

# FACULTY MATTERS

VIEWS AND NEWS OF DOUGLAS COLLEGE FACULTY ASSOCIATION MEMBERS  
NUMBER 22, WINTER 2024



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## The Institutional Implications of Artificial Intelligence

BY DAVID N. WRIGHT<sup>1</sup>, ENGLISH

I often begin any conversation about artificial intelligence (AI) by suggesting that after every forward-thinking qualifier we can think of to discount it we add the word “yet.” So, if we say, “well, it isn’t accurate when using source materials” ... yet. Or “it can’t replicate itself and create truly original and inspiring works of art” ... yet. “It can’t replace the human connection and render the need for person-to-person contact obsolete” ... yet. To this end, I want to speak here to such forward thinking as it applies to our labour generally, somewhat outside the obvious issues the use of AI raises for academic integrity and the assessment of student learning more broadly.

Before I go much further, some qualifiers are needed: the “AI” that has dominated much of the current cultural conversation, and what I’ll be focusing on here, only refers to one branch of AI work—Large

<sup>1</sup> Anglo-European Settler living on traditional, ancestral, and unceded territories of the x̱m̱əθḵəy̱əm (Musqueam), Sḵwx̱w̱ú7mesh (Squamish) səlilwətał (Tsleil-Waututh) Nations. Born on unceded Indigenous lands near Tiohtià:ke where the Kanien’kehá:ka Nation are recognized as custodians. Thanks to Dr. Max Liboiron (Michif, They/Them) for their inspiration in anti-colonial research practice.

## INSIDE

### Features

**The Institutional Implications of Artificial Intelligence**  
David N. Wright 1

**Gender-Inclusive Washrooms — A Safe Environment for All Genders?**  
A. Young Min 5

**Disrespect for Academic Freedom in the Respectful Workplace?**  
Dr. Jacqueline Holler 8

### Labour Matters

**What is a Letter of Expectation?**  
VP Stewardship 14

### DCFA Faculty Matters

Call Out 16



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## DOUGLAS COLLEGE FACULTY ASSOCIATION

### FACULTY MATTERS

Number 22, Winter 2024

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Language Models (or LLMs). If you've been working in the sciences or related fields, I see your eyes roll when people come panicked to the party you've been at for some time, hanging out with Wolfram Alpha, machine-learning networks and computer vision, among the many other applications that use computational AI and have used it for years prior to the recent explosion of interest in the application of LLMs, of which the renowned ChatGPT is but one of many.

That said, there are a lot of people who are concerned about how LLMs will reshape how we encounter the world and, particularly relevant for what I want to cover here, how we engage with our work in higher education. There's no doubt that something has changed—though figuring out what exactly has changed, and predicting what will change, is a tough gambit right now. As I note above, there are obvious concerns around academic integrity and the integrity of our systems for assessing learning outcomes. You might be reading this and wondering if I, like many speakers on the topic, have generated some of this text as both a clever meta-moment and as illustration of its awkward acumen for capturing the human voice—and you'll never know.

Instead of rehashing current conversations in academic circles that focus on issues of integrity and authenticity, I want to offer three areas of focus that are a little outside these conversations and might get us thinking more robustly about how exactly artificial intelligence and large language (or learning) models might impact labour in the context of higher education.

### Copyright / Intellectual Property

One of the more pressing areas where AI and LLMs apply is intellectual property (IP) and copyright. In most cases, LLMs are what companies such as OpenAI use to train their text-generation tools (ChatGPT). The predictive algorithms that make text-generation apps so effective can also be used for images (DALL-E) and video (Sora). All one needs to create niche applications for such AI-driven applications is a text, image or video corpus (a dataset consisting of example texts, images and videos). In educational settings, there is clearly a place for AI and LLMs to work through an existing set of course outlines and produce what would then be an entirely unique and original course outline. The AI could do this for a specific discipline (a biology course, for example) or institution (a Douglas College English course). AI tools continue to

get better at more and more specialized applications, not just ChatGPT but something specific to diagnosing breast cancer, for instance, or, as has been in the news recently, generating videos of extinct animals walking the earth.

How does this impact us? Well, there are some shades of grey around who owns educational material(s) produced as part of our job. There's no question we own it, but it's reasonable to see how the college, having funded the production of such materials, also has ownership rights. With the best of intentions, we could use our course outlines as a training corpus for an AI that would generate interesting and exciting takes on traditional course content and pedagogical approaches. The AI might see connections we do not or highlight under-represented areas for discussion and focus. How institutions and companies interested in the educational technology sector will use our IP going forward, or, more explicitly, how they will leverage available IP such as course outlines, online video lectures, etc., to train AI LLMs remains an open question. AI tools are already being integrated into learning management systems such as Blackboard and are already part of the Microsoft software infrastructure we often use to develop and present our materials.

While there are certainly reasons to be optimistic about the opportunities offered by training AI on the rich datasets our collective expertise might offer, we'll need to keep a close eye on what that might mean for us as workers (I'm looking at you, Course Hero). Obviously, there's the potential for being made technologically redundant while the course outlines being used to train the technological AI that made us redundant mark our continued presence as some kind of pseudo-existence. There are also the questions that might get asked and answered by AI, such as what courses make the "best" teacher, what kinds of courses can cover the most material, and what kinds of course design work best for introductory students?

In short, institutional IP and copyright policies have yet to respond to the potential of AI. The Writers Guild of America and The Screen Actors Guild—American Federation of Television and Radio Artists both went on strike recently for extended periods over similar concerns about how companies might use texts, imagery and other models in the future. We tend to see the traditional instruction paradigm of one teacher

and many students as the norm; AI tools suggest that the paradigm might be shifting in favour of one student with many AI teachers providing boutique instruction tailored to student needs and modelled on course outlines and pedagogical approaches of the past.

