

**University of Waterloo**

**SPECIAL MEETING OF THE BOARD OF GOVERNORS**

**Friday 2 December 2016**

**3<sup>rd</sup> Floor, Needles Hall Extension, Room 3407**

**SPECIAL MEETING OF THE BOARD OF GOVERNORS**

8:30 Open Session – Agenda

1. Declarations of Conflict of Interest
2. Approval of Agenda – Decision
3. Consent Agenda - Decision
  - Report of the President: Sabbatical Leaves (attached)
  - Policy 45, The Dean of a Faculty – Decision  
Possible exception for committee composition, Dean of Engineering  
Documents for consideration attached
4. Sexual Violence Response Protocol and Procedures, pursuant to Policy 42,  
Prevention and Response to Sexual Violence – Decision
  - Documents for consideration attached

8:50 Confidential Session – Agenda

1. Declarations of Conflict of Interest
2. Approval of Agenda – Decision
3. Report of the Vice-President, University Research Nominating Committee
4. Adjournment

JLA/ees  
25 November 2016

Logan Atkinson  
University Secretary & General Counsel  
Secretary to the Board of Governors

**University of Waterloo**  
**BOARD OF GOVERNORS**  
**Report of the President**  
**2 December 2016**

**FOR APPROVAL**

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**1. Sabbatical and Administrative Leaves**

The University of Waterloo Policy 3 – Sabbatical and Other Leaves for Faculty Members [excerpts below, full text available at: <http://uwaterloo.ca/secretariat-general-counsel/policies-procedures-guidelines/policy-3>] sets out the purpose of leaves for faculty members as well as the requirements/responsibilities of faculty who are granted such leave.

*The granting of a leave . . . depends on the University's assessment of the value of such leave to the institution as well as to the individual, and on whether teaching and other responsibilities of the applicant can be adequately provided for in her/his absence. A faculty member who is granted a sabbatical or other leave is expected to return to duties in the University for at least one year and upon return will be expected to submit a brief report to the Department Chair regarding scholarly activities while on leave.*

*The purpose of a sabbatical leave is to contribute to professional development, enabling members to keep abreast of emerging developments in their particular fields and enhancing their effectiveness as teachers, researchers and scholars. Such leaves also help to prevent the development of closed or parochial environments by making it possible for faculty members to travel to differing locales where special research equipment may be available or specific discipline advances have been accomplished. Sabbaticals provide an opportunity for intellectual growth and enrichment as well as for scholarly renewal and reassessment.*

*. . . the granting of sabbatical leave is contingent upon the faculty member's department being able to make the necessary arrangements to accommodate such an absence, and also upon the financial resources of the University in any given year. Should problems arise in any of the above, it may be necessary to postpone individual requests until such time as all the conditions can be satisfied.*

- **Sabbatical Leave**

**Özsu, Tamer**, Computer Science, January 1, 2017 to December 31, 2017 at 100% salary

*I would like to properly define a research project on streaming graph processing and analytics. I also would like to complete two book writing projects: a significant update on the Fourth edition of our Principles of Distributed Data Management and a new book on Resource Description Framework (RDF) Data Management.*

Feridun Hamdullahpur  
President

**University of Waterloo**  
**BOARD OF GOVERNORS**  
**Report of the Vice-President, Academic & Provost**  
**2 December 2016**

**FOR APPROVAL**

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**COMPOSITION OF NOMINATING COMMITTEE FOR DEAN OF ENGINEERING**

**Motion:** To approve a one-time exception to Policy 45 to increase the membership of the 2016 Nominating Committee for Dean of Engineering by one to include eight regular faculty members.

**Rationale:** Senate provided endorsement of this exception at its meeting on 21 November 2016, and similar exceptions have been granted in 2006 and 2011. This exception will permit the Faculty to have one faculty representative from each academic unit, which otherwise would not be possible under the provisions of the policy as written.

**Background:** The membership of decanal nominating committees is prescribed in Policy 45, an excerpt of which is provided with this report. In 2006 and 2011, exceptions to the policy were sought by Engineering and were granted, which allowed for the Faculty to have one faculty representation per academic unit on the nominating committee in addition to the required at-large member. The process followed for granting this exception in 2006 and 2011 was to obtain endorsement of Faculty Relations Committee (FRC) and Senate and finally the approval of the Board of Governors to grant this exception; with this precedent, it was decided to take the same approach this year once it was communicated that a similar exception would be requested.

