process will be concluded and the facilitator will provide a written report to the Adviser, to the parties and, in cases where the appropriate Senior administrator has been informed under Item 9, to that person.

If a resolution has been achieved as a result of facilitation, a written copy of the resolution will be signed by the complainant, the respondent and the facilitator. A copy of the written complaint, the facilitator's report and the resolution will be retained by the appropriate Coordinator and, in applicable cases, by the appropriate Senior administrator for as long as both parties are at the University, or for a period of two years from the conclusion of the process, whichever is longer. They must then be destroyed or deposited in the University Archives with all personal indicators deleted as per relevant sections of the University's "Freedom of Information and Protection of Privacy Guidelines (ATIPP)."

#### Breach of settlement

26. Should the respondent breach the terms of an informal agreement or of an alternative dispute settlement, the complainant may revive the complaint by giving notice to the relevant Adviser and the respondent. The complaint shall then proceed to a formal hearing as though the alternative dispute resolution process had failed. Should the respondent contest the occurrence of the breach, that issue will be determined as a preliminary matter by the Harassment/Discrimination Board and, if the Board finds that there is no breach, the complaint shall be dismissed. Actions on the part of the complainant that lead to a breach will be taken into consideration in any subsequent actions.
27. If the board determines that there has been a breach, the complaint will be determined on its merits. For the purposes of deciding whether the terms of any resolution have been breached and in any subsequent assessment of penalty, the documented formal complaint, a copy of the final settlement agreement itself and the circumstances of the alleged breach will be admissible as evidence in making such a decision.

#### Formal Hearing

#### Make-up of Complaint Board

28. The Principal will nominate a Chair and Vice-Chair of the Harassment/Discrimination Complaint Board and Senate will ratify these nominations. The appointed Chair (who shall usually be a member of the Faculty of law) and Vice-Chair (who shall not usually be from the same Faculty as the Chair) will have experience sufficient to advise the Harassment and Discrimination Complaint Board on matters of human rights law and procedure. The term of office for the Chair and Vice-Chair will ordinarily be three years. The appointments may be renewed.
29. Appointees to the Harassment and Discrimination Board will be selected from the Senate. Specific care will be taken to ensure gender balance and diverse representation on the Board. The member groups from which members of the Board may be chosen will be staff, student, and faculty. The Board, save and except the Chair, will be empanelled afresh for each complaint.

#### Initiation of Hearing

30. The complainant may initiate a hearing before the Harassment/Discrimination Complaint Board by a written request delivered to the Secretary of the University.
31. Such a request must be made within two weeks of the receipt of the written complaint by the respondent, unless the complainant wishes to consider alternative dispute resolution, or in the case where critical intervention has taken place.
32. Where alternative dispute resolution fails or is deemed to have failed because the complainant and the respondent do not agree on a facilitator, such a request must be made within two weeks of the facilitator's report to the Adviser and the parties that alternative dispute resolution has failed, or in the case of a failure to agree on a facilitator, within two weeks of the date of that failure.
33. Upon receipt of a written request for a hearing, the Secretary of the University will send copies of the request to the Chair of the Board, and to the respondent.

#### Striking the Board

34. The hearing will be before a three member Board. The Chair of the Board or Vice-Chair will preside. The two other members will come from the member groups listed in Item 29 above. The complainant and the respondent will each designate a group from which a Board member is to be appointed.
35. The complainant must indicate in writing to the Secretary of the University at the time of filing a request for a hearing, under Item 30 from which group a Board member is to be appointed.
36. The respondent must indicate in writing to the Secretary of the University within one week of the receipt of the copy of the request for a hearing, from which group a Board member is to be appointed.
37. Should a party fail to designate a group from which a member is to be appointed or, in the case of multiple complainants or respondents, should there be an absence of agreement among either the complainants or the respondents regarding the relevant group, the Chair shall make a designation on the basis of what appears to be the most appropriate group.
38. In the event that all members of a designated group are either unavailable or disqualified, the party or parties affected will be provided with a further opportunity to select an alternative member who has been nominated by Senate to a Senate committee or as an incoming Senator.
39. Once the membership of the Board has been established, the Chair will immediately inform the parties of the names of the members of the Board.
40. The Chair shall in all cases inform the Human Rights Office, the complainant's Adviser, the respondent's Adviser, and any appropriate Senior administrator who has been informed previously under Item 9.