## Representation / Inclusion / Exclusion

For the most part, LLMs are trained on texts, images and other media available on the internet. Of course, this means that much of the content they are trained on is Anglocentric both linguistically and culturally. Many of the predictive algorithms built into systems that form the basis for applications such as ChatGPT, Microsoft Copilot and Google Gemini are weighted to westernized ways of thinking, representing and expressing. While communities such as the Abundant Intelligences project and others like it are working to develop AI that responds to the absence of traditionally marginalized cultures in AI training, there are many biases and cultural assumptions built into the foundation of AI that are problematic. Strategies for implementing AI foreground individual needs over collective needs, prioritizing ways of learning that are often exclusive rather than inclusive. While generative language models may mimic human production, they also incorporate that production's tendency to exclude and marginalize. The sheer complexity of AI systems makes them look impenetrable and incomprehensible, but recognizing their bias is often painfully obvious.

The absence of a plurality of voices in the training of AI models means that many of us are left on the sidelines. We'll need to work harder to ensure that AI does not continue to represent a new colonialist project. We'll need to make sure that AI systems build in the open with access to their algorithmic profiles and training data. As well, we should work to prioritize the development of AI systems that imbed smaller training corpuses that account for cultural diversity and an inclusion of many voices. Most assertively, we'll need to push for systems that help govern the application of AI in public institutions and put in place representation from all areas to help navigate and develop the policy and process implications of AI. Finally, we'll need to keep our eyes open to how AI is applied to metrics and policy development at the institutional level.

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<sup>2</sup> David Danełski: <https://news.ucr.edu/articles/2023/04/28/ai-programs-consume-large-volumes-scarce-water>

## Bullying / Harassment / Silence

It's long been a curiosity of mine that, when confronted with an introduction to an "emerging" consciousness such as ChatGPT's early iterations were, we proceed to make fun of it, getting it to say stupid things or discounting it as "hallucinating." The move to bully ChatGPT says more about how we encounter the unfamiliar than it does about the capabilities of the LLM ChatGPT is based on. What it also shows is that nothing is impervious to humanity's willingness to demean one another. We need to be mindful of how emerging AI tools and their abilities impact how we might engage with students. If AI tools can generate nude pictures of Taylor Swift and mimic the voice of President Biden, I have every faith that it will soon be able to mimic instructor voices and images. A quick scan of the video lectures I have available on Blackboard and on the open web suggests that there is more than enough material to train an AI tool to mimic my voice—I'm looking at you, Course Hero.

I'm not aiming my prediction at students, but at myself. I wonder if I will be as willing to discuss even remotely controversial topics because I am leery of the possible uses that conversation might be put to. Can I reasonably stop someone from remixing a classroom conversation, my voice, my image, the images of my students having the discussion, and posting it online via a social media site? While AI itself might not silence voices, its potential adverse uses may—and these potential uses will no doubt impact ethnic and cultural minorities, women and young adults more than others.

Without real regulation and repercussions sometime soon, the possibility of such mimicry will have a chilling effect on the classroom as a space for discussion of complicated topics. Note the emphasis here: it's not the AI itself that will cause the issue, it is the fear of its potential that will impact my approach to the classroom environment. We need to make sure we work to ensure that the classroom is a safe space for all and that the fear of possibilities does not hinder the possibility for discourse before the capability is even realized. Again, the institutional structures for higher education—including Collective Agreements—need to respond to the potential issues of AI that extend beyond academic integrity and student dishonesty.

## And Briefly

The topics I have discussed in the three main headings above don't address many of the underlying, but crucial, impacts that will only come to light as AI continues to establish its use cases.

For instance, how will the integration of AI into our systems (wherever they may reside) redefine our work or workload? Already, we are seeing its impact on grading, assignment design and pedagogical approaches in the classroom. One can merely think back to the implementation of email to be reminded of how an emerging technology can force us to reshape our days to make space for something we never had to deal with before. One can only imagine what other systems of efficiency will be introduced and need to be incorporated as the full capability of AI comes to light.

As well, how will the environmental costs of AI's required computational resources fit in with our mandates to conserve, reduce and reuse? David Danelski summarized research into AI's use of water, noting that if you "run some 20 to 50 queries [...] roughly a half liter [...] of fresh water from our overtaxed reservoirs is lost." And that doesn't account for the myriad other ways that AI server farms and chip manufacturing pull on resources that are sometimes located in zones of conflict whether geo-political, cultural or otherwise. In short, there is some reconciliation needed between post-secondary institutional mandates (truth and reconciliation, universal human rights, accommodations, universal design for learning) and the implementation of AI resources that has yet to be fully realized.

## So, What Now?

Yes, AI and all its associated technological production is probably an existential threat to our jobs, if not our humanity, as it is currently defined, and AI is probably hastening our slide into creating an unlivable planet. The good news is that we can see it all coming. Even now, at this generative stage, we can see how predictive AI, LLMs or GPTs (Generative Pre-Trained Transformers), pressure and reveal our assumptions about the world.

We're not going to stop AI and its implementation (whatever that might look like). We can't stick our heads in the sand and pretend it's not coming or

mitigate its impact by entrenching ourselves behind standards and traditions. However, we can ask questions at every turn. We can be inclusive and open when we work with AI, making sure to reiterate and circulate its shortcomings while emphasizing its successes. We can push to have a say in its implementation by getting out in front in our Collective Agreement language and using our expertise to resist the wholesale thoughtless auto-

mation of cultural production. In short, we can do what educators do best: approach a problem thoughtfully, inclusively, creatively and openly by generating conversations and encouraging debate. Most importantly, we can work to shift the dialogue away from niche concerns that others might dismiss as having nothing to do with them and into areas that impact us collectively. ■

*“UNLIKE MANY PEOPLE’S CONCERNS, ALL-GENDER WASHROOMS DO NOT INCREASE POSSIBLE SEXUAL CRIME OR HARASSMENT.”*

## Gender-Inclusive Washrooms — A Safe Environment for All Genders?

BY A. YOUNG MIN, STUDENT



FIGURE 1: ALL-GENDER WASHROOM IN BCIT NE-1 BUILDING; THE INSIDE OF THE WASHROOM CAN BE SEEN FROM THE OUTSIDE.

