



# UTFA Bargaining Report

University of Toronto Faculty Association February 6, 2012

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## Bargaining Report #4 – 2011–2012

### MEDIATION BEGINS – THE JANUARY QUESTIONNAIRE – LOOKING AHEAD

#### **Introduction: Mediation Begins**

UTFA's negotiations with the University of Toronto Administration entered a new phase on the weekend of January 21.

Mediator Kevin Burkett is attempting to facilitate agreement between the parties on a number of unresolved issues, including salary, benefits and pension matters, as well as UTFA's proposal to expand of the scope of the bargaining process prescribed in our Memorandum of Agreement (MoA).

#### *Compensation Matters*

Since June of 2011, we have been negotiating with the Administration on a range of issues, including faculty and librarian compensation over which the MoA already provides for good faith negotiation and dispute resolution. The Administration has stressed its proposal for increased pension contributions from our members in order for the pension plan to qualify for provincial solvency relief. For our part, we have emphasized the need for a fair and competitive across-the-board salary increase which, among other things, reflects norms in higher education and maintains U of T's relative position at the "top of the market" in Canada. We have also communicated consistently that we are strongly averse to having our members pay for past mistakes originating from the Administration's management of the pension plan.

UTFA has also tabled a number of other compensation proposals including:

- (i) An increase in the value of the PTR pool to make our PTR more competitive with peer institutions in Canada along with establishment of a joint UTFA-Administration group to advise future negotiators on revision of the current PTR guidelines (*this proposal is posted on UTFA's website*);
- (ii) Creation of a new anomaly fund that would be separate from the current conflation of market and anomaly funds and that would grant UTFA some oversight in the determination of amounts and criteria for anomaly adjustments consistent with its role in negotiating compensation (*this proposal is posted on UTFA's website*); and
- (iii) An increase in sabbatical leave pay, again to make us more competitive with research intensive peer institutions in Canada and to reflect the unique excellence and research intensive mission of the University of Toronto.

Despite our very substantial remaining differences, discussions about these issues have been relatively constructive. Mr. Burkett is among Canada's most experienced and skilled mediators and we look forward to working with him and the Administration toward a mediated settlement on both the monetary and non-monetary issues which are in dispute.

#### *Non-Monetary Issues and the Article 6 Process*

Since June of 2011, UTFA has also pressed for changes in the way we deal with issues that presently fall outside the scope of the bargaining process prescribed in the MoA (i.e., Article 6). UTFA specifically proposes

to expand the scope of what is negotiable with provision for good faith negotiation and professional neutral dispute resolution to deal with non-monetary issues as well as monetary ones. To date the Administration has refused any expansion of the scope of bargaining as prescribed in the MoA.

Specific issues now outside the scope of the bargaining process over which the two sides have exchanged views include:

- (i) Tenure policies (the two sides agree these need updating, and we have revised our initial proposal based on feedback from members; however, there remains a fundamental disagreement over how to go about negotiating changes, and over what changes should be made);
- (ii) A new faculty stream comprised of the current teaching stream and faculty whose emphasis would be on a combination of professional practice and teaching (the two sides agree in principle that there should be a new professional and teaching stream but differ on details, and again, on how changes to appointments policies should be negotiated now and in the future); and
- (iii) A new policy on the procedural aspects of academic planning that would make explicit the meaning of “collegiality” and “shared governance”. UTFA firmly believes that these principles, and how they should be implemented, need to be defined to guide faculty and librarian participation in processes of academic planning, and so that academic freedom and excellence can be safeguarded and promoted. However, the Administration has refused to negotiate this issue with UTFA in any way.

To be clear, these differences are not only about the substance of these policies, but even more fundamentally about the *manner* in which they can and should be negotiated. UTFA seeks to make broader use of the bargaining process prescribed in Article 6 of the MoA since it – and it alone – provides for good faith bargaining and professional neutral dispute resolution (when necessary).