#### Challenges to the Composition of the Board

41. The Chair of the Board may, both before and after receiving representations from the complainant, or the respondent, require any member to withdraw from sitting on the Board where the member has an actual or potential conflict of interest, or has a bias or may reasonably be perceived by the complainant or respondent to have a bias. Where there is a challenge to the participation of the Chair, the Vice-Chair will decide whether the Chair should withdraw and, if the Vice-Chair is also challenged, disqualified or otherwise unavailable, the matter will be resolved by the Dean of the Faculty of Law.

Where the Dean has a conflict of interest, the assistance of the Chair of the Committee of Ontario Law Deans will be requested.

42. When a member of the Board has been required to withdraw, that member will be replaced by another member of the designated group.

#### Submission of Written Statements and Documentary Evidence

43. The complainant will submit a full written statement to the Chair of the Board within two weeks of filing the written request for a hearing with the Secretary of the University. This statement, which will include a copy of the initial formal written complaint, will set forth all the facts relied upon and will identify all persons who, in the knowledge of the complainant, may support or verify these facts. It will be accompanied by all relevant documentation in the possession of the complainant.
44. The Chair of the Board will immediately send a copy of the complainant's statement and accompanying documentation to the respondent and advise the respondent of Item 45 and 47.
45. The respondent will have two weeks from receipt of the complainant's statement within which to submit to the Chair of the Board a written statement of response. This response should set forth all the facts relied upon and identify all persons who in the knowledge of the respondent may support or verify these facts. The response should be accompanied by copies of all relevant documentation in the possession or control of the respondent.
46. On receipt of the response and any accompanying documentation, the Chair of the Board will immediately send copies to the complainant.
47. If the respondent fails to file a statement of response as required in Item 45, above, the Board may proceed with the hearing of the complaint without further notice.

#### Withdrawal of Complaint

48. If the complainant withdraws a complaint after initiating a hearing, the Board shall formally dismiss the complaint and give notice of that in writing to the respondent, the Adviser, and to the appropriate senior administrator informed previously of the proceedings under Item 40.

#### Convening the Board

49. The Chair of the Board will convene the Board within three weeks after the filing of the complainant's statement or as soon thereafter as is possible to examine the statement and the response, if any, and to determine whether any additional information may be required in order to evaluate the statement or the response or to clarify apparently contradictory facts. If additional information is required, the Board may request the parties to supplement their original statements. If necessary the Board may:
  - a) interview any person believed to have information which is relevant to the complaint or
  - b) request any person to submit a written statement in lieu of the oral interview or in addition to such interview.
50. Where a complainant requests that a matter involving a breach of the Policy which has occurred in a residence setting be dealt with formally in accordance with this Procedure, the Chair of the Board, or a Board after it has been struck, will make every effort to adhere to the formal procedure timelines defined in this document.

**Processing of Complaint by the Board**

51. The Board will record all interviews and will make such records and any written statements available to the parties together with copies of all further documentation obtained by the Board during its investigation. The parties may seek clarification of any additional information supplied to the Board, including statements from third parties, through the Chair of the Board and at the discretion of the Chair in consultation with the Board members.
52. Once the evidence is gathered, the Chair of the Board will convene a meeting of the Board and invite the parties to address the Board if they wish. The time allowed each party will be determined by the Board taking into consideration the nature of the complaint. The meeting of the Board will be closed to the public.
53. Either party, or their representative, may cross-examine the parties in order to seek clarification of matters relevant to the determination of the dispute. All cross-examination will be directed through the Chair of the Board. Members of the Board may also question the parties to seek clarification. Persons able to provide additional information, as specified under Item 49, will not normally be present at the meeting of the Board. In exceptional circumstances, and where it is considered critical to the determination of the case, the Chair, in consultation with the panel, may allow persons to be present who may provide information relevant to the complaint.
54. If, during the course of any meeting of the Board, it becomes apparent that additional information is required in order to resolve the dispute, the Chair may adjourn the meeting to permit the parties to produce such additional information or facts or to permit the Board to obtain such additional information.
55. Throughout the proceedings before the Board, the complainant and the respondent may be represented by her or his Adviser or by a lawyer or other representative or her or his choosing.