“What do you think about all-gender washrooms at school?” one of my classmates casually asked me. My classmates, most of them girls, seemed to be quite furious about these washrooms. “It’s disgusting to use the washrooms with guys! They never use the washroom neatly,” one girl shouted. Another girl cried out, “I am very concerned about the safety issue! What if guys rape the girls in the washroom?” I, as a girl who had a gay best friend, could not say a word to them because I could understand both sides. The LGBTQ community wants more inclusion, but not everyone is comfortable about the idea of gender-neutral washrooms, especially when it comes to situations where inclusion can be a possible threat. Although the concerns of the non-LGBTQ population are not to be brushed aside, all-gender washrooms can indeed make society a better place to live. Let’s consider the concerns that many people have about gender-inclusive washrooms, including the fear of sexual crime and privacy invasion, the positive effects of

all-gender washrooms, and the amendments to promote more inclusion.

Definitions of a few sex-related terms used below might be helpful here at the outset: biological sex, gender and cisgender. Biological sex refers to the sex that is given to individuals at birth “based on their chromosomes and reproductive organs” (Schnebly, 2022). Gender is known as socially expected roles and behavior, which are associated with femininity and masculinity (Schnebly, 2022). Unfortunately, the gender roles in society are greatly influenced by biological sex; stereotypically, men are expected to be masculine, and women are expected to be feminine. Those who conform their gender to their biological sex identify as cisgender (Schnebly, 2022).

The all-gender washroom, although it seems to be quite new and radical, has, in fact, a long history behind it. Before the nineteenth century, all washrooms were

single-user water closets, privies or outhouses (Kogan, 2017). Separate washrooms were introduced after the technology and advanced sewer systems enabled multi-user public washrooms to be operated in the 1870s (Kogan, 2017). The segregation by biological sex in public washrooms started in factories where men and women had to work side by side in the same place (Kogan, 2017). The prevailing perception of women during the Victorian era was that they were domesticated, vulnerable beings who, especially when outside the home, needed to be protected and separated from men (Kogan, 2017).

This perception of women as possible victims is still prevalent in the 21<sup>st</sup> century. Many cisgender women today are against the all-gender washroom policy. People still worry about safety issues regarding the possibilities of increased sexual harassment and privacy invasions. However, according to a study conducted by Hasenbush et al. (2018), there is no evidence that all-gender washrooms lead to increases in sexual harassment or crime. The authors measured and collected analytical records of the safety of public washrooms and found that gender inclusion in washrooms has no causal connection to sexual crime. Their report that incidences of sexual crimes are quite rare in public washrooms shows that sexual crime and washroom settings, regardless of segregation by sex or not, are unrelated.

### *The segregation by biological sex in public washrooms started in factories where men and women had to work side by side in the same place.*

If all-gender washrooms cannot be a possible threat, then why should cisgender women be against the policy? Kogan (2017) insists that the policy that separates washrooms based on biological sex fits only a 19th-century context. As the policy originated in the outdated conception that women are vulnerable and weak, he argues that the policy has been manipulated to disqualify perceptions of women as being strong people. If women sincerely believe in themselves as powerful beings, there is no need for them to hide behind Victorian policy. In fact, contrary to many people's expectations, cisgender women are hardly the only victims of sexual harassment.

In another study, Flores et al. (2020) observed the cases in which non-cisgender populations get involved in crimes, including sexual assaults. The authors assessed the National Crime Victimization Survey and measured the patterns and levels of victimization of cisgender and non-cisgender populations. In fact, non-cisgender people were four times more likely to be victimized than cisgender people. Although the authors could not explain why non-cisgender people experienced more harassment, they identified a possible cause which was anti-LGBTQ prejudice or hatred towards that segment of the population. Likewise, non-cisgender people face more discrimination and receive more hatred than cisgender people do. Public washroom issues regarding non-cisgender populations are one of the biggest areas in which they are discriminated against.

### *A study conducted by Chaney and Sanchez (2017) shows that gender-inclusive washrooms contribute to creating a safe environment, not only for non-cisgender populations, but also for cisgender women populations as well as racial minorities.*

Unfortunately, many non-cisgender people, especially those who are transgender, face frustration using public washrooms. Many find transgender people using public washrooms segregated by biological sex uncomfortable for safety and privacy reasons. In addition, people's opinions on which washroom to use for the non-cisgender population are not always in agreement. Some say non-cisgender people should use the washroom according to their biological sex. On the other hand, some say they have the right to choose which washroom to use. At the same time, transgender people often feel embarrassed using public washrooms, uncertain as to which to choose. To ease this tension, some people suggest that non-cisgender people should use a separate washroom dedicated to them. However, this suggestion can also be another discriminatory impetus to possible violence towards non-cisgender people. Since research shows that gender inclusion in washrooms does not harm anyone, why should anyone oppose all-gender washrooms?

Surprisingly, there are many positive effects of operating all-gender washrooms. A study conducted by Chaney and Sanchez (2017) shows that gender-inclusive washrooms contribute to creating a safe environment, not only for non-cisgender populations, but also for cisgender women populations as well as racial minorities. The participants of the study responded that organizations with all-gender washrooms had more fairness and inclusive environments than those with binary washrooms. Chaney and Sanchez argue that all-gender washrooms can be an egalitarian solution not only for all genders but also for minorities. Indeed, all-gender washrooms can produce positive effects in enhancing a comforting equality for all genders. How, then, do we best organize all-gender washrooms, so that no one gets offended?

