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The Administration's Refusal to Engage in Collegial Governance and Enforceable Good Faith Bargaining Diminishes Our Power to Gain Improvements

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2. The Administration's Refusal to Engage in Collegial Governance and Enforceable Good Faith Bargaining Diminishes Our Power to Gain Improvements

Collegial governance forms a central principle in the mission of our University (and one that our Administration purports to be committed to). In practice, however, a generous description of the UofT senior Administration's vision of collegial governance appears to be *'The Administration governs; you collegially accept.'*

UTFA has long pushed back against this formulation, but as we have outlined in our Annual Newsletter, the tools we have for doing so under the current Memorandum of Agreement (MoA) are few and blunt. The consequences of this one-sided governance are felt most acutely when the UTFA Negotiating Team seeks to bargain real improvements in priority areas for our members, including workload, housing, and job security, but cannot do so when faced with the Administration's fundamental non-cooperation at the bargaining table.

Despite our best efforts and a deeply thoughtful and committed Team, we routinely come up against the Administration's resistance to any meaningfully collegial or collaborative governance. For example, before negotiations in the current round of bargaining began, the Administration invited us to commence "discussions regarding a framework for negotiating revisions" to the MoA between the Administration and UTFA. Having heard our members' desires for significant reform to our bargaining and dispute resolution systems, the Administration offered a half-hearted option to have closed-door confidential discussions *to discuss a process for discussing the* Memorandum of Agreement (MoA). This invitation would thus entangle us in years of ***slow-moving negotiations with no clear objective or timeline***, where we would not be able to meaningfully consult with our members about the content of any of these

discussions or hold the Administration accountable for their positions or behaviour.

UTFA's response? We proposed an approach that almost all Faculty Associations in Canada enjoy, wherein the terms and boundaries of the conversation about the relationship between the Association and the Administration itself could be subject to negotiation. Specifically, we:

1. insisted that it was important for UTFA members to know and inform what was happening in bargaining, and so our conversations with the Administration would not be confidential;
2. proposed specific terms to ensure our negotiations would happen in good faith (including expedited enforcement mechanisms); and
3. proposed all terms of employment and other labour relations issues be subject to negotiations under one modern track that would include professional arbitration if the parties could not reach agreement themselves.

The Administration's approach sought to expand the worst features of an already flawed two-track bargaining system. Under the current framework in our MoA, only salary, benefits, and workload negotiations may be subject to mediation and binding arbitration, while many other important matters and policies (e.g. job security for part-time members, limiting the improper use of student evaluations [SETs/SCEs]) are subject only to "facilitation and fact-finding" which explicitly allows the Administration's preferences to prevail. The Administration's invitation would create yet a third track for MoA-focused "discussions about discussions" that lacks a binding dispute resolution system.

If you find all these different bargaining processes unwieldy, opaque, or maybe even incomprehensible, we don't blame you. ***In short, UTFA's Negotiating Team refused the Administration's bid to unilaterally impose multiple unworkable processes with respect to how your elected representatives seek to negotiate important workplace improvements on your behalf.***

Experiment to Govern Collegially

Rather than rebuff the Administration's offer to reform the MoA, we invited the Administration to join an experiment: to explore, on an ad hoc basis during this round of bargaining, a more effective collegial relationship with UTFA members through our Association. We asked them to show us that the current MoA could accommodate the kind of governance relations and workplace rights that our members need and want and that virtually all other Faculty Associations in the sector and all other unions at the University of Toronto already enjoy. Presented to the Administration by Co-Chief Negotiator Ariel Katz as equivalent to 'visiting abroad to see what could be learned instead of abruptly moving there permanently', our proposed experiment would allow us to explore, in a focused and time-limited way, whether the labour relations structure currently embedded in our MoA could support true collegiality and fulfil conditions that we laid out in last year's AGM newsletter, here, or whether it was finally time to go in another direction.

