

TENTATIVELY AGREED
ARTICLE XX – NO DISCRIMINATION, HARASSMENT OR VIOLENCE

The Parties tentatively agree to include the following Article in a collective agreement. It is understood that final agreement is subject to ratification of the Parties' respective principals following tentative agreement on all matters. Article numbering, including any Article cross-referencing, is subject to change following agreement on all matters. The Parties reserve the right to amend or withdraw any proposal herein prior to reaching a complete tentative agreement with CUPE, or to correct an error or omission.

XX.01 Respectful Workplace

- (a) The Parties agree that all Employees are entitled to, and shall contribute to, a respectful workplace free from Workplace Harassment, Workplace Sexual Harassment, Workplace Violence, Sexual Violence, and Discrimination.
- (b) It is the Employer's responsibility to maintain an environment in which Employees remain free from Workplace Harassment, Workplace Sexual Harassment, Workplace Violence, Sexual Violence, and Discrimination, including protection from intimidation, reprisals and any threats, explicit or implied, which are designed to or might reasonably be understood to dissuade an Employee from exercising their rights under this Article XX.
- (c) The Employer and the Union agree that violence has no place in the workplace and are together committed to maintaining a workplace free of Workplace Violence.
- (d) The University has Policies to prevent and respond to these issues, including: the Discrimination and Harassment Policy, the Sexual Violence Policy, and the Violence in the Workplace Policy ("the Policies"). The Parties acknowledge that nothing in these Policies is meant to supersede the terms and conditions of the Collective Agreement. In the event that the provisions of these Policies contradict the Collective Agreement, the Collective Agreement governs, to the extent of the contradiction.

XX.02 Workplace Violence and Harassment: Definitions

- (a) **Workplace Harassment** means:
 - i. engaging in a course of vexatious comment or conduct against a worker in a workplace, including virtually through the use of information and communications technology, that is known or ought reasonably to be known to be unwelcome, or
 - ii. Workplace Sexual Harassment.

(b) Workplace Sexual Harassment means:

- i. engaging in a course of vexatious comment or conduct against a worker in a workplace, including virtually through the use of information and communications technology, because of sex, sexual orientation, gender identity or gender expression, where the course of comment or conduct is known or ought reasonably to be known to be unwelcome, or
- ii. making a sexual solicitation or advance where the person making the solicitation or advance is in a position to confer, grant or deny a benefit or advancement to the worker and the person knows or ought reasonably to know that the solicitation or advance is unwelcome.

(c) Workplace Violence means:

- i. the exercise of physical force by a person against a worker, in a workplace, that causes or could cause physical injury to the worker,
- ii. an attempt to exercise physical force against a worker, in a workplace, that could cause physical injury to the worker,
- iii. a statement or behaviour that it is reasonable for a worker to interpret as a threat to exercise physical force against the worker, in a workplace, that could cause physical injury to the worker.

The Parties acknowledge that Workplace Violence may include incidents where domestic, intimate partner, or sexual violence enters the workplace.

(d) Sexual Violence

The Parties agree to a definition of Sexual Violence as set out in the University's Sexual Violence Policy, which currently reads as follows:

Sexual Violence means any sexual act or act targeting a person's sexuality, gender identity or gender expression, whether the act is physical or psychological in nature, that is committed, threatened or attempted against a person without the person's consent, and includes sexual assault, sexual harassment, stalking, indecent exposure, voyeurism and sexual exploitation.

XX.03 Examples of Workplace Sexual Harassment or Sexual Violence

The following list of examples, while not exhaustive, may constitute Workplace Sexual Harassment or Sexual Violence depending on the context in which the incident(s) take place, the frequency and severity of the incidents and whether it is known, or ought reasonably to have been known, that the conduct was unwanted:

- i. an unwanted sexual solicitation or advance
- ii. sexist jokes or comments causing embarrassment or offence
- iii. leering
- iv. the display of sexually offensive material
- v. sexually degrading words used to describe an individual
- vi. derogatory or degrading remarks directed towards members of one sex or with regard to one's sexual orientation, gender identity, or gender expression
- vii. sexually suggestive comments or gestures
- viii. inquiries or comments about a person's sex life
- ix. offensive sexual flirtations, advances, propositions
- x. demands for sexual favours
- xi. unwanted touching or patting
- xii. verbal abuse or threats of a sexual nature
- xiii. sexual assault
- xiv. any reward or promise of reward, whether explicit or implicit, for complying with a sexual solicitation or advance
- xv. any reprisal or threat of reprisal, whether explicit or implicit, for refusing to comply with any sexual solicitation or advance.

