

Report of the CAUT Ad Hoc Investigatory Committee
on King's University College and Professor Ken Luckhardt

Albert Katz (Chair)
Jonathan Haxell

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CANADIAN ASSOCIATION OF UNIVERSITY TEACHERS
2705 Queensview Drive, Ottawa Ontario K2B 8K2
Telephone (613) 820-2270; Fax (613) 820-7244 acppu@caut.ca

I. Summary:

On April 3, 2012 Ken Luckhardt, a retired, contractual instructor who had taught in the Social Justice and Peace Studies program at King's University College at the University of Western Ontario (hereafter King's) was banned from entering the campus at King's without the explicit permission of the Principal. This discipline was initiated as a response to a harassment proceeding. Professor Luckhardt had delivered two letters to select senior administrators at King's that were, in part, critical of two of his colleagues in the program. These letters became more widely known at King's and resulted in a harassment charge against Professor Luckhardt. Under the King's Harassment and Discrimination Policy, the College retained an external investigator to review the case. The ban was imposed after the report of the external investigator found that Professor Luckhardt's letters violated the King's Harassment and Discrimination Policy.

Expressing concern that University harassment policies may be used to limit academic freedom, the Canadian Association of University Teachers acted under the provisions of the CAUT Procedures in Academic Freedom Cases to establish an ad hoc investigatory committee consisting of Professors Albert Katz (Western University) and Jonathan Haxell (Wilfrid Laurier University) to review the details of the Luckhardt case. The mandate of the Committee was to:

- Investigate the actions of the Administration of King's University College in addressing Professor Luckhardt's criticisms of colleagues in the Social Justice and Peace Studies program and its actions surrounding the formal complaint filed against him.
- Determine whether the actions taken by the Administration of King's regarding the Luckhardt case were appropriate and whether they violated his academic freedom.
- Make any recommendations that derived from the investigation.

The Committee reviewed an extensive list of documents and interviewed the people most closely involved in the case. The Administration of King's declined to participate in the interview process but provided written responses to requests for information and comment. We remain very grateful for the contribution of all those who participated in this investigation and in particular to those who took time out of their busy schedules, as well as a sabbatical and retirement, to meet with us and explain their perceptions of events. It is because of this input that we feel confident that we have developed a fair and balanced report of the affair.

Our investigation suggests that the Luckhardt case occurred in the context of a disagreement between members of the Social Justice and Peace Studies program over its future direction during an external program review. Roughly speaking we identify two positions: one advocating staying the course established for the popular and successful program since its inception; the other proposing new ideas and contributions from its younger full-time, tenured professors. This committee was somewhat perplexed by the discord evident within the program. All past and current members of the Social Justice and Peace Studies program that we interviewed provided us with an open and accommodating reception and presented eminently reasonable positions. In general we note that there was broad consensus regarding the events of the program review and the Luckhardt letters that followed. What differed were the interpretations of these events. It is our position that it was the responsibility of the Administration of King's to maintain an environment that preserved the academic freedom of all members of the program and fostered open and constructive academic debate. We do not feel that this

responsibility was effectively met in this case.

Based on our investigation the Committee concludes:

1. The Administration acted inappropriately in the Luckhardt case. By releasing letters intended for the Senior Administration to the broader community, it elevated some comments within them about Professor Luckhardt's colleagues to the level of public discourse and created an environment that those referenced in the letters had little choice but to address through a formal harassment proceeding. The Administration had other options at its disposal to address Professor Luckhardt's observations. By acting as it did, the King's Administration engaged in a practice of discipline by proxy.
2. The Administration released privileged information about a grievance of the discipline imposed on Professor Luckhardt to a third party with no standing but with an interest in the case. This apparently calculated action successfully resulted in termination of the grievance process and represents an attack on grievance as a mechanism to protect academics from unfair labour practice.
3. Professor Luckhardt's academic freedom was violated. His legitimate criticisms of the academic decisions of the Administration were dispensed with through the application of a harassment proceeding. Furthermore the repeated release of privileged documents created an environment which discourages staff in criticizing the Administration, even in private letters.

Four recommendations are made to redress issues precipitated by the Luckhardt affair. The Committee recommends that:

1. The ban preventing Professor Luckhardt from entering the campus of King's University College without permission from the Principal is rescinded.
2. Professor Luckhardt be invited, if he so wishes, to resubmit an expression of his concerns regarding plans for the future of the Social Justice and Peace Studies program, absent the comments regarding his former colleagues that accompanied his earlier letters.
3. The Administration and Faculty Association work together to revisit the King's University College Harassment and Discrimination Policy in order to balance academic freedom considerations with protections from harassment and discrimination.
4. The academic community at King's work to develop a set of policies and guidelines that reflect appropriate professional conduct and best practice with respect to the release of private and privileged information by the Administration.

II. Terms of Reference:

On April 3, 2012 Ken Luckhardt, a retired, contractual instructor who had taught in the Social Justice and Peace Studies program at King's was banned from entering the King's campus without the explicit permission of the Principal. This discipline was initiated as a response to a harassment proceeding. Professor Luckhardt had delivered to three senior administrators, two letters which were, in part, critical of two colleagues in the Social Justice and Peace Studies program. These letters became more broadly known within the College community and resulted in a harassment complaint against Professor Luckhardt. An external reviewer retained under the terms of the King's Harassment and Discrimination Policy found that Professor Luckhardt had violated King's policy on harassment. After receiving the external investigator's report, the Principal imposed a ban -- one of the outcomes permitted under this policy.

In keeping with its concern for the academic freedom of all members of the academy and especially of contractual faculty and other vulnerable members of university communities, and given the potential for the use of university harassment policies to deny or limit academic freedom, the Canadian Association of University Teachers acted under the provisions of the CAUT Procedures in Academic Freedom Cases to establish an ad hoc investigatory committee to review the details of the Luckhardt case. Accordingly, Albert Katz, Chair of the Psychology Department at The University of Western Ontario, and Jonathan Haxell, a contract faculty member in the Archaeology and Classical Studies Department at Wilfrid Laurier University were appointed to investigate the matter. Professor Katz served as chair of the Committee.