More specifically, our experiment included two elements. First, we proposed that UTFA and the Administration agree to a set of good-faith bargaining principles that would apply to our current round of bargaining.

Second, we invited the Administration to participate in a joint study of our workload problem. Specifically, we proposed to actively gather data from our own institution and best practices in Canadian research-intensive universities and the broader post-secondary sector, and like the committed scholars we are, work and solve the problem through action-oriented research in a collaborative and evidence-based

manner.

So far, this experiment has taught us much but yielded little.

Disappointing Responses from the Administration

As we laboured to find common ground with the Administration, our Team had varied expectations, but none of us anticipated the profoundly uncooperative behaviour we witnessed from our counterparts.

While your negotiating team shows up well prepared, having set aside the agreed time for discussion, the Administration withheld vital information that we are entitled to receive, allowed their lawyers to represent to an arbitrator significantly different words and deeds than those presented by the Administration (while insisting that this is normal good faith behaviour), showed up at the table unprepared or without the right people, and scheduled other events and meetings during time jointly set aside for bargaining. When we finally suggested that they were not engaging in good faith, the Administration's team stormed out of the room, after informing us that we were the ones acting in bad faith because we had called them out on theirs. Not only does this behaviour hamper the ability of the Negotiating Team to do its job of representing your interests and needs, but these tactics also show disrespect for UTFA members and their representatives.

In a sense, these are highlights of a failing experiment. The joint study and repair of a broken workload policy have stalled. The Administration repeatedly and vociferously denied that such a thing as a 'workload problem' exists and then insisted that the study could only investigate the distribution of workload among members in the same units and not questions related to the overall volume of work, or causes and solutions to workload problems we know to be widespread and significant.

We have also been unable to compel the Administration to embark on anything that resembles genuinely collegial labour relations. The Administration continues to display a stubborn unwillingness to engage in substantive negotiations of a majority of the issues, preferring, instead, to "surface bargain" (i.e., go through the motions and provide superficial or non-responsive explanations for their rejections of our proposals). They have repeatedly expressed their desire to forgo collegial dialogue on the broader range of our proposals and to move as quickly as possible to formal mediation/arbitration (on what is inevitably a small subset of our members' top priorities, given the multiple tracks within which we bargain) where the Administration stands to gain more by perpetuating the status quo, using the limitations of our MoA to their advantage.

And yet, even as the experiment teaches us painful lessons about the hard limitations of the status quo, we have achieved some things of significance that will allow us to advocate more effectively on your behalf. We have been consistently asserting our collective rights as faculty and librarians by refusing the bullying. One example: to receive information disclosures to which we are entitled, but were denied (e.g., on health benefits, levels of TA support available to faculty, and details about significant interest-free loans for housing), we had to seek an order for production from an arbitrator. The process was time-consuming and expensive but, at the end of the day, Arbitrator Gedalof's award was a significant win for the Association. He confirmed our Association's entitlement to all relevant information that may be necessary for the negotiation of matters under the MoA so that we can develop proposals and bargain in a rational and informed manner. Months after we began requesting key documents, on December 14th the Arbitrator directed the Senior Administration to provide all relevant information to the Association. Once again, the Administration is behaving uncooperatively and uncollegially. Many months later, we have yet to receive all the information or even a timeline for the sharing of key documents. If necessary,

the Association will once again exercise our right to return to Arbitrator Gedalof to ensure that the Administration complies with his directive.

This demand for meaningful collegiality – a demand that you have repeatedly communicated to us is a necessity and priority – is itself a significant reorientation. In establishing baselines for respectful relations and shared governance with the Administration, we also insist that our right to such conditions must be honoured, even if it requires a more substantial reorganization of governance beyond the MoA. And if this ailing experiment to voluntarily engage in good faith bargaining enters a palliative state, we can investigate alternative arrangements like union certification, rigorously examining the experiences of our colleagues on other campuses, for instance, the recent certification of McGill's Faculty of Law and Faculty of Education.

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