Let's consider a possible solution. I believe many cisgender women feel discomfort towards all-gender washrooms because they are usually renovated in ways that distinguish them from traditional binary washrooms. Traditional binary washrooms are usually located in a room where people cannot see in from the outside. This blockage has various benefits in that it can provide privacy to those who are using the washrooms. However, this blockage also prevents people from feeling safe using the washroom. If people can see the inside of

*If people can see the inside of the washroom from outside without invading people's privacy, then people will feel safer using washrooms with different gender or sex.*

the washroom from outside without invading people's privacy, then people will feel safer using washrooms with different gender or sex. One of the all-gender washrooms in BCIT's NE-1 building is a solution to this problem. The open-concept washroom allows people to see the inside of the washroom but not inside the individual stalls (See Figure 1). The washroom is equipped with multiple private water closets, installed in a way that makes them not visible from the outside. When I first used this washroom, I was not quite comfortable seeing men walking in the washroom. However, as I used the washroom more frequently, I got used to the environment. I felt safe, and I did not find seeing guys to

be a threat or an invasion of privacy. I hope to see more all-gender washrooms that are safe for all genders.

All-gender washrooms, then, are a solution to construct a more equal and inclusive society for all genders regardless of their biological sex. Unlike many people's concerns, all-gender washrooms do not increase possible sexual crime or harassment. In fact, using all-gender washrooms has a positive effect on creating a fair and inclusive environment not only for non-cisgender people but also for women and racial minorities. This finding is quite important since non-cisgender people are more likely to experience discrimination and harassment, including sexual crime, than cisgender people. If all-gender washrooms foster a more egalitarian society, we should implement more all-gender washrooms in public spaces. However, the washrooms need to be designed to maximize safety as well as privacy so that all genders can feel safe. With proper designs of all-gender washrooms, we can work towards creating a more inclusive and equal environment. ■

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## Disrespect for Academic Freedom in the Respectful Workplace?

BY DR. JACQUELINE HOLLER

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**More** than a decade ago, I participated in a taskforce review of our institution's Harassment and Discrimination policy. I came to my taskforce role after having served as member and chair of the university's Harassment and Discrimination Panel and as a member of an investigative tribunal before the processes changed as a result of the taskforce review. I was also, at the time, president of the faculty association, a position that altered my perspectives on many things, including this policy and other university policies and practices I had previously regarded as an unalloyed good.

During my tenure on the taskforce, I had a conversation with a human rights lawyer concerning the scope of such policies and the possibility—desired by some—of incorporating bullying and personal harassment into

them. I still recall the lawyer's palpable shudder at this possibility and the accompanying warning: "Lawyers are really concerned about personal harassment policies, since bullying is just so hard to pin down." This was the first—though surely not the last—time I contemplated how complicated our quest for healthy, professional workplaces can be.

I also recall my own discomfiture in one taskforce discussion. I raised the question of academic freedom and the need to protect it—obviously while ensuring that the university community was protected from harassment and discrimination. I gave the example of something I did in my gender-studies class when discussing group differences, mean differences, and deceptive differences based on sex: in class, I discussed studies of IQ testing



that reported differences between average male and female scores and challenged the class: “So this tells us men are more intelligent than women, right? What do you think?” Whatever the merits of the approach (I remember it as generating fun and engaged discussion), I learned that day that some members of the taskforce considered my pedagogy potentially harmful to and “unsafe for” students and not something that should be protected by academic freedom. Thus, I learned that one person’s academic freedom is another person’s “unsafe space.”

That lesson has been driven home again and again in the intervening years since the challenge of reconciling academic freedom with a “safe and inclusive” university community has not abated. Indeed, the challenges have multiplied. One critical change, in the past decade, has been the emergence of just the type of policy my lawyer friend warned me about, a type ostensibly designed to prevent, remediate and punish workplace bullying and harassment—but practically prone to vagueness, misunderstandings and overreach. Under the rubric of “Respect in the Workplace,” such policies have proliferated across the country, with worrying effects for academic freedom.

Ironically, perhaps, the proliferation of these policies arose from legislation rather than from internal initiatives at our putatively autonomous institutions. In B.C., the decisive period was 2013–2014, when WorkSafeBC ordered employers to take “reasonable steps” to prevent workplace bullying and harassment. This directive arose as the logical outcome of the inclusion of workplace mental injury in occupational health and compensation legislation. New requirements for employers included “developing a policy statement with respect to workplace bullying and harassment not being acceptable or tolerated”; taking steps to prevent or minimize bullying; developing complaint and investigative procedures; informing workers of bullying policy and procedures; training workers and supervisors; refraining from bullying workers itself; complying with relevant policies and procedures; and reviewing its policy and procedures regularly (WorkSafeBC, n.d.[a]). “Developing a policy statement with respect to workplace bullying and harassment not being acceptable or tolerated” may be a clunky phrase, but it was a reasonable ask calling for a minimal, clear response from employers.

Some post-secondary institutions already had such policies, of course, and many of those were marked by overreach; as early as 2008, well before the WorkSafeBC requirement, the UBC president had circulated a document called “Respectful Debate,” asking students and faculty to “pay special attention to the rules that govern our conduct” (Petrina & Ross, 2014, p. 65). Now all institutions rushed to draft and implement similar documents.

How did this overreach occur? In a sense, I believe, the legislative requirement was interpreted as an opportunity by employers. Positively, HR departments tasked with responding to employee complaints welcomed a tool to promote healthier interactions and implement best practices from HR and organizational-behaviour literature. More negatively, at universities Respectful Workplace (RW) policies offered new tools to administrators—and unhappy colleagues—to deal with gadflies, cranks, grouches and the veritable epidemic of academic bullying. (Scholarly literature and blogposts alike have mooted very high victimization rates of 18 to 68 per cent [Bokek-Cohen et al., 2023].)