**Disposition of Complaints by Board**

56. After hearing the parties, the Board shall, normally within one week, decide whether there has been harassment and/or discrimination and shall inform the parties, the Advisers, the person(s) given notice under Item 39, and the Principal in writing.
57. Normally within a further week, the Board will produce a written statement of its findings including the reasons therefor and supply a copy of the statement to the parties and the Principal.
58. Where the Board has found the respondent responsible for any harassment and/or discrimination as defined under this procedure, it will reconvene within two weeks, or as soon thereafter as is possible to enable the complainant, the respondent, their respective Advisers, as well as counsel to the University to make oral or written submissions as to remedial action or sanction if they so wish. In the case where a breach of a facilitated/negotiated settlement has occurred, the Board may take this into consideration when deciding appropriate remedial action or sanction.
59. Following the reconvened hearing, the Board will normally within seven days decide on the appropriate sanction or remedial action and provide the parties with written notice of that sanction/remedy and the reasons therefor. In circumstances where a sanction decided upon is considered a disciplinary measure, the Board will provide the appropriate body (i.e. the Principal's Office or Senate) with a written recommendation that such a sanction be imposed. Sanctions may include reprimand, notation on personnel records, a public report of the findings and sanctions imposed (including, in appropriate cases, the name of the respondent), loss of salary, suspension, dismissal, or expulsion from the University as well as mandated submission by units of the university

to educational, monitoring, and reporting programmes. Disciplinary sanctions will only be imposed within the parameters of relevant union-University collective agreements. The Board may also decide that the complainant is entitled to recompense such as adjustment of grade, salary adjustment, reinstatement, or promotion where appropriate. For the purposes of this, the Board is not limited by any remedy designated by the complainant under Item 58.

60. Whether or not anyone or any unit of the University has been found responsible for harassment and/or discrimination, the Board may make recommendations to the administrative officers of the University or, if appropriate, the Senate and the Board of Trustees for purposes such as preventing incidents or reoccurrences of certain types of harassing or discriminatory behaviour. Such directions may be given whether or not the University or any of its units or officials have been a respondent at the formal hearing but, in such cases, before issuing such a direction or making such a recommendation, the Board shall inform the Principal of the fact that it is contemplating such a step and provide the University with an opportunity to respond either orally or in writing as seems appropriate.
61. In a case where anyone or any unit of the University has been found responsible for harassment and/or discrimination, the question of whether such a recommendation (as set out in Item 58) is to be made should, if possible, be dealt with at the same time as the sanctions hearing. However, the Board shall deal with such matters separately where it is unreasonable to require a response to a request for submissions within the time limits established for the sanctions hearing or in cases where there has been no finding of responsibility for harassment.
62. In cases where a sanction is imposed, the Board will as soon as is reasonably possible send a copy of its decision on sanction(s) and the reasons therefor to the Principal and to the Adviser as well as the person to whom notice has been given under Item 40, for implementation."

#### Supplementary Rules

63. The Chair of the Board may issue supplementary general rules of procedure to govern the conduct of Board proceedings. Such rules will not conflict with this Procedure and will be filed with the Secretary of the University and the Senate Office and be published in the "Queen's Gazette."

#### Procedural Rulings

64. If during the course of a formal proceeding any procedural issue arises, the Chair of the Board or a Board, once a Board has been struck, is empowered to resolve that issue by making a ruling.

#### Time Limits Dispensations

65. Where any time limits are established by this Procedure with respect to the formal hearing of a complaint, the Chair of the Board or a Board, if it has been struck, may extend those time limits if the failure to comply is beyond the control of the person seeking the extension, or the members of the Board, or whether it is otherwise necessary having regard to the interest of the parties.

#### Service of Documents

66. For the purposes of this Procedure, a document is deemed to have been received when it has been delivered personally to the person concerned or within five days of it being mailed to the residential address of that person as designated in the University's records. In the case of any person with two or more such addresses, any such document will be sent to each address. Documents sent will be clearly marked "To be

Opened by Addressee Only."