Engineering Faculty Council (EFC) passed a motion at its meeting of 18 October 2016 to request this exception. In advance of the EFC meeting, FRC was made aware of the impending request and considered the merits of endorsing the exception at its meeting on 13 October 2016; the FRC discussion noted the previous similar exceptions, the importance of adhering to policy, the need to potentially revise the policy, and the unlikelihood of being able to grant a similar exception to other faculties where the number of academic units would make such an exception infeasible. FRC heard a motion to grant the exception, which was defeated on a 5-4 vote. FRC again discussed the matter at its meeting of 27 October once it received formal notice of the Engineering motion, and FRC heard no motion to endorse the exception.

While the absence of endorsement by FRC is important, it was also seen as important to consider the narrowness of the FRC result along with the precedent set in the Faculty having been granted exceptions in 2006 and 2011. It was felt that no clear direction could be construed from these confounding factors and that it would be best to bring the issue to Senate for consideration with a presentation of the facts and history to date. This approach reflects the absence of clear direction in Policy 1 on how to deal with proposed exceptions to University policy, and in this particular case the Secretariat & Office of General Counsel advised that a decision ought to consider the investment of the various constituencies involved in addition to the formal authority invested in the same.

The matter was brought to the meeting of Senate on 21 November 2016 by the provost for consideration at that body, and the report to Senate conveyed: the request from Engineering without a related recommendation to Senate; the discussion at FRC (as above) and further noting that the addition of an eighth faculty member to the nominating committee will necessarily dilute the impact of the student (two members) and staff (two members) on the committee. At Senate, members considered these factors and the discussion included: apparent absence of controversy in 2006 and 2011 in the granting of previous requests; incongruence of policy with general practices at the University, and potential need to update the policy; additional of eighth faculty members from the affiliated and federated institutions is allowed for Arts decanal searches; absence of student approval of the exception, with students being a constituency impacted by decanal nominating decisions. Following these deliberations, Senate recommends this exception to the Board of Governors.

/mg

Ian Orchard  
Vice-President, Academic & Provost

## Excerpt from Policy 45, section 4A: Appointment of a Nominating Committee

...

When nominations for the Dean of a Faculty are required, as through notice of resignation, death, or the approaching end of a term, a nominating committee shall be formed by the Vice-President, Academic & Provost. The nominating committee shall normally be formed no earlier than 18 months and no later than one full calendar year prior to the end of the term of office of the incumbent.

The Committee Chair shall vote only to break a tie. The majority of the other voting members of the Committee shall be elected by and from the regular faculty members of the Faculty. The nominating committee shall consist of:

- The Vice-President, Academic & Provost, who shall chair the committee.
- Seven regular faculty members in Arts and Engineering, and six in the other Faculties. At least one committee member shall be elected at-large; the others are to be selected by a procedure approved by the Faculty Council and distributed to each regular faculty member. Where some of the members are to be elected by Department by and from the regular faculty members in the Department, those elections shall be conducted prior to the at-large Faculty-wide election. If both genders are not represented on the Committee as a result of departmental elections, then the at-large election shall be conducted so as to ensure that both genders are represented.[1]
- In the Faculty of Arts, one faculty member from and appointed by the Federated & Affiliated Colleges.
- One senior regular faculty member from outside the Faculty concerned, selected by the Vice-President, Academic & Provost in consultation with the President.
- One staff member elected by and from the regular staff of the Faculty, and one appointed by the Staff Association, normally from the Faculty concerned.
- One undergraduate student from the Faculty concerned, appointed by the Federation of Students, in consultation with the appropriate student society.
- One graduate student from the Faculty concerned, appointed by the Graduate Student Association, in consultation with the appropriate student society.

...

[1] In the unlikely event that no candidate from the unrepresented gender is willing to stand for election as an at-large member, the Vice-President, Academic & Provost shall appoint a candidate from the unrepresented gender in that Faculty.

**University of Waterloo**  
**BOARD OF GOVERNORS**  
**Report of the President and Vice-Chancellor**  
**2 December 2016**

**FOR APPROVAL**

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**Sexual Violence Response Protocol and Procedures, Pursuant to Policy 42, Prevention and Response to Sexual Violence**

**Motion:**

Whereas, consistent with the requirements of the Ministry of Training, Colleges and Universities Act, R.S.O. 1990, c. M.19, as amended (the “Act”), and O.Reg. 131/16 entitled Sexual Violence at Colleges and Universities (the “Regulation”), the Board of Governors of the University of Waterloo approved Policy 42 – Prevention and Response to Sexual Violence (the “Policy”) at its meeting of 25 October 2016; and

Whereas the Policy does not fully address the requirements of the Act and the Regulation; and