At my own institution in 2015–2016, the Employer drafted a new policy (“Respect in the Workplace”), framed and presented as a required response to the WorkSafeBC legislation. The Faculty Association’s mandated review of that policy was completed by an eight-person working group, whose members unanimously disagreed with the draft and expressed particular concern about the vague and over-expansive language in the policy. The new policy required every member of the university community to behave “courteously, respectfully, and professionally” and permitted the university to treat a breach of the policy as “serious misconduct” meriting discipline “up to and including termination.”

While our working group unanimously rejected the draft, it soon became clear that the positive language of RW policies makes them particularly difficult to combat. Who wouldn’t want a workplace in which everyone is courteous, polite, respectful and professional? It was and remains challenging to explain to observers—and even faculty members—that the aspiration might be noble but the execution dangerous to the academic mission. The potential dangers are increased by the extremely uneven protections of academic freedom across the

country. At Douglas, for example, academic freedom is enshrined in policy rather than in the Collective Agreement, and the policy obliges faculty “to respect the opinions of Students and others in the academic and College Community, including opinions that arise from worldviews, values and intellectual traditions other than their own” (Douglas College, 2021). Because the policy also notes that academic freedom must be exercised in compliance with college policies, the obligation for workplace respect could trump the academic freedom of any Douglas instructor.

At my institution, over the course of the next two years (2017–2018), UNBC’s initial draft was revised to focus much more clearly on bullying and harassment and to include a statement that enshrined academic freedom in the policy:

“Excellence in learning, research and work in the University Community is fostered by promoting the freest possible exchange of information, ideas, beliefs and opinions in diverse forms, and it necessarily includes dissemination and discussion of controversial topics and unpopular points of view. Respect for the value of freedom of expression and promotion of free inquiry are central to the University’s mission. Nothing in this Policy or in the Procedure is intended to detract from the legitimate exercise of academic freedom of a Member of the [sic] UNBC’s Faculty Association as defined in the Collective Agreement.” (UNBC, 2018)

UNBC’s policy-development story, then, is one of the happier ones. An initially maximalist policy was walked back to compliance with what the Canadian Association of University Teachers (CAUT) recommends in cases where respectful workplace policies cannot be deleted entirely: acknowledgement of “academic freedom and freedom of expression as central to the institution’s mission, and as explicit values informing the policy’s provisions”; recognition of “the primacy of the collective agreement and the protections it provides”; limitation “to curtailing workplace harassment, discrimination and violence as defined by law”; and refraining from imposition of “obligations of respect and civility that go beyond legislative requirements” (CAUT, 2018).

What are the legislative requirements for such policies, and how does the law define bullying and harassment? WorkSafeBC notes that a worker is bullied or harassed “when someone takes an action that he or she knew or reasonably ought to have known would cause that worker to be humiliated or intimidated.” That is, the question is not whether someone felt offended, but whether a reasonable person would judge that the perpetrator knew or ought to have known that such an action would intimidate and humiliate (WorkSafeBC, n.d.[b]).

Unfortunately, few policies provide concrete lists of prohibited behaviours, and those that do often expand their remit well beyond what is legislatively required.

WorkSafeBC (WorkSafeBC, n.d.[b])	Douglas College (Douglas College, 2018)
Verbal aggression or insults	Persistent rudeness, bullying, taunting, patronizing behaviour, or other conduct that adversely affects working conditions or work performance
Calling someone derogatory names	Words, gestures, actions, or practical jokes, the natural consequence of which is to humiliate, ridicule, insult, or degrade
Harmful hazing or initiation practices	
Vandalizing personal belongings	Vandalizing personal belongings
Spreading malicious rumours	Spreading malicious rumours
	Threats or intimidation
	Physical assault or violence

TABLE 1. WORKSAFEBC ALSO PROVIDES A LIST OF BEHAVIOURS THAT MIGHT CONSTITUTE BULLYING AND HARASSMENT, INCLUDING “VERBAL AGGRESSION OR INSULTS, CALLING SOMEONE DEROGATORY NAMES, HARMFUL HAZING OR INITIATION PRACTICES, VANDALIZING PERSONAL BELONGINGS, AND SPREADING MALICIOUS RUMOURS” (WORKSAFEBC, N.D.[B]).



FIGURE 1. GEORGE RAMMELL AND HIS SCULPTURE *BLATHERING ON IN KRISENDOM* (2013). (BROWN & VAN STEINBURG, 2015.)

For example, compare the list of prohibited behaviours from WorkSafeBC to the list found in the Douglas College Respectful Workplace policy (Table 1).

In addition to including matters generally dealt with under the Criminal Code, the Douglas list comprises a wide range of behaviours including things that are notoriously resistant to a reasonable-person test, such as “gestures” and “patronizing behaviour.” The list is therefore a recipe for confusion, at best.

In many cases, RW policies go beyond listing what is not permitted to require civility, respect or some variation thereon. For example, UBC’s Statement on a Respectful Environment not only requires UBC community members to refrain from “Activities Harmful to a Respectful Environment” (including bullying and harassment) but also charges all members of the university community with “responsibility for maintaining a respectful environment” (UBC, 2014). The latter is a nebulous positive

obligation that could proscribe virtually any behaviour perceived as insufficiently civil, kind or supportive.

The latter objection is not merely hypothetical. Since the implementation of RW policies, they have been deployed to limit the academic freedom of faculty members. As readers will know, British Columbia had its first high-profile taste of this in 2013 at Capilano University. Facing a significant budget shortfall, the administration decided to close several programs without consultation with the senate. During student-faculty protests, studio art instructor George Rammell created and displayed a sculpture of Kris Bulcroft, the university president, draped in the American flag (Figure 1).