As set out in the CAUT Procedures in Academic Freedom Cases, the terms of reference were provided to the Committee. The mandate was to:

- *Investigate the actions of the Administration of King's University College in addressing Professor Luckhardt's criticisms of colleagues in the Social Justice and Peace Studies program and its actions surrounding the formal complaint filed against him.*
- *Determine whether the actions taken by the Administration of King's regarding the Luckhardt case were appropriate and whether they violated his academic freedom.*
- *Make any recommendations that derived from the investigation.*

III. Brief Background:

Social Justice and Peace Studies is a program at King's, housed within the Department of Interdisciplinary Programs. In early 2011, the members of the program included its Coordinator and co-founder, two more junior, tenured faculty members, and a number of sessional instructors. All of the full-time, tenured members of the program have cross appointments with other sub-units of the University. Professor Luckhardt was a long-serving, sessional instructor hired on per-course contracts. The program curriculum consists of a series of classroom-based courses as well as a field component by which

students travel abroad and are introduced to social-justice issues on a first-hand basis. There is ample evidence that the program is highly successful. It is manifestly popular with students and has clearly cultivated among them both a thoughtful, critical and scholarly outlook as well as an activist ethic.

As is often the case within academic programs, disagreements about the future vision and activities of the program can arise as times and membership change. This occurred within the Social Justice and Peace Studies program (SJPS) at King's. The Coordinator and co-founder of the program supported preserving his vision of the original mandate of the program. Conversely two more junior, tenured faculty members felt that their input was marginalized at program meetings and that their professional and scholarly contribution was underutilized by the program's curriculum. There is no indication that Professor Luckhardt was an active participant in program meetings, contributed to any perceived marginalization or acted in a negative manner toward his colleagues during program or other discussions.

The first external academic review of the program was initiated by the Administration in March of 2011. Professor Luckhardt participated in this process by meeting the external reviewer; as well he remained a member of the program when the report from the reviewer was delivered in April of that year. Professor Luckhardt subsequently retired from teaching in July 2011. The program's response to the external review was delayed as a result of a personal family matter occupying the attention of the Coordinator. Since they were both due to be absent from the College in the following term, and were therefore concerned that their contribution be included, the two remaining tenured members of the program presented a written response to the external review. There is some evidence to suggest that this document was perceived by the Program Coordinator as a minority report.

The official response of the program to the external review was prepared by a committee that consisted of an Associate Dean, the Program Coordinator and sessional members of the faculty, a student representative, and a faculty member external to the program. One of the other tenured faculty within the program interrupted her sabbatical to participate in the process. The Program Coordinator interpreted the composition of this committee as constituting interference by the Administration in a process which should have been internal to the program. Shortly following completion of the program response to the review the Coordinator resigned. He subsequently wrote an open letter to faculty, students and others explaining that his resignation was a result of administrative decisions regarding the program in response to the external review.

Following the circulation of this letter, Professor Luckhardt wrote a letter to the Principal, the Dean of King's University College and the Vice-President and Provost of UWO. Professor Luckhardt wrote a second letter in response to the Dean's reply to the first. The letters were highly critical of the Administration's response to the external review of the SJPS program. Importantly, the letters were also critical of the actions of his two younger colleagues, speculating about their motives, commenting on facets of their personal and professional character, and proposing that an increase in their decision-making role within the program would lead to its further demise. Although not addressed

to either named party, the letters were sent to them by the Dean. After been given the letters, a formal complaint under the terms of Harassment and Discrimination Policy and Workplace Violence Policy of King's University College was made against Professor Luckhardt by one of the faculty members that he had criticized in his letters. Following King's procedures, the complaint was reviewed by an external investigator who, as noted above, found that Professor Luckhardt had violated their Harassment and Discrimination Policy (but not their Workplace Violence Policy). The Administration subsequently issued the ban as a form of discipline.

A somewhat tangential but nonetheless related issue is that the disciplinary ban was brought to the attention of the King's University College Faculty Association. The Association is not unionized and membership in it is voluntary. Professor Luckhardt was not a member of the Association but nonetheless the Association started grievance procedures on his behalf. After an intervention by the faculty member found to be harassed by the external investigator, the Association withdrew the grievance.

IV. The Investigation by the CAUT ad hoc Committee:

The Committee was mindful of two important and potentially competing values. We understood that claims of academic freedom should not be used as an excuse for committing harassing or discriminatory actions. We understood as well that use of harassment policies should not be used as a tool to violate academic freedom. Within this context we were mindful as well that policies, such as those at King's, differ across universities and jurisdictions. What is considered as harassment or an academic violation at one place may not be seen as such at another. To this end, in this document we considered as standards language provided by the CAUT on Harassment (Appendix A) and on Academic Freedom (Appendix B), given its ratification by representatives of Faculty Associations across Canada.

Given the competing nature of the values expressed, the Committee tried to be as comprehensive as possible. We developed a comprehensive list of the relevant documents and reviewed these. We attempted to interview all of the people involved in the case and are convinced we have had input from the individuals most involved.

Documentary Evidence

The position of the Administration is presented in written responses to both general and specific questions that we sent to the Principal of King's, Dr. David Sylvester. We attempted to meet for interviews with administrative officers. However, after initially agreeing to meet with the Committee, the Associate Dean who participated in the program's response to its external review cancelled her appointment and referred the Committee to the Principal. Principal Sylvester, in turn, declined two requests from the Committee to meet in person and elected to contribute on behalf of the Administration of King's, Dean Camiletti and the Associate Dean by way of written responses to the Committee's questions. We thank Principal Sylvester for his willingness to engage with our process.

Based on the observation that the matter was internal to King's University College and

given the assumption that it was addressed as such, the Committee did not attempt to solicit an interview with Provost and Vice-President of UWO, Janice Deakin.

We thank as well the many people who provided us with documents in their possession. In our interviews we did not mention which documents we had received and invited the interviewees to send us whatever documents they thought would be useful in our investigation. Accordingly many of the documents we list below were given to us by several people. The documents can be characterized as either providing general background information or those more specific to the Luckhardt case.

Documents to understand the background to the events in the case:

In order to understand the background context of events, the Committee examined the report of the external reviewer of the Social Justice and Peace Studies program that appears to have been the catalyst for the events of the case. The Committee understands that altogether two documents were prepared which in some sense represent the response of various members of the program to the external academic review. As they were anticipating being absent on leaves while the program drafted its response, the two younger members of the SPJS program provided their observations on the review in written form. As well, a committee drafted the official response of the Social Justice and Peace Studies program to the review. We requested both of these documents but did not receive them.

Two ancillary documents were presented to the Committee: the letter from the SJPS Coordinator to the King's University College and wider community interested in social-justice issues explaining his reasons for resigning and, second, the public response from Principal Sylvester to the Coordinator's letter.

To understand the context in which the Administration proceeded with the formal charges laid against Professor Luckhardt, we also received copies of the King's University College Harassment and Workplace Violence policies, as well as their Conditions for Appointment of Faculty.