### **The January Questionnaire**

Recently, all UTFA members were asked via a short questionnaire to advise the UTFA Council and bargaining team on UTFA’s strategy for the mediation phase of our negotiations. Specifically, we asked members whether to continue the campaign to expand the scope of bargaining into mediation, with a view to using the mediation process to facilitate more progress on these issues than we have seen to date. Although UTFA’s Council has sole authority to approve or reject our proposals and our settlements, we asked all UTFA members to advise us at this important moment.

More than 1500 faculty and librarians voted by a margin of 56 percent to 44 percent to continue our efforts to expand the scope of issues negotiable with provision for good faith bargaining and professional neutral dispute resolution. Among UTFA’s pre-retirement members, the margin was 53 percent to 47 percent. The high response rate indicates an unprecedented level of engagement among members concerning how we want the faculty association to represent us and what changes are needed in university governance.

UTFA’s Council met on Thursday, January 19, and the results of the questionnaire were discussed. And for a third time, Council overwhelmingly endorsed efforts to negotiate reform of the MoA. Council specifically instructed the bargaining team to continue into mediation with our proposals for change. This is now what the bargaining team is doing.

Moreover, in response to valuable comments from individuals (e.g. via [bargaining@utfa.org](mailto:bargaining@utfa.org)) and from our focus groups with members (as well as in response to some important concerns raised by the Administration in negotiations), we have significantly revised our tenure proposal. The revisions ensure that the grounds for tenure are more consistently articulated throughout the policy but that the grounds remain otherwise unchanged from their current form; that the appeals procedure is fair but not overly permissive; that extensions to the tenure clock for personal or professional circumstances beyond two years be truly exceptional (e.g.,

based on the requirements of the Ontario Human Rights Code); and that the role that chairs play in the process is fair to all (including chairs!).

Working with the Administration, we have also continued to negotiate appointments language for a new stream of faculty composed of the current teaching stream and faculty whose emphasis would be in clinical teaching and professional practice. UTFA and the Administration agree on the need to better recognize and reinforce the importance of the current teaching stream, as well as professional research, teaching, and practice at the university. However, UTFA is committed to ensuring that faculty members appointed to this new stream (our current and future colleagues) enjoy strong job security provisions in order to secure and protect academic freedom in all teaching and research. Without job security for academic staff, academic freedom cannot be assured. UTFA is committed to good faith and constructive negotiations with the Administration on these issues.

The questionnaire results and the many comments that we have received indicate a great diversity of views among the approximately 2600 pre-retirement and roughly 500 retired faculty and librarians who are UTFA members. This is no surprise given the diversity of faculty and librarian interests and expertise at this great university. However, it is fair to say that there is considerably stronger support for changing the Memorandum from our more vulnerable and less well paid members; that is, support for change is inversely correlated with income.

In more general terms, the various comments suggest that while there are certainly those who oppose any change to our framework agreement and to the role UTFA plays in advocating for faculty and librarians, there are clearly those who, while discontent with the prevailing status quo, are unsure what kind of change is necessary. But overall, what comes out most clearly from the results is the message that there is a substantial appetite for real change and a solid base of support for negotiated reform of the MoA along the lines we have proposed.

### **Looking Ahead: Being Clear About Future Options and Responding to Some Comments on the Questionnaire**

All that said, questions remain. It is apparent, for instance, that some members may not fully understand the reforms we have proposed and why we have proposed them. This is evident in some of the comments members provided. In other comments, members expressed puzzlement as to why we are not a certified union, and why we are not seeking certification now. Others wanted to know more about the exact differences between bargaining as prescribed in our MoA and bargaining in a certified environment. While some expressed a preference that we seek immediate certification as a union, others expressed reluctance to take this step, and still others conveyed a strong aversion to this.

Understandably, certification is a highly charged and divisive issue. But curiously, some members seem to believe that certification is what we have actually proposed or that it is what we are *really* trying to do now.