#### Legal Advice and Assistance to Board

67. At any time after receipt of the request for a hearing, the Chair of the Board or a Board, after it has been struck, may seek legal advice.

#### Additional Parties

68. If at any time after the initiation of a hearing under Item 30 it becomes apparent to the Chair or a Board, after it has been struck, that:
- a) all the appropriate respondents have not been named, the chair or a Board, if it has been struck, may name additional respondents. (All such additional respondents are entitled to the full protection afforded under this Procedure and all other rules will be modified accordingly.)
  - b) there are interests of the University at issue in the dispute which might not be addressed by the parties, the Chair or a Board, if it has been struck, shall notify the Principal with a request that the University instruct either its lawyers or in-house counsel to represent those interests in the process. (In such a case, the University is entitled to all the protection afforded by these rules to parties and all other rules will be modified accordingly.)

#### Privileged Communication

69. All discussions and other forms of communication forming part of any facilitation/negotiation under this Procedure other than the terms of any resolution, are privileged for the purposes of this Procedure and shall not be relevant or admissible evidence in the hearing of a complaint by the Harassment/Discrimination Complaint Board or a subsequent appeal by way of arbitration. Further, all discussions and other forms of communication between an Adviser and a complainant or respondent and communications as part of an attempt to resolve a matter informally as contemplated by this Procedure shall similarly become privileged and protected from subsequent use.

#### Appeals from Decisions of the Board

70. The complainant or respondent may appeal the decision of the Board as to responsibility and/or sanction to a legally trained independent outside arbitrator to be agreed upon by the complainant and respondent. Such an appeal may also be based on issues of procedure, law and jurisdiction pertaining to the processes of the Board. Complainants and respondents are advised to consult with their union or Senate grievance procedures to ascertain whether they can access alternate routes of appeal.
71. Either party may exercise this right of appeal by filing written notice of appeal with the Secretary of the University within two weeks of the final disposition of the matter by the Board. For these purposes, where a respondent has been found responsible for harassment or discrimination, no appeal shall be launched until the imposition of a sanction by the Board and time will run from the date on which the respondent receives notice of the sanction imposed and the reasons therefor.
72. The launching of an appeal may act as a stay on the implementation by the Principal of any sanctions imposed by the Board until such time as the appeal has been disposed of. This, however, may not preclude the appropriate Officer of the University from taking action where deemed necessary for the protection of the University community. Notification of such action will be sent to SONAD for ratification.
73. If the complainant and respondent are unable to agree on an arbitrator within two weeks

of the filing of the written notice of appeal, the Chair of the Committee of Ontario Law Deans will be requested to make the choice from among those legally trained people in the Province who have experience as Human Rights Inquiry Commissioners or labour arbitrators. If the Chair of Law Deans is the Dean of Law at Queen's University, the immediate past-Chair will be requested to make the choice.

74. Arbitrators will be responsible for apportioning the costs of the appeal as they deem appropriate.
75. In hearing an appeal, the arbitrator will, save where the appeal is confined to issues of procedure, law and/or jurisdiction, hold a full hearing in accordance with the rules of natural justice, but the hearing will not be open to the public.
76. This right of appeal is in lieu of any entitlement to pursue a grievance under the Senate Statement on Grievance, Discipline or Related Matters.

#### IV. REVIEW OF PROCEDURE

1. Five years from the coming into force of this Procedure, the Senate shall appoint a working group for the purposes of reviewing the content of this Procedure and its operation and reporting to Senate with any recommendations for change.

#### SCHEDULE A

##### LIST OF REGISTERED CHARITIES PURSUANT TO ARTICLE 3.1(b)

##### LIST OF APPROVED CHARITIES

1. Kingston General Hospital
2. Hotel Dieu Hospital of the Religious Hospitallers of St. Joseph, Kingston
3. Providence Continuing Care Centre (St. Mary's of the Lake Hospital - Providence Manor)
4. United Way of Kingston
5. Kingston Literacy
6. Partners in Mission Food Bank
7. Amnesty International
8. Interval House