Documents directly related to the Luckhardt case:

These documents include:

- The two letters by Professor Luckhardt's to University administrators (King's Principal Sylvester, King's Dean Camiletti and UWO Provost and Vice-President Deakin).
- Dean Camiletti's responses to Professor Luckhardt's letters.
- A copy of the formal complaint addressed to Principal Sylvester by one of the faculty members criticized in the Luckhardt letters.
- A copy of Principal Sylvester's letter to Professor Luckhardt informing him of the complaint and the process to be followed.
- A sequence of letters from the external investigator, John McNair of the firm McKenzie Lake and a lawyer retained by Professor Luckhardt, Sam Marino of Marino Hamilton LLP.

- A copy of the final report submitted by Mr. McNair finding Professor Luckhardt in violation of the King's University College Harassment Policy but not in violation of the Workplace Violence Policy.
- A copy of Principal Sylvester's letter to Professor Luckhardt informing him of the outcome of the investigation.
- Written Summaries or further observations provided to us in written form by people we interviewed.
- Some email exchanges between the then-Chair of the Faculty Association and CAUT Assistant Executive Director Peter Simpson, on the status of the grievance issued on behalf of Professor Luckhardt.

Interview Data

The Interviewees:

The Committee requested interviews with those members of the Social Justice and Peace Studies program most involved in the case. Each agreed to talk to us. Consequently we had interviews with the former Coordinator of the program, Professor Luckhardt, as well as the two tenured members of the program identified in Professor Luckhardt's letters. We also had interviews with the Chair of the Faculty Association during our investigation, Dr. P. Ibbott and the Chair during the time the grievance was issued, Dr. D. Humphrey. The Committee is very grateful for the contribution of all who participated in this investigation. Some participants took time away from sabbatical or invested their own personal time in the work of the Committee. As well, all received the Committee graciously and openly and provided frank and useful discussion of the issues. All parties agreed to have the interviews recorded.

Interviews took place in various venues, depending on circumstances and the wishes of the interviewee. Face-to-face interviews took place either in a room on the main campus of the University of Western Ontario or the interviewee's office at King's. In one case, we met at the house of the interviewee. For practical reasons two participants who were outside the country at the time of the investigation provided their contribution via telephone. In these cases, a secure telephone conference facility was employed and the members of the Committee along with the participant called in at a prearranged time.

The Interview process:

Following the terms of the CAUT Procedures in Academic Freedom Cases, requests for interviews with members of the King's University College community were accompanied by a letter introducing the Committee and explaining its terms of reference. In order to avoid biasing responses, participants in the interview process were initially asked to recount from their own perspective, the sequence of events of the case. The only questions asked by members of the Committee during this account were for clarification. Additionally however the Committee frequently had specific questions for interviewees, either that derived from the participant's sequential account, for the purpose of fact checking or, as for example in the case of the Faculty Association's decisions surrounding the case, to understand events and their motivation. The Committee requested responses

to these questions following discussions surrounding the participant's account of the sequence of events. Interviewees were then encouraged to make any other observations or raise issues that they thought pertinent to the deliberations of the Committee. Finally participants in the interview process were invited to provide any documents they thought important to the Committee's investigation and to suggest other members of the King's University College community who might be able to provide relevant input.

The members of the Committee took written notes during all interviews. As noted above, all who participated in the interview process consented to the Committee recording the meeting. These sound recordings were collected for the reference of the Committee and to permit accurate representation of the perspective of the participant. Additionally some participants in the interview process presented prepared summaries of their thoughts and observations, or provided further written feedback after the interview.

We have some general observations about the interviews. First, the interviewees were remarkably consistent in their accounts of the sequence of events. Second, in the main, participants in the interview process provided very even-handed reviews of their experiences. Third, given the openness and reasonableness with which participants presented themselves, the Committee is somewhat perplexed (and deeply saddened) that relationships within the Social Justice and Peace Studies program had deteriorated to such a low level of trust and mutual respect as to permit name calling and formal complaints of harassment. Unsurprisingly the differences in accounts when they occurred lay in perceptions of the intent and implications of the actions of others. For instance, Professor Luckhardt considered his letters as being directed at what he saw as actions of the Administration in inappropriately gutting the program, whereas, and not surprisingly, those criticized in the letters concentrated on that aspect as a personal, harassing act.

V. Observations and Analysis:

Recall our mandate was to investigate the appropriateness of the actions taken by the Administration surrounding Professor Luckhardt's criticism of his colleagues, as well as surrounding the formal complaint filed against him. Our mandate also included determining whether or not Professor Luckhardt's academic freedom was violated. Adjudication of the appropriateness of the actions of either individual faculty members or of the Faculty Association was not part of our mandate.

In his report, Mr. McNair, the external examiner in the harassment proceeding, did not find Professor Luckhardt in violation of the King's Workplace Violence Policy. However he did find Professor Luckhardt in violation of the King's Harassment and Discrimination Policy. In our view, he builds his conclusions on three foundations: that the comments about his colleagues in the Luckhardt letters were vexatious; that they were presented in an entirely inappropriate forum; and that they had a material impact on the working environment of the Complainant.

For example, Mr. McNair observes that "Luckhardt's comments were expressed in a vitriolic tone that was clearly designed to inflame, rather than persuade." He points out that "...accusations were couched in insulting language that attacked the personal reputations and integrity of the two individuals...." He concludes "...that Luckhardt's

comments were vexatious and objectionable on any reasonable analysis and that they had the effect of creating an intimidating and hostile work environment....”

In the same manner he notes that “No effort was made by Luckhardt to afford...the opportunity to explain, comment or respond to his sweeping accusations.” He suggests that:

“Luckhardt’s communications were directed to those who exercised potential authority over...their respective career prospects within the College; and,

The said communications were clearly intended to block or negatively affect their prospects of advancement to positions of decision-making authority.”

Mr. McNair also states that “This was not a situation which involved any question of academic freedom or debate”, although he provides no argument in support of this contention.

By our terms of reference on the other hand, academic freedom is of central concern, and in particular in this case, its interaction with harassment and discrimination proceedings. We are furthermore not limited to considering academic freedom or harassment within the confines of the King’s University College policies. Rather we base our observations on CAUT policy statements. These include the Freedom from Harassment policy statement, as ratified by the member Associations of the CAUT. It states that:

- Harassment is any vexatious behavior in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affects a person's dignity or psychological or physical integrity and that results in a harmful work environment. A single serious incident of such behavior could also be deemed to be harassment if it has a harmful effect.
- The employer bears primary responsibility for fostering a workplace that is free from harassment.