Whereas the Sexual Violence Response Protocol and Procedures submitted to and reviewed by the Board of Governors in advance of this meeting are intended to fully address the requirements of the Act and the Regulations when read with the Policy;

Therefore it is hereby resolved that the Sexual Violence Response Protocol and Procedures submitted to and reviewed by the Board of Governors in advance of this meeting, are hereby approved;

And it is further resolved that, consistent with subsection 3(3) of the Regulation, the Board of Governors hereby authorizes the President and Vice-Chancellor to approve amendments to the Sexual Violence Response Protocol and Procedures without the necessity of submitting such amendments to the Board of Governors for approval, provided that such authority is limited to amendments respecting the following:

1. The supports and services that are available at the University or in the community, and
2. The identity of the officials, offices and departments at the University referred to in clauses 2(1)(a) and (c), and in paragraphs 1 and 6 of subsection 2(2) of the Regulation.

**Rationale:** In accordance with the requirements of the Act and the Regulation, the Board of Governors approved Policy 42 – Prevention and Response to Sexual Violence, at its meeting of 25 October 2016. However, Policy 42 does not fully address the requirements of the Act and the Regulation. The Sexual Violence Response Protocol and Procedures, the subject of the proposed motion, are intended to place the University in full compliance with the requirements of the Act and the Regulation.

**Background:** Following the meeting of the Board of Governors of 25 October, and at the request of the Board, additional consultation was done with all stakeholder groups to ensure their support for the Sexual Violence Protocol and Procedures. Changes were made to the version considered at the meeting of the Board of Governors on 25 October, and all stakeholder groups have indicated their support for the version submitted to the current meeting.



## Sexual Violence Response Protocol and Procedures

VERSION: November 22, 2016

### A Introduction

The purpose of this Response Protocol and Procedures (“the Response Protocol”) is to support the implementation of the University’s<sup>1</sup> Policy 42 Prevention and Response to Sexual Violence. In the event there is a discrepancy between the Response Protocol and the Policy, the Policy will apply.

The scope of application of the Response Protocol is defined in the Policy.

Where a Report of Sexual Violence is made and either the Complainant or the Respondent is not a member of the University Community, the case will be referred to the Waterloo Regional Police Services (WRPS) or local police. In addition, the University will make its own determination about further investigation or any action on its part.

The Equity Office will ensure training and education sessions are provided to raise awareness about Sexual Violence, to support the implementation of the Policy and the Response Protocol, and will assist members of the University Community in the interpretation and implementation of the Policy and the Response Protocol.

The following sections outline: the various options available for University Community members for Disclosing or Reporting incidents of Sexual Violence; University procedures for responding to Disclosures and Reports; information about seeking assistance and interim measures; University procedures for investigation and appeal, and data collection and record keeping.

### B Procedures for Disclosing or Reporting an incident of Sexual Violence

A member of the University Community including any student or employee who is affected by Sexual Violence is encouraged to contact the SVRC directly. The SVRC is trained to understand and support individuals affected by Sexual Violence.

The SVRC is a central resource person for members of the University Community including Complainants, Respondents, witnesses and front-line service providers. The SVRC will assist by providing guidance on where to find support, options that are available and information on next steps, including safety planning, and navigating University procedures. The SVRC will inform the individual who is affected by Sexual Violence about the level of confidentiality that can be expected before Disclosure takes place. The SVRC will advise individuals providing assistance to maintain confidentiality in accordance with the Policy.

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<sup>1</sup> Capitalized terms used but not otherwise defined in the Response Protocol shall have the meanings assigned to those terms in the Policy.

## Sexual Violence Risk Assessment

The University will conduct a Sexual Violence Risk Assessment when an incident has been Disclosed or Reported with sufficient identifying information and where, as a result of a preliminary assessment of the circumstances underlying the Disclosure, the SVRC is of the view that a Sexual Violence Risk Assessment is necessary.

Where a Sexual Violence Risk Assessment is required pursuant to Section 6.5 of the Policy, the SVRC shall refer the matter to an expert Sexual Violence Risk Assessment panel. In all situations where it is determined that a Sexual Violence Risk Assessment or further investigation is necessary, the University will make the safety and anonymity of those involved a priority, and will provide the Complainant with timely updates during the investigation, and information about the outcome. The University recognizes that the Complainant may refuse to participate in an investigation.

UW Police Services are contractually obligated to inform WRPS or local police of a Disclosure or Report of Sexual Violence that is brought to their attention, in the following circumstances (see Policy Section 6.4.v.):

- a. There is a public safety concern;
- b. There is reason to believe that there is an investigation underway or charge by WRPS/local police; or,
- c. Where there is evidence that the complaint is in bad faith.