***We are not seeking union certification at present. The proposal to reform the Memorandum reflects a deliberate decision, consistent with our history and culture, to make every effort to bring about change via reform of our existing arrangement.***

Members should know that union certification cannot be secured by UTFA's Executive or Council. Rather, it is a legally prescribed process in two stages, requiring first that at least 40 percent of those now represented by UTFA (members and non-members) sign cards signifying that they wish to be represented by a union under the Labour Relations Act of Ontario. If this threshold were to be passed, the Labour Board would then order an election in which all members of the proposed bargaining unit, whether they signed cards or not, could vote confidentially in a legally binding election administered by the Labour Board. Certification is a very rigorous, tightly controlled, and democratic process. For any of this to happen, some sort of explicit campaign would have to be triggered either by UTFA's Council or by an independent faculty association seeking certification.

To set the record straight, we have taken *none* of these steps.

Our open letter of September 14, 2011 explained how our proposal for reform of the MoA offers an alternative avenue to change. We are seeking reform through collegial negotiations with the Administration over the scope of the bargaining process prescribed in the MoA. Our Memorandum has generally served us well over

the years when dealing with compensation. But there is a growing recognition, affirmed by recent history and by membership questionnaires, that it has become inadequate because it does not provide for good faith negotiation with professional neutral dispute resolution in dealing with matters such as academic freedom, appointments policies, and procedural (i.e., *not substantive*) dimensions of academic planning exercises.

If we secure an acceptable reform of the MoA, any discussion about certification would presumably become moot. Either way, we will all have our democratic opportunity to have a say in shaping future directions. UTFA is our faculty association. It must reflect the prevailing views of its membership.

In that spirit, while we continue to seek collegial, negotiated reform of the MoA and specifically a widening of the scope of the bargaining process, we will also continue facilitating discussion among UTFA members about these important issues. And we will continue to work to improve communication between the membership and the leadership of the Association. We are determined to learn from and engage with the views of those who have reservations about, or who strongly oppose, the reforms we are pursuing, just as we are keen to engage with those who are more supportive of the campaign for change but who have concerns about why it is taking so long and what more can be done to move things along.

We have heard you. We are listening. We will continue to do so. For those who have yet to have members of UTFA's Council or Executive visit your academic department or unit to discuss these matters, please be in touch via [membership@utfa.org](mailto:membership@utfa.org) to schedule an informal discussion. We are more than willing to participate in regularly scheduled faculty meetings. We can also come for less formal brown-bag-lunch style discussions. But we need your help in scheduling these meetings.

We also continue to receive, and encourage, feedback via [bargaining@utfa.org](mailto:bargaining@utfa.org). Thanks to those who have written in already. We cannot respond to each email individually, but we do read them. If you are among those who have expressed frustration that your specific views are not reflected in UTFA's proposals (e.g., you want us to stop what we are doing, or you want us to certify immediately, etc.), please try to understand that we represent more than 2600 people, and that we must seek to represent the broadest cross-section of our membership.

Look for more updates as mediation continues.

Your bargaining team is:

Judith Teichman, UTFA Appointments Chair, Professor, UTSC Social Science (Political Science)

George Luste, UTFA President, Professor Emeritus, Department of Physics

Luc Tremblay, UTFA VP University & External Affairs, Associate Professor, Faculty of Physical Education and Health

Sherri Helwig, Program Supervisor, Arts Management Specialist and Humanities Co-op Programs, Senior Lecturer, Department of Humanities (Visual and Performing Arts and Humanities)

Victoria Skelton, Librarian, Industrial Relations and Human Resources Library (Newman)

Helen Rodd, Professor, Department of Ecology and Evolutionary Biology

Michael Donnelly, Professor Emeritus, Department of Political Science

Scott Prudham, UTFA VP and Chief Negotiator, Professor, Department of Geography and Program in Planning cross-appointed to the Centre for Environment

Note: UTFA Council unanimously approved Helen Rosenthal, Senior Lecturer Mathematics (retired) as a new member of the team to replace Professor Donnelly who has accepted a position as a visiting professor in Japan. We wish Michael all the best in his venture and thank him for his important work. And we welcome Helen to our team.

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