There is no question that Professor Luckhardt’s letters include strongly-worded comments about some of his colleagues. In this sense, it is entirely understandable that those referenced in the letters would feel distraught upon receiving them. At the same time, it is our understanding that ‘vexatious behaviour’ as referenced both in the King’s and CAUT harassment policies refers to more than just behaviour that might be perceived as offensive. Indeed in an academic context where participants may be passionate about issues and hold strongly opposing opinions, the conduct of normal, critical, scholarly debate may quite reasonably be expected to result in distress. This meaning alone cannot therefore be the determining condition for vexatious behaviour in an environment that is fully supportive of academic freedom. In contrast we understand vexatious behaviour in the formal context of harassment and discrimination policies as behaviour which has the principle purpose of undermining another.

This is the light in which Mr. McNair has characterized the Luckhardt letters, as for example in the excerpt above. The Administration of King’s similarly presents the Luckhardt letters as quite simply an attack on members of the King’s faculty. We certainly understand why it is these elements that would be the primary focus for those

referenced in them. Professor Luckhardt's letters do remain however a pointed criticism of administrative decisions regarding the program and were treated as such by the Dean in his response. Furthermore Professor Luckhardt reported to us in the context of his interview that reference to the colleagues in question was an articulation of his concern that either they were being used by the Administration of King's in order to help facilitate a change to the nature of the program into something that Professor Luckhardt found professionally unacceptable, or that they were participants in what he saw as an entirely unwelcome administrative re-visioning of the program. Accurate or otherwise this is a reasonable concern for any current or former member of an academic program. Professor Luckhardt's observations about his colleagues were expressed solely to those he understood had final decision-making authority over the future of the program. As well, they were presented in the context of his arguments concerning the continued integrity of the program. They are therefore understandable, not as an attempt to be malicious, but as an expression in good faith of concern for the quality of academic decisions. So, while acknowledging that they might be unwelcome to those referenced within them, it is our view that the comments in the Luckhardt letters do not satisfy the condition of vexatious behaviour as we understand it but represent a facet of his concern for the elements of the Social Justice and Peace Studies program that he found familiar and important. Expression of such concern is furthermore protected by the principle of academic freedom.

The testimony provided by a number of participants in the interview process was quite consistent that, prior to the letters he sent to University administrators, Professor Luckhardt had not engaged in malicious behavior towards his colleagues. As such, we do not see any evidence of repeated unwanted activities. Moreover, the two letters followed in quick succession. Since the second letter has the clear character of a rejoinder to the Dean's response to the first, we consider them to be part of the same single event. Consequently the condition for harassment outlined in the CAUT document is, in our opinion, not met. We see no evidence of "repeated and hostile or unwanted conduct." We recognize, as does the CAUT statement, that harassment can be based on a "...single serious incident [...] if it has a harmful effect." However, as we argue below, there is no evidence that the letters delivered to the three administrators by themselves created a harmful effect.

The question of the forum for Professor Luckhardt's opinions about his colleagues is an issue that Principal Sylvester takes up in his communication with this committee. In his written statement of April 3, 2013 Principal Sylvester in his communication with this committee states:

"The Academic Dean responded immediately and directly to Mr. Luckhardt in writing (twice) questioning the appropriateness of the forum chosen. The appropriate forum for Mr. Luckhardt to raise his concerns about the program was within the program review process itself. Mr. Luckhardt had every opportunity to participate directly in the program review while a part-time sessional instructor at King's. [...] His decision to circulate letters eight months later, after the review committee, Program Coordinator and department Chair had completed their work (and long after his resignation from employment at King's), was inappropriate and troubling. He

addressed his concerns to an audience not tasked with performing the review (the Academic Dean, Principal and UWO Provost) and, moreover, did so in a wholly inappropriate tone.”

Further in the same statement he observes:

“Moreover, as Principal, I make no apology for supporting two King’s female faculty members who were publically attacked by a former employee who was acting outside of the appropriate forum for substantive criticism in a manner that clearly transgressed our community understanding of professional conduct and King’s well-established policies.”

We find these arguments extremely difficult to follow given the evidence we obtained through this investigation. It is clear from the documentary trail as well as his testimony during the interview process that Professor Luckhardt’s letters were intended as private correspondence between himself and the Senior Administration of King’s and was not meant for broader distribution. Professor Luckhardt directed his communications to Dean Camiletti and Principal Sylvester and copied them to the Western Vice-President: Academic, Janice Deakin. Principal Sylvester’s contention then that Professor Luckhardt, the “former employee” in his view, “circulated letters” or publically targeted two women faculty is simply not reflective of events. It was the Senior Administration of King’s that made the letters more broadly available beyond the three recipients they were addressed to, not Professor Luckhardt.

Principal Sylvester is quite right that Professor Luckhardt had the opportunity to participate in the data-gathering component of the program review process. By his own account he did so and was satisfied with the experience. It is also clear, once again both from the text of the letters and from our interview with Professor Luckhardt, that the intent of his letters was to express his extreme dismay at the Administrative stance over the *future* direction of the program, and especially its fieldwork component, *following* the external program review. For example, he begins his first letter, dated 28 December, 2011: “I am writing to express my professional and personal concerns re: the recent developments in and future prospects for the Social Justice and Peace Studies (SJPS) program at KUC.” The same message is most obvious in his second letter, in response to Dean Camiletti:

“Please know that I fully participated in that very review process as an instructor in the program at the time. I have read the external report submitted to the KUC administration and know that the external examiner in no way recommended any of the changes that you are now defending on the basis of that review.”

The Luckhardt letters were written long after his opportunity to participate in the external review process had passed. He was retired. As well the process had progressed well beyond the input phase and into response and implementation of recommendations. In this regard, it is reasonable to understand Luckhardt’s criticisms of the direction of the program as a reaction to a review process which, to all extents and purposes, had run its course. It is hard therefore for this committee to imagine what forum would have been appropriate for Professor Luckhardt to present his concerns about the administrative response to the program review other than to the decision makers that he must have felt

were responsible for this response.

We find it furthermore impossible to agree with Mr. McNair's conclusion that Professor Luckhardt's communication with the Senior Administration at King's engendered an "intimidating and hostile work environment" for those named in his letters. Principal Sylvester's contention notwithstanding, Professor Luckhardt did not express his opinions in a public forum, but privately to the administrators that he saw as responsible for proposed changes to the SJPS program. We also note that Professor Luckhardt was retired at the time he wrote the letters in question and remains largely absent from King's. To be clear, we do not argue as a result that he was no longer a member of the academic community at King's. Rather we agree with Mr. McNair's finding that Professor Luckhardt was bound by the policies governing conduct of participants in the academic life of the College. Given his own life circumstances however, there is little evidence to suggest that Professor Luckhardt remained closely attentive to events at King's. When we contacted him for the purposes of this investigation, Professor Luckhardt was at his winter home in the Southwest United States. His account of events indicated that he wrote the letters immediately following his return to his U.S. home from a cruise of unspecified duration. As well he identified himself in his first letter as a "full-fledged" retiree. Significantly it was furthermore reported to us that the Administration did not find Professor Luckhardt's criticisms of his colleagues credible. One of the faculty members identified in the letters reported to us that the Administration of King's provided its unreserved assurance that it found the Luckhardt letters entirely devoid of merit and that they would have no effect whatsoever on her continued employment or future opportunities.