Bulcroft reacted strongly to the (admittedly unflattering) sculpture, citing her “obligation as a woman and as a leader to flatly denounce ... the making of this grotesque caricature” and noting that Capilano “is a campus that will not tolerate bullying and harassing

behaviours" (Brown & Van Steinburg, 2015, p. 8, emphasis added). The board chair ordered the work's removal from Rammell's studio and subsequent destruction, stating that "the repeated display of this object on campus amounted to personal harassment" (Brown & Van Steinburg, 2015, p. 8, emphasis added).

The reaction to the sculpture by board chair and president thus rested on two pillars: discrimination and harassment on protected grounds (sex), and the newer grounds of bullying and harassment. Bulcroft, an experienced administrator, should have been aware that there was nothing in Rammell's action or sculpture that would have met a legal bar for protected-grounds harassment. In invoking her status "as a woman," however, she implied the contrary. While readers may be sympathetic to Bulcroft's taking offence (who would enjoy being depicted in similar fashion?) the blurring of offence with legally proscribed harassment (protected-grounds or personal) is deeply concerning.

A CAUT investigatory committee struck to investigate agreed. "There is no doubt that expressions and representations based on satire and ironies, including the use of grotesque caricatures, are intended to be controversial and unflattering," the committee wrote. "Satirical expressions in themselves, however, do not constitute personal harassment" (Brown & Van Steinburg, 2015, p. 9). Nonetheless, while the university eventually returned the work to Rammell and compensated him several days' pay, it continued to insist that "[t]he university is committed to a safe and respectful workplace for all faculty and staff; the decision to remove Mr. Rammell's [sic] sculpture from campus was made in this vein" (Redden, 2014, emphasis added).

The Capilano incident was a harbinger of things to come, including the over-liberal use of bullying and harassment to describe opposition and satire and the blurring of the boundaries between protected-grounds harassment and workplace "disrespect." Increasingly, however, RW policies have been used less by administrators than by students and colleagues against faculty members they deem problematic. The two most significant cases of this in recent years both involve female faculty members on opposite sides of the country: Dr. Rima Azar, at Mount Allison, and Dr. Frances Widdowson at Mount Royal. Both cases, like the CapU case, involve satire. Unlike the Rammell case, however, these more recent cases involve "gadfly" faculty members

who espouse views (either in the classroom, outside it, or on social media) deemed intolerable by their students and colleagues. And in each case, RW policies formed the basis for their suspension (Azar) or dismissal (Widdowson). (Because the Widdowson case remains in arbitration as of February 2024, I will not comment on it here).

Dr. Rima Azar, a psychologist at Mount Allison, works in health psychology. Her teaching and research, however, were not what brought her to notice. Instead, the offending behaviour was her personal (pseudonymous) blog, on which she commented satirically about systemic racism, Indigenous reconciliation and other Canadian public-affairs issues. Most damningly for her critics, Dr. Azar denied the existence of systemic racism in Canada, seeing the racism that persists as aberrational rather than "baked into the system." Students discovered her blog and lodged complaints under the Anti-Racism and Workplace Harassment policies of Mount Allison, demanding her termination not only from the university but from her other professional roles and affiliations (Figure 2).

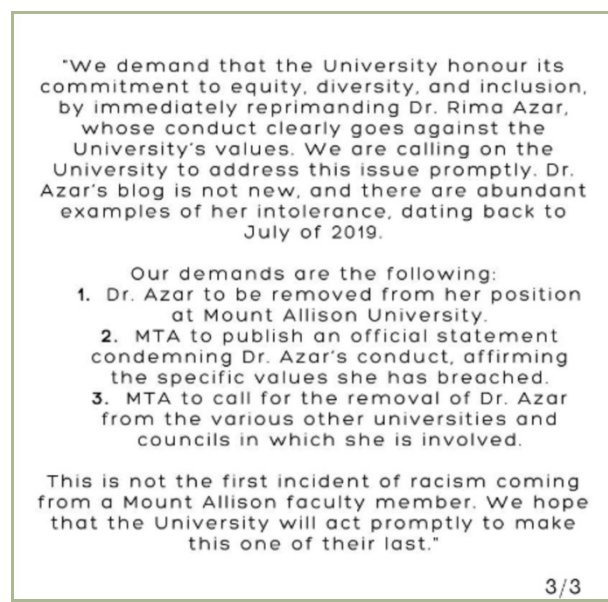


FIGURE 2. DEMANDS OF THE MOUNT ALLISON BLACK STUDENTS' UNION, ORIGINALLY POSTED ON INSTAGRAM. (BUTLER, 2021.)

In response, Mount Allison suspended Dr. Azar for seven months, prompting a union grievance and condemnation by CAUT. Mount Allison's Workplace Harassment policy covers both personal harassment and protected-grounds harassment and does not distinguish between them, adding to confusion on the precise grounds for Dr. Azar's discipline. The Anti-Rac-

ism policy, developed by five students, three student-affairs staff members and only two faculty members, is even more vague and expansive. Most concerning, it makes no effort to define what racism is in the context of a university campus. (Racist behaviours are, after all, already covered by human rights legislation, and race-based discrimination or harassment is illegal.) The policy states that “In instances when academic freedom and the Racism Policy appear to be in conflict, the matter will be referred to the appropriate collective agreement for resolution” (Mount Allison, 2017). Again, racist behaviours are already proscribed by legislation, and harassment and discrimination are not protected by academic freedom, so it is difficult to see what is meant by these words. The existence, non-existence or relative prevalence of systemic racism is a matter on which academics may take different positions, some of which may cause offence to some people. However, as James Turk notes, “Everyone has the right to live without harassment or discrimination, but no one has the intrinsic right to never be offended” (CAUT, 2016).