A Disclosure or Report to a “person with supervisory authority” may lead to an investigation by the University. Persons with supervisory authority should consult with the SVRC when they are assisting someone who Discloses or Reports an incident of Sexual Violence. University employees have a duty to report a Disclosure or Report of Sexual Violence to Family and Children Services if a minor (under 18 years of age) is involved.

### **1. Disclosing an incident of Sexual Violence**

A member of the University Community who is affected by Sexual Violence is strongly encouraged to seek support, including medical attention as needed. The following are resources available in the Waterloo Region.

#### *On-campus Support:*

##### *For students:*

Counselling Services: 519-888-4567 Ext. 32655 (Mon-Fri, 8:30am-4:30 pm)

Counselling/mental health support is available to students in crisis outside of normal operation hours. If a Disclosure or Report of sexual violence takes place outside of normal operating hours, appropriate university staff receiving the Disclosure or Report can contact Campus Wellness to arrange for the necessary support.

- Health Services: 519-888-4096 (Mon-Fri, 8:30am-4:30 pm)
- Sexual Violence Response Coordinator: TBD

*For Employees:*

- Employee and Family Assistance Program: 1-800-663-1142 (for eligible employees)
- Sexual Violence Response Coordinator: TBD

*Off-campus Support:*

- Waterloo Region Sexual Assault and Domestic Violence Treatment Centre, St Mary's Hospital: 519-749-6994 (available 24 hours/day, 7 days a week)
- Sexual Assault Support Centre of Waterloo Region: 519-741-8633 (crisis line is available 24 hours/day, 7 days a week)

## **2. Reporting an incident of Sexual Violence**

In case of an emergency, individuals should call 911 directly. For non-emergencies, individuals can call WRPS at 519-653-7700. Individuals can Report an incident to both WRPS or local police and UW Police Services.

The SVRC can assist a member of the University Community who is affected by Sexual Violence to file a Report to UW Police Services or to Report through the University's administrative process.

### **I. Criminal Reporting Option**

The SVRC can assist a member of the University Community to Report an incident of Sexual Violence to UW Police. UW Police Services will liaise with WRPS or local police who will conduct the criminal investigation. Individuals may also choose to Report to WRPS or local police directly.

### **II. Non-criminal, On-Campus Reporting Options**

Instead of, or in addition to reporting to UW Police Services, the SVRC can assist a member of the University Community to Report an incident of Sexual Violence to the University administration. The SVRC will assist by providing guidance on where to find support, options that are available, and information on next steps, including safety planning and navigating University procedures. The SVRC will identify the appropriate person to whom the Report should be given (the "Recipient"), according to any rights the Respondent may have pursuant to the applicable University policy or agreement. The SVRC will inform the Complainant about confidentiality.

In cases where:

- The Respondent is a undergraduate or graduate student, the Recipient is normally the Associate Dean Undergraduate or Graduate studies of the student's Faculty.
- The Respondent is a staff member, the Recipient is normally the Respondent's supervisor.
- The Respondent is a faculty member, the Recipient is normally the Respondent's dean.

Instead of or in addition to, contacting UW Police Services, any University Community member who has experienced Sexual Violence and wishes to file a complaint of Sexual Harassment may do so pursuant to Policy 33 and related procedures.

The Recipient will engage an investigator who will undertake an initial assessment of the Report and recommend to the Recipient whether further investigation should be conducted by considering whether or not:

- The University has jurisdiction;
- The conduct complained of appears to meet the definition of Sexual Violence (excepting Sexual Harassment); and
- There is a dispute of facts<sup>2</sup>.

Based on the investigator's recommendation, the Recipient will make a decision as to whether further investigation will be undertaken.

The investigator has been trained on conducting Sexual Violence investigations and therefore understands matters such as consent and how trauma affects individuals coming forward, and can render findings about whether an incident/misconduct occurred or not on a "balance of probabilities."

If the respondent's relationship with the University ends and the individual is no longer with the University, the University may suspend its complaints process.

## **C Confidentiality**

Confidentiality is important to preserve the integrity of the University's processes contemplated under the Policy and the Response Protocol, including the investigation process. Therefore, parties to a Report, their support persons and any witnesses will be advised about the importance of and the limits to confidentiality (See Policy Sections 5.7, 6.4 and 6.5). Any allegation of a breach of confidentiality and its impact pending a final decision, can be assessed and considered in the handling of the Report.