We observe then that the key condition for harassment outlined in both the CAUT policy statement and the King's harassment policy – that the action result in a harmful work environment – was not met. In this regard we agree that the forum in which the unwelcome words found in the letters were presented in is important. However, we come to a different conclusion than external investigator McNair and Principal Sylvester. Had Luckhardt's claims been made in a departmental meeting or to a wider university or general audience, we can envision the acts as being harassing and "affecting a person's dignity." The fact is however they were not. Instead they were sent to three senior administrators at King's, an administration that Professor Luckhardt clearly saw as intending unwelcome changes to the SJPS program. So, while we agree that the comments about Professor Luckhardt's colleagues contained in his letters are aggressive and arguably unnecessary to his criticism of plans for the future of the program, it is our view that, at the point at which they were delivered to the Administration, they fell short of the conditions required to identify them as harassment.

Mr. McNair observed to an informant in his own interview process that the question of how Professor Luckhardt's letters came into the hands of those referenced within them was not a question pertinent to his mandate. We are however governed by different terms of reference. Among these is the duty to determine whether the actions of the Administration were appropriate, regarding its handling of Professor Luckhardt's criticism of his colleagues and the subsequent formal harassment proceeding against him.

In the first place, it is our view that the Administrative release of the letters to a broader proportion of the King's community unnecessarily elevated Professor Luckhardt's comments about past colleagues to the level of public discourse. Furthermore, it is our position that, by releasing the letters to the broader community the Administration precipitated a harassment proceeding in a way that could not have been unanticipated. When presented with the aggressive comments from a colleague, it is clear that the members of the program referenced in the Luckhardt letters were placed in an intolerable position. This is particularly true given the source of the information. The fact that they came to know about the letters as a result of the actions of the University Administration, in our view, had the effect of forcing these members to respond to the accusations and, if they chose to do so, shoulder the responsibility themselves of redressing the challenge to their good names. Short of the expensive and daunting prospect of civil action, we feel that they had little option but to initiate a harassment proceeding. In our opinion, a harmful work environment that threatened the dignity of those identified in the Luckhardt letters was generated when the letters were unnecessarily made public. In this regard, instead of fostering a harassment free workplace, the Administration did the reverse, it created one.

So what should have happened? The argument presented to us by the Principal was that the appropriate place to take up the concerns expressed in the Luckhardt letters was at the local level and in the context of the external program review. Even accepting this premise, we find the explanation of how this was managed entirely unconvincing. Given that the Administration had concerns about the observations made of other faculty members, it could have continued the course of action Dean Camiletti embarked on in his response to the two Luckhardt letters. Here the Dean limits his substantive responses to expressions of concern about the direction of the program. He fails to engage with the opinions Professor Luckhardt makes of his colleagues and so refuses to treat them as serious observations at all with the exception of observing that they were "...misguided, disrespectful and defamatory – hardly in keeping with any concept of social justice that I'm aware of." Had the Administration at King's augmented the observation that his comments about colleagues were inappropriate with an explicit invitation to Professor Luckhardt to resubmit his criticism of proposed changes to the program with the observations about his colleagues expunged, it seems probable that this damaging affair might have been entirely avoided. In his correspondence with the Committee, Principal Sylvester proposes that this invitation was offered; as well he observes that the attempt was made to resolve the matter informally as is permitted by the harassment policy. We see no evidence to suggest that either of these things happened. While Dean Camiletti does observe in his response to Professor Luckhardt's second letter that his comments about colleagues are unacceptable, no opportunity is provided to resend his concerns absent these accusations. No reference was made by any of our informants to an attempt at informal resolution between the Parties. The Administration had a range of options available to them. Indeed it could have taken no action at all. We note that Dean Camiletti concludes the pertinent portion of his last letter to Professor Luckhardt by saying, "These are my last words to you on this matter by email. If you wish to discuss this with me further you are welcome to come to my office and do so in person." Professor Luckhardt did not accept this invitation and made no further communication on

the matter. The next thing that happened was that the letters were, in our opinion, inappropriately passed from the Administration to others, ultimately including those identified within them.

The same pattern of inappropriate distribution of properly privileged materials characterizes the Administration's handling of the formal complaint filed against Professor Luckhardt. Recall that using the criteria employed at King's, the external investigator found Professor Luckhardt in violation of the Harassment and Discrimination Policy. Principal Sylvester then made the decision to apply one of the sanctions available to him under the policy, a ban from campus without his express leave to enter. Once this discipline became known to the Faculty Association, the Association grieved the appropriateness of the sanction. Finally the grievance was abruptly and inexplicably withdrawn.

Two interviewees independently reported to us that, sometime after receipt of the Association grievance, the Administration made the Complainant in the harassment case against Professor Luckhardt aware that the ban was being challenged. In fact, both correspondents observed that the Complainant was furnished with a copy of the grievance document. Recall that this was a formal grievance. It was therefore not a public document but rather was - or should have been - protected by the normal conventions of confidentiality that surround the grievance process. It was furthermore a grievance filed by the Faculty Association and sent to the Principal of King's. It was not sent to the faculty member in question; indeed she had no standing in the grievance. Unsurprisingly, the faculty member in question approached the Association and presented a case against continuing pursuit of the grievance. By all accounts these arguments were effective enough that the grievance was withdrawn. Our concern however is that they are arguments that were made on an ad hoc basis, outside the proper forum of the formal grievance process, and critically with no opportunity for presentation of the contrary position.

We have argued already that the unnecessary release of the Luckhardt letters could reasonably have been expected to produce the effect that it did, namely the initiation of a formal complaint by at least one of the parties referenced in the Luckhardt letters. In this case the intent is unequivocal. In our experience it is unprecedented that a university administration should share with any third party the contents of a grievance, and especially the complainant in a proceeding, the outcome of which initiated the grievance in the first place. In our view, the only goal for this course of action can be to derail the normal grievance process and to precipitate the withdrawal of an Association grievance. This unquestionably deprived Professor Luckhardt of a fair review of the ban he was subject to as a result of the harassment proceeding. It is furthermore a challenge to grievance as a mechanism with which to protect against unfair labour practice. By their nature, university administrations are hierarchical structures with clear decision-making and reporting relationships. As such administrations can speak with a single voice. Faculty associations conversely are fundamentally more democratically based and must rely on consensus building in order to act. In this case, the selective provision by the Administration of privileged information successfully stymied that consensus-building process and reversed an Association decision. The result was the termination of a

grievance outside the formal, established process.

