TO: Dr. Sara-Jane Finlay, AVP, Equity & Inclusion and Chair, Vice Presidential Strategic Implementation Committee for Equity and Diversity  
FROM: Dr. Mary K. Bryson, Chair, Trans, Two-Spirit and Gender Diversity Working Group  
Senior Associate Dean, Administration, Faculty Affairs and Innovation and Professor, Department of Language & Literacy, Faculty of Education  
DATE: 2016-09-27

Please find here, 3 Recommendations from the Trans, Two-Spirit and Gender Diversity Working Group.

1. That the Vice Presidential Strategic Implementation Committee for Equity and Diversity approve the Terms of Reference provided by the Trans, Two-Spirit and Gender Diversity Working Group.

2. That the Vice Presidential Strategic Implementation Committee for Equity and Diversity provide advice that the Office of the University Counsel take immediate steps to add “Gender Identity” and “Gender Expression” as named grounds to UBC’s Policy #3 ‘Discrimination and Harassment’ [http://universitycounsel.ubc.ca/files/2013/08/policy3.pdf].

Our rationale follows exactly the logic provided by the BC Attorney General and Minister of Justice regarding their rationale for adding “Gender Identity or Expression” as named grounds to the BC Human Rights Code (July 25, 2016).

July 25 (2016) Bill 27, the Human Rights Code Amendment Act, 2016[^1], was passed to include “gender identity or expression” as named grounds. Prior to Bill 27’s amendments to the BC Human Rights Code, legal expertise was of the consensus that gender identity or expression could be “read into” the Human Rights Code. Suzanne Anton, Attorney General and Minister of Justice emphasized that the primary rationale for adding gender identity or expression as named grounds was pedagogical and also, ethical, as follows: “For those citizens often more vulnerable to discrimination, and to all those around them, these changes help make clear that all British Columbians are protected under B.C.’s Human Rights Code, no matter their gender identity or expression.”

Accordingly, to paraphrase Attorney General and Minister of Justice Suzanne Anton, although UBC’s Policy #3 is already literally irrevocably linked with the BC Human Rights Code (which now includes gender identity or expression) today, it is critical to address the fact that at present, Policy #3 does not explicitly include gender identity or expression. It is also the case that in particular, Section 2.2 of Policy #3 (where gender identity or expression are read into

[^1]: [https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/40th-parliament/5th-session/bills/first-reading/gov27-1](https://www.leg.bc.ca/parliamentary-business/legislation-debates-proceedings/40th-parliament/5th-session/bills/first-reading/gov27-1)
“sex” without being explicitly named as grounds for human rights protections) has been deemed *de facto* an inadequate approach to human rights policy at this time in British Columbia (by the express argument for Bill 27 by BC’s Attorney General and Minister of Justice). Therefore, adding “Gender Identity or Expression as named grounds to Policy #3 (Section 2.1) will provide an important reparative opportunity to UBC to be more explicit in the protections it affords, as follows:

(a) For UBC to make clear that all members of the UBC stakeholder groups are addressed and protected in Policy #3;

(b) For all members of the UBC stakeholder groups to know that they are protected, without a doubt.

3. That the *Trans, Two-Spirit and Gender Diversity Working Group* proceed with its plan to design and carry out consultations with the Musqueam and Okanagan First Nations, as well as Two-Spirit² and Indigenous sexual health organizations. UBC is on Musqueam and Okanagan unceded and ancestral territories. Before moving ahead on new policy development it is critical to understand both the historical role of two spirit people, gender diversity, and sexuality in Indigenous communities, and current understandings, because it is often the case that colonialism has severely impacted and in many cases virtually obliterated these diverse traditions. The *Trans, Two-Spirit and Gender Diversity Working Group* membership includes significant expertise provided by Indigenous Two-Spirit people very familiar with protocols for consultation with First Nations communities and Indigenous organizations. Members of the *Trans, Two-Spirit and Gender Diversity Working Group* will provide the substantive expertise to carry out consultations with funding provided through resources allocated on the advice of the *Vice Presidential Strategic Implementation Committee for Equity and Diversity*. It is certain that if the *Trans, Two-Spirit and Gender Diversity Working Group* proceeds without this work, and develops a rights-based framework which is not consonant with Musqueam, Okanagan, and other local Indigenous perspectives, the Working Group will be inadvertently replicating colonialism³.

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Suzanne Anton, Attorney General and Minister of Justice -
https://news.gov.bc.ca/releases/2016JAG0025-001352

Attorney General and Minister of Justice Suzanne Anton introduced legislation Monday, July 25, 2016 to make B.C.’s Human Rights Code more explicit in the protections it affords transgender persons in British Columbia.

Bill 27, Human Rights Code Amendment Act, 2016, was passed to include “gender identity or expression” among the protected grounds covered by the code. Prior to the change, transgender individuals were protected under the code’s protected grounds of “sex”, as interpreted by B.C.’s Human Rights Tribunal and the courts.

“This is a significant day for human rights in our province. For those citizens often more vulnerable to discrimination, and to all those around them, these changes help make clear that all British Columbians are protected under B.C.’s Human Rights Code, no matter their gender identity or expression.

“I want to acknowledge the efforts of those who advocated for these amendments. We have heard you and we stand with you in saying that all British Columbians deserve not only to be protected from discrimination by law, but to know that they are protected, without a doubt.”