## **D Access to Assistance**

Members of the University Community are encouraged to seek assistance and support throughout the Disclosure or Reporting Procedures. Assistance may be sought from the following individuals:

- Staff can seek the assistance of a representative of their association or union, (University of Waterloo Staff Association, CUPE Local 793).
- Faculty can seek the assistance of a representative of the Faculty Association or an academic colleague, as specified in the Memorandum of Agreement.
- Students can seek the assistance of a representative of their student association (Federation of Students/Graduate Student Association).

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<sup>2</sup> An investigation may not be necessary if there is no dispute of facts.

- Alternatively, members of the University Community can bring a family member/friend.

Communication between an individual and the person providing them assistance is not a breach of confidentiality.

## **E Interim Measures**

A University Community member can speak about their experience to the SVRC to request an interim measure, even if the member who Discloses Sexual Violence does not want to Report pursuant to one of the options provided in B.2.II. above. The SVRC is knowledgeable about Sexual Violence and its impact and will play a role in facilitating the request for an interim measure(s).

The University may establish interim measures as needed to address the needs of students affected by an incident of Sexual Violence including (without limitation) their safety needs. In the case of employees who have not filed a Report, but where a safety risk has been determined, the University may establish an interim measure as needed. Interim measures may include, but are not limited to:

- Discontinuing contact between the Complainant and Respondent by altering work, study or on-campus residence arrangements;
- No contact orders; and
- Extensions on academic or work assignments.

If relocation is necessary, normally it is the Respondent who is relocated when a Report of Sexual Violence is made to the University. In the case of a Disclosure to the University where a safety risk has been assessed, the complainant may be relocated. Interim measures may be implemented during the investigation of a Report and pending final decision. Interim measures are temporary, do not constitute discipline and cannot be construed as such.

## **F Investigations, Decisions and Appeals**

Decisions about Policy violations and appeals will be dealt with as expeditiously as possible.

Any party to a Report of Sexual Violence can challenge the participation of the Recipient or Investigator on the grounds that the individual has a potential conflict of interest in the matter or there is a reasonable apprehension of bias. The conflict of interest and the basis for it shall be promptly raised in writing to the Recipient's or Investigator's supervisor. The matter shall be addressed in accordance with Policy 69 - Conflict of Interest.

Investigating a Report of Sexual Violence normally includes interviewing the Complainant, the Respondent and any witnesses. Following completion of an investigation, a written investigation report will be provided to the Recipient, who will determine whether a breach of policy has occurred and whether disciplinary action should be considered. Disciplinary action shall be conducted in accordance with the applicable University policy, collective agreement, or memorandum of agreement.

A Policy or criminal law violation can constitute the basis for discipline up to and including termination or expulsion from the University, subject to applicable agreements. Where the Policy is found to have been breached, determining consequences is guided by the notion of progressive discipline. Discipline for Respondents will vary and depending on relevant factors such as the severity of the conduct and applicable employee agreements, one or more of the following penalties may be imposed:

- A letter or warning or reprimand;
- Suspension;
- Eviction from residence; and
- Restricted or prohibited access to University Campuses and services.

Other disciplinary action may be taken, as appropriate.

The results of the investigation will be communicated to the Complainant and the Respondent, in writing.

Appeals of discipline arising from a breach of Policy may be undertaken by students pursuant to Policy 72, by faculty pursuant to the Memorandum of Agreement, by staff pursuant to Policy 36 and by CUPE members pursuant to the CUPE collective agreement.

## **G Data Collection, Reporting and Retention of Records**

The Equity Office will maintain data and information to inform awareness activities and prevention strategies; identify systemic issues; learn about the use of supports, services and interim measures as well as comply with legislated requirements.

The Equity Office will also maintain anonymized statistics on Disclosures and Reports of incidents of Sexual Violence and in accordance with legislative requirements, will take reasonable steps to ensure that the information reported to the Minister pursuant to the MTCU Act, subsection (7) does not disclose personal information within the meaning of Section 2.(1) of the *Freedom of Information and Protection of Privacy Act*.

Records of a Report of Sexual Violence where the Policy was found to be violated will be retained as required, subject to the provisions of an applicable employee agreement or the CUPE collective agreement but no longer than 5 years from the date the complaint file was closed, unless there is further process undertaken pursuant to the Policy. In cases where disciplinary action is taken pursuant to related policies against students, faculty or staff, the associated records will be maintained according to Records Classification and Retention Schedules HR43, HR45 or ST85 respectively and in accordance with Policy 75 – Official Employment Files of Regular Faculty Members.

## **H Review**

This Protocol is an integral part of Policy 42 – Prevention and Response to Sexual Violence and will be updated and amended consistent with the process for amending Policy 42. An

initial review will begin in January 2017 as reported to the Board of Governors on October 25, 2016.