There is a danger that university harassment policies can be used to deny academic freedom. It is not clear that this was the deliberate intent in the case of the Luckhardt affair; however it was the ultimate outcome. There is no question that Professor Luckhardt is an expert in matters of interest to the Social Justice and Peace Studies program. As he explains by way of introduction in the first of the two letters in question, while he did not finish a doctoral degree, he went on to a long career with national and international labour organizations. As well he has held teaching appointments for example at the then Ryerson Polytechnic Institute, and has developed teaching materials for the Canadian Auto Workers Union. He has worked on national and international labour and human-rights issues. As such, Professor Luckhardt had every right, protected under the principle of academic freedom, to communicate his sharp criticisms of the Administrative stance toward the direction of the SJPS program and its elements that resulted from the program review. That his letters had this character is clear, both from their content as well as his testimony during the interview process. We acknowledge that Professor Luckhardt's comments in the letters about some of his colleagues were aggressive. At the same time we have noted that the Administration had many options available to it with which to address this issue. However rather than employing these, the Administration of King's elected to release the letters more broadly within the College, including to those identified within them. By so doing, the Administration initiated a more public process that concluded with imposition of discipline. The other outcome is that a tacit message was sent to all members of the King's academic community: privileged communications sent to the employer can be made public, to the detriment of the person submitting that information and to others mentioned in them. We see this as a means with which the expressions of criticism about process and decisions could be discouraged.

We note as well that this issue is particularly significant in light of Professor Luckhardt's employment status. In a number of interviews and in some of our documentary evidence, this case was framed around the need to protect young, female faculty from harassment and discrimination by older, established, male colleagues. We concur with this sentiment completely. Indeed we see it as a duty of the employer to protect all employees, young and old, female and male alike. It is true that the two colleagues who attracted the attention of Professor Luckhardt were women. As well he refers to them as such on more than one occasion. At the same time there is in our view little evidence that it is the gender of his colleagues that is of concern to Professor Luckhardt. What appears to exercise him in his letters is the perceived threat to elements of the SJPS program that he manifestly found familiar and valuable. It can hardly be argued however that Professor Luckhardt was an established and influential member of the King's academic community. In contrast he was a contract faculty member at King's. It is this group that is traditionally most vulnerable within the academic community. Sessional faculty have little power in the academy or protection from administrative abuse in comparison with full-time tenure stream, and especially tenured, faculty. Contract faculty depend on their colleagues and the Administration for their work, often on an individual course-wise basis and as such are reluctant to express critical observations about programs or

administrative decisions. We have concerns that the outcome of this case, a ban on Professor Luckhardt from entering campus, may make contract faculty at King's more hesitant to express their opinions and make their expertise available.

VI. Conclusions

The King's Administration had a responsibility to protect the names and good reputations of its faculty. However the way to do this was not to release the letters more broadly within the King's community. This was an abdication of the Administration's responsibilities not an execution of them. Up until their circulation, the comments in question constituted a set of sharp, aggressive personal opinions, privately communicated to the Senior Administration. Their subsequent release, by the Administration of the College, elevated these comments into a public issue and so, in the same instant, both established a threat to the reputations of those identified in the letters and effectively downloaded to those faculty members the responsibility for addressing this threat.

It is difficult to overstate the harm to the academic community at King's that this course of action has precipitated. The colleagues identified in Professor Luckhardt's letters were unnecessarily victimized. Once Professor Luckhardt's comments became a matter of public discourse, the faculty members referenced in the letters had few options. They could either avoid confrontation by ignoring the accusations or, alternatively they could launch a long and difficult public challenge of the observations in the Luckhardt letters. Our experience throughout this investigative process indicates that both of these things happened. It is certainly clear to us that the cost to those members of the program referenced in the letters has been extremely high.

Professor Luckhardt was similarly unnecessarily banned. Because he was retired and therefore no longer an employee of the College, it may have appeared to the King's Administration that there were few disciplinary levers available with which to address the comments about colleagues that appeared in his letters, other than to ban him from campus. It is clear that Professor Luckhardt wrote under the assumption that his colleagues would not be privy to his observations, and that they would not become part of the public record. It is not clear how the letters would have looked had he known that they would be distributed more widely than to his three intended recipients. We also observe in this report that the King's Administration had many tools available to it with which to address the comments in the Luckhardt letters in a way that would clearly minimize harm. The most obvious of these was to suggest to Professor Luckhardt that he withdraw the potentially damaging comments about his colleagues from his criticisms of program direction. By broadcasting the letters more widely and, as we have observed here, virtually forcing his colleagues to respond using the harassment process, the Administration set up the condition that resulted in the serious disciplinary sanction of banning a former productive member of King's from the academic community.

It is also true that King's University College has become the subject of attention of academics and academic labour organizations nationally as a result of administrative handling of the Luckhardt affair. By failing to address the elements of his letters with Professor Luckhardt directly, but rather releasing them to the community, the

Administration of King's set in motion a series of events that resulted in banning a retired sessional faculty member from campus. Principal Sylvester has taken issue with the observation that this is a permanent ban, as has been reported in some accounts. He notes that Professor Luckhardt may request leave to enter the campus from him directly. At the same time we observe that Professor Luckhardt has no access to a mechanism by which the sanction against him can be removed. In this sense, while the ban may not prevent Professor Luckhardt from ever returning to the King's campus, the terms of the sanction applied against him do appear permanent. This outcome is understandably of considerable concern to all academics. We suspect as well that the observation, revealed in this report, that the Administration released the text of a confidential grievance to a third party, apparently with the intent of terminating the proceedings, will reflect poorly on the reputation of King's as a progressive and fair academic employer.

VII. Summary of Conclusions and Recommendations:

With respect to the first element in our mandate, namely to investigate the actions of the Administration of King's University College in addressing Professor Luckhardt's criticisms of colleagues in the Social Justice and Peace Studies program and its actions surrounding the formal complaint filed against him, we have met this goal by doing an exhaustive search and review of the relevant documents, lengthy interviews with all the interested parties and questionnaire interactions with the Principal of King's. We again thank all of the participants for their openness and willingness to engage in the process.