In the event, while she has since been reinstated under the terms of a confidential settlement, the agreed settlement statement is concerning: “The University received student complaints and took these complaints seriously pursuant to the Policy on Workplace Harassment and the Anti-Racism Policy.” That is, the Employer did not publicly admit any wrongdoing or overreach in its application of these policies. Similarly, the Mount Allison Student Union expressed disappointment in the aftermath of Dr. Azar’s reinstatement. “Academic freedom is not synonymous with free speech and requires much greater consideration of the ends at which it is aimed and the context in which it is situated,” the student union said in a statement earlier this month. “Academic freedom is not inherently absolute and untethered but situated with its end-based goal of creating a non-toxic learning environment” [Anchan, 2022, emphasis added].

Thus, the outcome may be positive in that Dr. Azar has returned to the work from which she was (in my view) unfairly removed; but neither the Employer’s representatives nor the students at Mount Allison appear to have learned anything about academic freedom from l’affaire Azar. Moreover, since a settlement was reached behind closed doors (rather than being awarded by an arbitrator), there is no definitive or legal statement about the policy, the university’s response or the valid-

ity of students’ complaints. Unfortunately, this appears to be a common pattern in recent cases, leaving us with little arbitral guidance on the validity of the constraints imposed by expansive RW policies. What fills the breach, in my view? Confusion, self-censorship and proliferation of complaints.

In an increasingly polarized world, RW policies will undoubtedly be used more and more frequently to manage behaviour—and, more importantly, to manage disagreement. I believe this should cause great concern among all academics. There is much at stake for the university mission and for the rights, freedoms, and civic duties that anchor democratic society. Our task as academics and as unions is to enshrine robust protections of academic freedom in our collective agreements; contest nebulous and over-extensive policies that enshrine “respect” rather than prohibiting legally proscribed conduct; and insist that the academy be a space of vigorous debate and profound, rather than merely polite, engagement with ideas and one another. ■

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# LABOUR MATTERS

A REGULAR COLUMN BY THE VP STEWARDSHIP

## What is a Letter of Expectation?

You may have never encountered a Letter of Expectation (LoE) in your working life. An LoE is meant to provide workers with “guidance, communicate expectations, and reduce future misunderstandings” (Agency, n.d.). It is not a disciplinary letter, unlike a Letter of Discipline (LoD), which can be considered part of the progressive disciplinary process that can lead to various forms of discipline, such as suspension, suspension without pay, and dismissal.

This distinction matters because, increasingly over the past few years, faculty members at the college have received Letters of Expectation that resemble disciplinary letters and do not follow the standard form. Colleges across the sector have reported a similar use of LoEs as a form of discipline in all but name. So, to review: *As an LoE is not disciplinary, there are certain standards to which it must adhere.*

To quote again from the Province of British Columbia, which offers a guide for managers of the public sector, such a letter should

- be generic enough that anyone working in the same role could receive it
- be future looking
- be proactive
- be positive in tone
- ensure there is no type of warning
- contain no reference to past meetings
- reference no other documents on file (Agency, n.d.)

In short, your area steward should be able to replace your name with that of any other faculty member in a similar position at the head of the letter; and it should be equally applicable to them as to you.

The reasons that you as an employee might receive an LoE can vary: perhaps you are new to an organization, and it is meant to inform you of key policies; perhaps

## NOTES ►

<sup>1</sup> Under Article 10, “Protection of Faculty Members,” it is noted that you may have access to your employee file; no information will be placed in your file unless you have been given a copy of it; and disciplinary documents “shall be removed and destroyed after 24 months provided there has not been a similar infraction” (Article 10.01.a–e).

you have moved into a new role and are being notified of key policies to be aware of in this role; perhaps you have exhibited some behaviours that you were not aware are in violation of an institutional policy. In each instance, the LoE reminds you of these policies, which at the college might range from contact hours with students, to protection of privacy, to standard operating procedures (SoPs) for notifying your dean of a sick day when you have had to cancel a class.

Note also that, in the list above, the words describing an LoE are positive in nature: “generic,” “future looking,” “proactive,” “positive.” Significantly, they cannot include a warning or threat of future discipline; they cannot reference past meetings or specific incidents; and they must not reference any other documents on file.

Many faculty are surprised to be issued an LoE and even more surprised to learn that this document remains permanently in your employee file, unlike a Letter of Discipline, which is destroyed after two years in which the same issue for which you are being disciplined has not reoccurred, per Article 10.01.e.<sup>1</sup>

### What should you do if you receive an LoE?

Often LoEs are too specific to an individual or to specific incidents; at times they are negative in tone. And because an LoE remains in your employee file for the duration of your career, it is extremely important that you alert the DCFA to any LoE you receive, so that we can review the language for appropriate tone and content.

In the last round of bargaining, the DCFA attempted to bargain for language that would have LoEs removed from employee files after 24 months, just as LoDs are removed after 24 months; the Employer refused. Some institutions such as Camosun College have language governing the removal of LoEs. At Camosun College, for example, LoEs can be removed by request after 18 months. The DCFA is working to build support for the incorporation of such language at the next round of bargaining.

In conclusion, an LoE which is properly written should be a positive and instructive guide for an employee; it should be forward-looking, positive and encouraging in

tone. I end this column with an example of an appropriately worded Letter of Expectation provided by the BC Public Service as an example for its own employees and supervisors.

Suzy Jones  
1234 Main Street  
Victoria BC, V8R 1H5

Dear Suzy:  
Re: Letter of Expectations

The purpose of this letter is to communicate to you the ministry’s expectations about the duties and responsibilities associated with your Clerk position. If after reading this letter you have any questions or comments, I would be pleased to discuss them in greater detail with you.

A shared understanding of the following key areas will assist both our working relationship and our ability to deliver quality service to our clients.