XX.04 Human Rights in Employment: No Discrimination or Harassment

- (a) The Parties acknowledge that the Ontario *Human Rights Code* applies in the workplace and may be amended from time to time. The Ontario *Human Rights Code* sets out that every Employee has a right to both:
- i. equal treatment with respect to employment without discrimination because of the specified human rights grounds, and
 - ii. freedom from harassment in the workplace by the Employer or agent of the Employer or by another Employee because of the specified human rights grounds.
- (b) Discrimination means an unjust or prejudicial form of unequal treatment, whether imposing extra burdens or denying benefits, based on any of the grounds articulated in the Ontario *Human Rights Code*.
- (c) The University's Discrimination & Harassment Policy prohibits Discrimination and/or Harassment on the grounds articulated in the Ontario *Human Rights Code*: age; ancestry; colour; race; citizenship; ethnic origin; place of origin; creed; disability; family status; marital status (including single status); gender identity; gender expression; receipt of public assistance (in housing only); record of offences; sex (including pregnancy and breastfeeding); and sexual orientation.

- (d) In addition to the protected grounds above, the Parties also agree that there will be protection from discrimination against an Employee in regard to employment, or any term or condition of employment, based on their membership or activity in the Union as set out in the Ontario *Labour Relations Act, 1995*.

XX.05 Options for Resolution

- (a) If an Employee believes they have been subjected to Workplace Harassment, Workplace Sexual Harassment, Sexual Violence, or Discrimination, they have a range of options to address the issue in a manner appropriate to their needs and situation. They may use one or more options including, but not limited to, the following:

- i. Take direct action by informing the individual who is the source of the behaviour that it is unwelcome and unwanted, request that the individual stop the behaviour, and document the events including the date, time, location, witnesses, and details.
- ii. Consult with the Sexual Violence Prevention & Response Office or with one of the Intake Offices that administer both the Discrimination and Harassment Policy and the Sexual Violence Policy:
 - a) Employee/Labour Relations;
 - b) Equity & Inclusion Office;
 - c) Student Support and Case Management;
 - d) Faculty of Health Sciences Office of Respectful Conduct in Clinical & Academic Environments (ORCCA)
- iii. Seek assistance from their Supervisor or an Intake Office to address the issue through a dispute resolution process.
- iv. Initiate a formal complaint under the applicable Policy with one of the Intake Offices or a grievance under Article XX with the assistance of a Union Representative. If a grievance is filed under Article XX, the Union and Employee shall provide specific allegations in the written grievance.
- v. File a complaint with the Ontario Human Rights Tribunal.
- vi. Consult with a Union Representative or CUPE's Equity Action Officer and seek assistance in addressing the issue.

(b) Workplace Violence

- i. If an Employee has experienced, or is concerned they may experience, Workplace Violence, they should immediately advise their Supervisor and contact Campus Safety Services to make a report.

- ii. The Employee should then also complete an “Injury/Incident Report”.
 - iii. If the Workplace Violence involves Workplace Harassment, Workplace Sexual Harassment, Sexual Violence, or Discrimination as defined above, the Employee also has the right to the options set out above in Article XX.
- (c) If an Employee believes they have been subjected to Workplace Harassment, Workplace Sexual Harassment, Sexual Violence or Discrimination and brings forward a related concern or a complaint to one of the Intake Offices, they will be informed of the options available to them pursuant to Article XX.05(a).
- (d) Where an Employee brings forward a concern or allegation as per this Article, they may request temporary adjustments to safeguard their working environment. Such temporary adjustments will be considered and implemented, where appropriate, and will not result in a loss of pay, rights, or benefits for the Employee.

XX.06 General

- (a) The Parties recognize that a single incident and/or conduct online may constitute Workplace Harassment or Workplace Sexual Harassment.
- (b) An Employee is not required to perform any duties of a personal nature not connected with the approved operations of the Employer.
- (c) The Parties agree that Employees are protected under any current and future whistle-blower policies of McMaster University.
- (d) Reprisals, retaliation, or threats of reprisals against any Employee for pursuing their rights under this Article, for having participated in the procedures, or for acting in any role under these procedures are prohibited.
- (e) An Employee who is asked to attend a meeting in accordance with the Policies will be entitled to have a support person (e.g. Union Representative) attend with them as an Advisor as set out in the applicable Policy.
- (f) The Employer will provide respectful workplace training as it deems necessary.
- (g) The Employer and the Union agree that Employees have the right to be referred to by their self-identified gender pronouns.

For the Union:

Mitchell Lupa
President, CUPE Local 3906

Date

Caleb Smolenaars
Lead Steward, CUPE Local 3906

Date

For the University:

Maggie Pooran
Lead Spokesperson, Executive Director, Health, Safety, Wellbeing & Labour Relations

Date

Chris Eley
Acting Director, Housing & Conference Services & Chair, University Bargaining Team

Date