With respect to the second element of our mandate, namely to determine whether the actions taken by the Administration of King's regarding the Luckhardt case were appropriate and whether they violated his academic freedom, we find that the Administration acted inappropriately. Professor Luckhardt's letters were written by a person with relatively little power in the academy even when he was employed but, furthermore, were written after he had retired. In our opinion it is highly unlikely that the criticisms he made about his co-workers were considered credible or would be taken seriously. Indeed the Administration refused to consider them credible in its communications with at least one of those involved. Nonetheless, and arguably at a point at which Professor Luckhardt was unlikely to take any further action on the matter, the Administration released the letters to a wider segment of the King's academic community. In doing so it both presented the comments in a public forum that was not intended by their author, and implied some significance to them that they did not deserve. It is this action that effectively placed those referenced in the letters in a position where they were effectively forced to respond through the harassment process in order to formally protect their personal and professional reputations. In this regard we see the Administration as an interested party in the harassment case given the actions it took in releasing the letters and initiating the environment that led to the filing of the complaint. To all intents and purposes this appears to be a case of discipline by proxy through the application of a harassment proceeding.

In the same way we find that the Administration of King's acted inappropriately, and extraordinarily so, in releasing a Faculty Association grievance of the discipline applied

to Professor Luckhardt to the Complainant in the harassment proceeding against him. We interpret this as a calculated and successful attempt to pervert the course of the grievance process. As well we see this in general as an attack on grievance as a protection against unfair labour practice for all members of academic communities.

The actions of the King's Administration violated Professor Luckhardt's academic freedom. Professor Luckhardt had concerns about the status and future of a program in which he had taught and into which he had brought his real-life experience from union activities and working in the field. He expressed these concerns to the Administration. These are actions that clearly fall within the purview of academic discourse and the concerns fall within the realm protected by academic freedom. As noted he did so, in part, by sharply and aggressively criticizing some of his former full-time colleagues. However the College had options at its disposal to address these observations other than releasing the letters and precipitating a harassment proceeding that also effectively dispensed with Professor Luckhardt's legitimate criticisms.

We have further concerns that this action by the Administration has facilitated a generalized dampening of critical commentary directed at administration and concerns about academic decisions at King's. There is a message to faculty and other staff at King's: One cannot be guaranteed that critical expression directed solely to administrators will be kept as privileged communication. The release of the grievance document from Principal Sylvester's office to a person without standing in the grievance but an interest in the case is yet another instance of that message.

To summarize our conclusions:

1. The Administration acted inappropriately in the Luckhardt case. By releasing letters intended for the Senior Administration to the broader community it elevated the comments within them to the level of public discourse and created an environment that those referenced in the letters had little choice but to address through a formal harassment proceeding. In this regard the Administration engaged in a practice of discipline by proxy.
2. The Administration released privileged information about a grievance of the discipline imposed on Professor Luckhardt to a third party with no standing but with an interest in the case. This apparently calculated action successfully resulted in termination of the grievance process and represents an attack on grievance as a mechanism to protect academics from unfair labour practice.
3. Professor Luckhardt's academic freedom was violated. His legitimate criticisms of the academic decisions of the Administration were dispensed with through the application of a harassment proceeding. Furthermore the repeated release of privileged documents created an environment which discourages staff in criticizing the Administration, even in private letters.

Based on these conclusions we make the following recommendations.

Recommendation 1: The most obvious immediate outcome of this case was the ban imposed on Professor Luckhardt from entering the campus of King's University College without the express permission of Principal Sylvester. This ban was instituted after an

external examiner, John McNair of McKenzie Lake, found Professor Luckhardt to be in violation of the King's harassment policy. We have explained that we do not share Mr. McNair's conclusions. There is no question that the accusations leveled by Professor Luckhardt at two of his colleagues were aggressive and included uninformed personal opinions. However these opinions were expressed privately, not publically, and in the context of his fears regarding the direction of the SJPS program. Furthermore, until they were released to the wider community by the Administration they had no impact on the working environment of his colleagues. The formal complaint against Professor Luckhardt also cited concern for the personal safety of the Complainant. We agree with Mr. McNair's conclusion that there is no reason to interpret Professor Luckhardt's letters as constituting a threat to his past colleagues in the program under the terms of the King's Workplace Violence Policy. *As a result we find that there is no reason to continue to prevent Professor Luckhardt from attending the King's University College campus and recommend that this ban be rescinded.*

Recommendation 2: As outlined in this report, it is the opinion of this committee that Professor Luckhardt's academic freedom was violated as a result of the actions of the Administration of King's. Professor Luckhardt's professional and personal experiences throughout a long career working with social-justice issues which provided him with the foundation from which to level substantive and informed criticism at what he saw as plans for the future of the program. It is precisely this form of academic discourse, and especially criticism of Administrative policies, that academic freedom provisions are designed to protect. We acknowledge that Professor Luckhardt's criticism of perceived administrative interests in changing the nature of the SJPS program included accusations he levelled at his colleagues. We have testimony that the Administration of King's did not take these unfounded accusations as serious criticisms of the conduct of his colleagues. The correct course of action therefore was not to provide these inappropriate and unacceptable comments with the gravitas that they did not deserve by making them more broadly known. Rather Professor Luckhardt should have been asked to withdraw them. Deliberately or otherwise, the release of the Luckhardt letters to other members of the King's community, and the harassment complaint that this release virtually inevitably engendered, deprived Professor Luckhardt of the protected right to express his criticisms of what he perceived were the Administration's plans for the SJPS program. In the same fashion, the Administration compounded the harm to Professor Luckhardt's academic freedom during the course of the formal complaint against him by releasing to the Complainant, the grievance filed by the Faculty Association of the ban imposed on him from entering campus. This in turn resulted in a perversion of the grievance process by which only one argument was presented on the matter and in a forum entirely outside the formal grievance mechanism.

It remains then that Professor Luckhardt was denied the right guaranteed under the principle of academic freedom, to express his considered and professional concerns with the Administration's proposals for the SJPS program in light of the external program review. We recommend as a result that what should have happened in the first instance be implemented now. *The Committee recommends that Professor Luckhardt be invited, if he so wishes, to resubmit an expression of his concerns regarding plans for the future of*

the Social Justice and Peace Studies program, absent comments regarding his former colleagues that accompanied his earlier letters.

Recommendation 3: During the interview process, two correspondents expressed concern over weaknesses within the King's Harassment and Discrimination Policy. We are also concerned about the terms of this policy, though we suspect for reasons that differ from those of our informants in this process. In his report, Mr. McNair observes that the King's Harassment and Discrimination Policy characterizes harassment in a way that parallels the Occupational Health and Safety Act. Harassment is defined by the King's policy as:

“...any vexatious, objectionable or unwelcome conduct or comment that serves no legitimate work-related purpose and has the effect of creating an intimidating, humiliating, threatening or hostile work environment...”

Mr. McNair also notes that there is a significant difference between the documents in that, while the Act defines harassment as taking place over a course of events, the King's policy allows that harassment may result from a single event.