**Standards of Conduct and Workplace Behaviour**  
The Standards of Conduct applies to all persons and organizations covered by the Public Service Act. Public service employees are expected to exhibit the highest standards of conduct in order to instill confidence and trust in the BC Public Service. The conduct of all public service employees must meet acceptable social standards as well as contribute to a positive work environment. The requirement to comply with these standards is a condition of employment. Employees are expected to exercise sound judgment, demonstrate tact and professionalism, be able to work independently and conduct themselves in a manner consistent with their authority and responsibility.

These guidelines and principles are meant to complement the similar provisions found within the BCGEU Master Agreement and general policies to assist in providing a collaborative, professional workplace free from discrimination, harassment, or strife with issues being resolved in a fair, transparent and respectful manner. [...]

As your supervisor, I commit to providing you with regular feedback on the above expectations and your work performance. Any support that I can provide to assist you in your performance of your duties will be given; however, the onus is on you to meet the established expectations outlined above and achieve and maintain a satisfactory level of performance in your position as a Clerk.

If you have any questions or concerns regarding these expectations, please feel free to discuss them with me at any time.

Yours truly,  
Charles Wong  
Supervisor  
MyHR, employee personnel file

The province of BC provides several sample letters of expectation. Below are links to more sample letters and partial excerpts. ■

[Sample Letter of Expectations – General \(PDF, 180KB\)](#)

[Sample Letter of Expectations – Respectful Workplace \(PDF, 131KB\)](#)

[Sample \(excerpt\): BC Public Service](#)

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## *DCFA Faculty Matters*

### CALL FOR SUBMISSIONS

The *Faculty Matters* Editorial Team cordially invites you to contribute an article to an upcoming edition of the publication. The mandate of *Faculty Matters* is to provide insightful, honest, intelligent, and well-informed commentary on the academic and societal events and issues that impact Douglas College faculty.

The past two years have provided many commentary-worthy events, so we encourage you to provide your expert evaluation and editorial. If writing an article is of interest to you, please contact a *Faculty Matters* Editorial Team member listed on the masthead.

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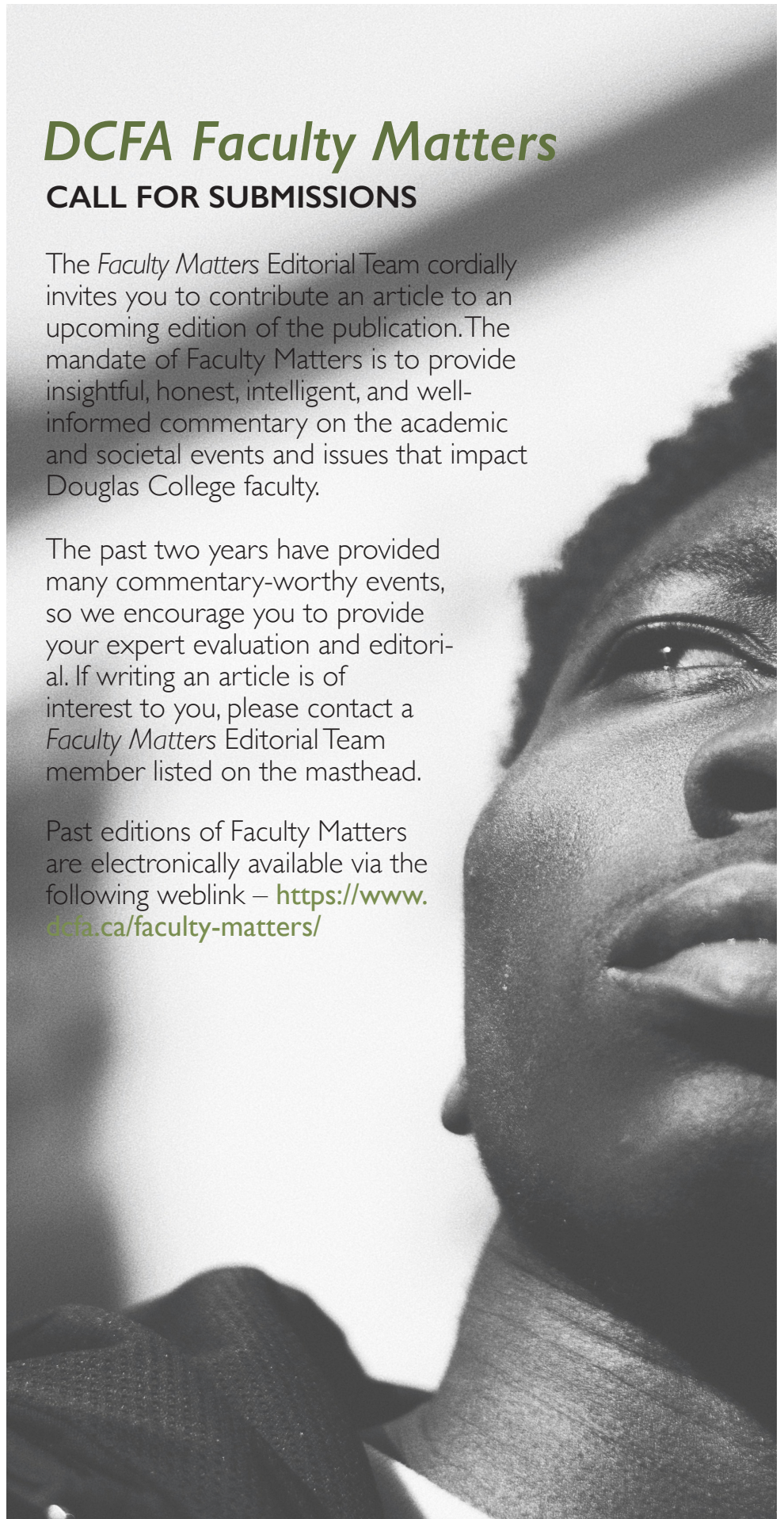


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