ARTICLE 20 DISCIPLINE AND DISMISSAL

20.1 DISCIPLINE

A. Discipline normally will be considered in terms of appropriate progressive sanctions.

B. A member may be disciplined only for just, reasonable and sufficient cause which would include, but is not necessarily limited to, demonstrable persistent failure to fulfill the obligations defined in Article 7 for faculty members, Article 15.2 for Counsellors and Article 16.2 for Librarians.

C. Prior to imposing discipline, and in light of the belief of the two parties that correction rather than punishment is the preferred solution, the employer shall consider whether any alleged problem may be remedied by a course of personal and/or professional development under the guidance and advice of the Chair/Director or, in the case of a Librarian, the Dean of Libraries, or the Director, Student Integrated Health and Wellbeing.

D. Where such remedial action is deemed inappropriate or has not proved successful, the employer may commence disciplinary action.

E. A member has the right of Association representation at any meeting between the member and the Dean/Dean of Libraries/ Director, Student Integrated Health and Wellbeing or Vice-Provost, Faculty Affairs which may lead to disciplinary measures being imposed by the University. The member has the same right to representation at any meeting at which disciplinary measures are imposed.

F. The Administration will provide the Association on a quarterly basis with a report on current investigations in which the Association has assumed a representational role, providing a progress report on each such investigation and, on a without prejudice basis, an anticipated date of completion.

G. At the time that the employer imposes discipline against a member, the member shall be notified in writing both via the member's TMU email address and by registered mail to the member's last known address of the disciplinary action and the specific details of the alleged cause for the discipline.

H. Letters of warning or reprimand must be clearly identified as being disciplinary measures and must contain a clear statement of the reasons for taking this action. A copy of such a letter shall be placed in the Performance and Conduct File of the member and they shall also be informed of this in the letter of warning or reprimand.

I. Records of any disciplinary action taken against a faculty member, Librarian, or Counsellor shall remain in their Performance and Conduct File for a period of

three (3) years and shall then be removed if no further disciplinary action has, in the three-year period, been taken against the member. Where further disciplinary action has been taken, the three-year period shall commence anew on the date of the further action. Records that have been removed shall not be considered in future disciplinary action.

J. Except in cases of gross misconduct, disciplinary action against a faculty member, Librarian, or Counsellor shall use no documentary evidence other than that included in their Performance and Conduct File.

K. Nothing in this article limits the University's reporting obligation to an applicable professional association/accreditation body.

20.2 DISMISSAL

A. Dismissal means the termination of employment by the employer without the consent of the employee. It does not include non-renewal of a pre-tenured or limited term appointment, denial of tenure, retirement or redundancy (layoff), or non-transfer to career status for Librarians and Counsellors.

B. Action to dismiss a member lies within the authority of the President, following a recommendation for dismissal from the Vice-Provost, Faculty Affairs and the Dean/Dean of Libraries/Director, Student Integrated Health and Wellbeing.

C. Tenured Faculty Members/Career Librarians/Career Counsellors

1. A tenured faculty member or career Librarian or career Counsellor may be dismissed only for continuing incompetence, or serious and persistent neglect of obligations as defined in Article 7 (Obligations) for faculty members, Article 15.2 (Duties and Responsibilities of Professional Counsellors), Article 16.2 (Duties and Responsibilities of Librarians) or for gross misconduct.

2. Six (6) months' written notice of dismissal is required in the case of tenured faculty members, career Librarians, or career Counsellors. At its discretion, the University may elect to pay six (6) months' salary in lieu of notice to dismissed tenured faculty members or career Librarians/career Counsellors, or some combination of notice and pay in lieu of notice totalling six (6) months.

3. Neither notice nor pay shall be necessary in cases of gross misconduct.

D. Dismissal of Pre-tenure Faculty Members/Probationary Librarians/Probationary Counsellors

1. A pre-tenure faculty member or probationary Librarian or probationary Counsellor may be dismissed during the first twelve months of employment only where there is a demonstrable failure of the member to fulfill their obligations as defined in Article 7 (Obligations), Article 15.2 (Duties and Responsibilities of Professional Counsellors), Article 16.2 (Duties and Responsibilities of Librarians) or for gross misconduct. The decision to terminate a probationary faculty member or probationary Librarian/probationary Counsellor shall be made by the Vice-Provost, Faculty Affairs, upon the recommendation of the Dean/Dean of Libraries/Director, Student Integrated Health and Wellbeing. Prior to making this decision, the Vice-Provost, Faculty Affairs must satisfy themself that the pre-tenure faculty member or probationary Librarian/probationary Counsellor was advised of the concerns and, if appropriate, was provided with an opportunity to improve.

2. After the first twelve months of employment, a pre-tenure faculty member or probationary Librarian/probationary Counsellor may be dismissed only for continuing incompetence, or serious and persistent neglect of obligations as defined in Article 7 (Obligations), Article 16.2 (Duties and Responsibilities of Librarians), Article 15.2 (Duties and Responsibilities of Professional Counsellors) or for gross misconduct.

3. Six (6) months' written notice of dismissal is required in the case of pre-tenure faculty members or probationary Librarians/probationary Counsellors. At its discretion, the University may elect to pay six months salary in lieu of notice to a dismissed pre-tenure faculty member, career Counsellor/career Librarian or some combination of notice and pay in lieu of notice totaling six months.

4. Neither notice nor pay shall be necessary in cases of gross misconduct.

5. Dismissal is grievable under Article 9 (Grievances).

20.3 CRIMINAL CHARGES

The parties recognize that a criminal charge or conviction is not in itself grounds for discipline or dismissal.