There is a provision in the King's harassment policy that explicitly exempts legitimate administrative management functions from claims of harassment. To wit:

“Harassment does not include actions taken by administrative or supervisory staff who is exercising their supervisory rights and responsibilities in good faith. Performance reviews, work evaluations and disciplinary measures taken by the College for any valid reason do not constitute harassment.”

Furthermore, we presume that the normal academic peer-evaluation processes that take place in the context of tenure/promotion, publication, and review of research proposals are permitted by the King's Harassment and Discrimination Policy by the provision that such comment, which may well be unwelcome, does serve a work-related purpose.

At the same time, we cannot help but notice that the terms of the King's Harassment and Discrimination Policy represents a potential threat to academic freedom in that it provides a lever with which to challenge the unsolicited criticism of colleagues on harassment grounds. In contrast, the CAUT Policy Statement on Academic Freedom is clear on this matter. It observes that:

“Academic Freedom makes intellectual discourse, critique, and commitment possible. All academic staff must have the right to fulfil their functions without reprisal or repression by the institution, the state, or any other source.”

Our concern is that, with the exception of administrative evaluation of faculty, and presumably participation in peer reviews as part of the mandated expectations of an academic position, the King's Harassment and Discrimination Policy permits the use of harassment proceedings to deflect legitimate, though unsolicited, criticism from colleagues on the grounds that even one such critique might be unwelcome.

To be clear, we do not argue that this is what happened in the Luckhardt case. Professor Luckhardt's letters and testimony during this investigation make it clear that his criticism were with, what he perceived, the plans of the Administration regards the Social Justice

and Peace Studies program. Clearly these criticisms also included comments about his colleagues. It was the administrative publication of these comments that left others with little choice but to protect themselves through the harassment process.

It remains that the Administration of King's has a responsibility to maintain an environment that preserves the academic freedom of all members of the College community. Given this responsibility, we *recommend that the Administration and Faculty Association work together to revisit the King's University College Harassment and Discrimination Policy in order to balance academic freedom considerations with protections from harassment and discrimination.* We note that the CAUT Policy Statement Freedom from Harassment provides a model which does permit a finding of harassment based on a single event, but which limits such finding based on conditions of seriousness and harmful effect.

Recommendation 4: Unquestionably the small and close-knit academic community that characterizes King's numbers among the College's significant strengths. The adage however that, in small communities, the business of one quickly becomes the business of all appears to hold. Through the interview process it quickly became apparent that unofficial channels of communication were numerous and reached firmly into the Senior Administration of the College. It is astonishing to us that the Administration of King's chose to make the contents of the Luckhardt letters available beyond the three senior administrators they were addressed to. As we have observed elsewhere, this only served to demand a formal response from those mentioned. The cost of this course of action has been high for Professor Luckhardt, his colleagues, and for the College's reputation as a protector of academic freedom. The same pattern of administrative behaviour characterized its handling of the Faculty Association's grievance of the Luckhardt ban. It is in our opinion a gross perversion of the most fundamental standards of any grievance process for an administration to deliver to the hands of a complainant the text of a grievance filed on behalf of the respondent - in any case - and certainly the case of a harassment proceeding. We can only assume that the outcome of this action was the one the Administration intended - that the grievance be withdrawn and not be heard in a fair and equitable manner.

Given the entirely inappropriate communication between Administration and faculty members surrounding the private and privileged elements of this matter, we strongly recommend that *the academic community at King's work to develop a set of policies and guidelines that reflect appropriate professional conduct and best practice with respect to the release of private and privileged information by the Administration.*

Appendix A: CAUT Policy Statement on Freedom from Harassment

Freedom from Harassment

The Canadian Association of University Teachers is committed to promoting a workplace that is free from harassment. Harassment undermines the capacity of individuals to participate equally and fully in the academic community.

Harassment is any vexatious behaviour in the form of repeated and hostile or unwanted conduct, verbal comments, actions or gestures that affects a person's dignity or psychological or physical integrity and that results in a harmful work environment. A single serious incident of such behaviour could also be deemed to be harassment if it has a harmful effect.

All members of the academic community have a duty not to harass or behave in a manner that produces, contributes to or perpetuates a learning or work culture that tolerates harassment.

The employer bears primary responsibility for fostering a workplace that is free from harassment.

Academic staff associations have a duty to represent members alleging harassment and members against whom such allegations are made. CAUT urges associations to educate their members about the nature and effects of harassment, and to negotiate contract language that provides protection against harassment.

Approved by the CAUT Council, November 2005.

Appendix B: CAUT Policy Statement on Academic Freedom

Academic Freedom

1

Post-secondary educational institutions serve the common good of society through searching for, and disseminating, knowledge and understanding and through fostering independent thinking and expression in academic staff and students. Robust democracies require no less. These ends cannot be achieved without academic freedom.

2

Academic freedom includes the right, without restriction by prescribed doctrine, to freedom to teach and discuss; freedom to carry out research and disseminate and publish the results thereof; freedom to produce and perform creative works; freedom to engage in service to the institution and the community; freedom to express one's opinion about the institution, its administration, and the system in which one works; freedom to acquire, preserve, and provide access to documentary material in all formats; and freedom to participate in professional and representative academic bodies. Academic freedom always entails freedom from institutional censorship.

3

Academic freedom does not require neutrality on the part of the individual. Academic freedom makes intellectual discourse, critique, and commitment possible. All academic staff must have the right to fulfill their functions without reprisal or repression by the institution, the state, or any other source. Contracts which are silent on the matter of academic freedom do not entitle the employer to breach or threaten in any way the academic freedom of academic staff employed under such collective agreements or other employment contracts.

4

All academic staff have the right to freedom of thought, conscience, religion, expression, assembly, and association and the right to liberty and security of the person and freedom of movement. Academic staff must not be hindered or impeded in exercising their civil rights as individuals including the right to contribute to social change through free expression of opinion on matters of public interest. Academic staff must not suffer any institutional penalties because of the exercise of such rights.

5

Academic freedom requires that academic staff play a major role in the governance of the institution. Academic staff members shall constitute at least a majority on committees or collegial governing bodies responsible for academic matters including but not limited to curriculum, assessment procedures and standards, appointment, tenure and promotion.

6

Academic freedom must not be confused with institutional autonomy. Post-secondary institutions are autonomous to the extent that they can set policies independent of outside influence. That very autonomy can protect academic freedom from a hostile external environment, but it can also facilitate an internal assault on academic freedom.

Academic freedom is a right of members of the academic staff, not of the institution. The employer shall not abridge academic freedom on any grounds, including claims of institutional autonomy.

Approved by the CAUT Council, November 2011.