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UTFA Letter to Trevor Young, Provost and Vice-President, Academic, regarding the User Guide to U of T Policies on Protest and Use of Campus Services

October 22, 2024

Sent via email: provost@utoronto.ca

Trevor Young
Provost and Vice-President, Academic

RE: User Guide to U of T Policies on Protest and Use of Campus Services

Dear Professor Young,

UTFA is writing to raise strong concerns about the Administration's violations of the Memorandum of Agreement ("MoA") through its unilateral establishment of the "User Guide to U of T Policies on Protest and Use of Campus Spaces" (the "User Guide"). The new User Guide, enacted without any consultation with UTFA, violates the freedom of association and collective bargaining rights of UTFA and other campus labour unions, impermissibly limits academic freedom in violation of the MoA, and undermines the University's own Statement of Institutional Purpose and Statement on Freedom of Speech.

UTFA emphasizes that the Administration has not only enacted a policy that strikes at the heart of a foundational principle in the relationship between UTFA and the Administration but has also bypassed its obligations to engage meaningfully with UTFA before making unilateral changes to the terms and conditions of employment for faculty and librarians.

While the Administration has suggested to UTFA that the User Guide is mere guidance on existing policies and guidelines, it is plain on the face of the document that it establishes new limits and restrictions that do not exist in any existing policy on protest on campus, subject to "consequences under

law and U of T policies". The User Guide is transparently an effort by the Administration to enshrine permanently in policy temporary restrictions defined in exceptional circumstances. It thus unfairly limits the rights of campus unions to engage in constitutionally protected job actions and unreasonably restricts myriad forms of expressive activities. The User Guide cannot be divorced from the discourse across universities in North America regarding similar protest policies being currently enacted, and the critiques of their stifling of previously-protected speech on campuses.

The sweeping scope of the prohibitions in the User Guide clearly redefines protest on campus *in all circumstances*. It must be emphasized that ***all protest,*** whether involving sit-ins, pickets, or simply chalk messaging on sidewalks, is subject to the new restrictions and limits in the User Guide. The result is that all forms of protest on campus are captured by the User Guide and largely prohibited altogether, unless, where narrowly available, the Administration in its sole discretion grants certain approvals. This has significant implications for the rights of UTFA members, among others.

It is well established that the Administration must have utmost restraint in areas involving academic freedom, freedom of expression, and freedom of association, no matter how controversial or provocative the ideas or expression at issue may be. The Administration has recognized this in the *Statement of Institutional Purpose*, which provides that the rights of freedom of speech, academic freedom, and freedom of research "are meaningless unless they entail the right to raise deeply disturbing questions and provocative challenges to the cherished beliefs of society at large and of the university itself", as well as in the *Statement on Freedom of Speech* and other policies that refer to them. Despite this, the User Guide grants the Administration new extensive authority to determine the nature and manner of expression engaged in by UTFA members and all members of the UofT community. This unilateral sphere of authority is plainly contrary to the protection for academic freedom enshrined in Article 5 of the MoA, and as further confirmed in the *Statement of Institutional Purpose* and *Statement on Freedom of Speech*.

In expressly circumscribing expression on campus and by members of the University community, the Administration has gone well beyond the recognized need to exercise restraint. Clearly, in placing express prohibitions on the how, when, where, and manner of protest, backed up by potential legal sanctions extending to arrest and trespass, the User Guide will discourage individual faculty members and librarians from engaging in debate. This chilling effect is wholly contrary to the essential nature of academic freedom and goes squarely against the broad protections in Article 5 of the MoA. As the Administration has said in the *Statement on Freedom of Speech*, "the University must allow the fullest range of debate". The fundamental importance of protecting academic freedom and freedom of speech must therefore supersede protection from hurt feelings and offence.

Recent remarks by President Gertler are concerning in this regard. It is deeply worrying to hear a senior Administrator emphasize the need for punitive measures not only for clearly discriminatory acts–which is entirely appropriate–but *also* for "hurtful or offensive" speech—actions that fall well short of legal definitions of hate speech or discrimination. This expansive and vague interpretation of what could trigger disciplinary action risks fostering a climate of fear and censorship. Individuals could be punished based on subjective perceptions of offensiveness, without clear legal violations or due process guiding these decisions. This mirrors tactics used by the Canary Mission, where expressions of solidarity or support for human rights have been enough to damage reputations, restrict freedoms, and generate unwarranted fear.

The User Guide appears to constitute significant over-reach by the Administration, with the misapplication of a particular legal decision, the recent interlocutory injunction, to deal with any and all

protest on campus. The Administration cannot take an interlocutory court order, which by definition is not meant to be permanent, and that arose in a very particular factual context as license to prohibit or restrict all specific and narrow aspects of those facts, whether arising individually or in combination. It should go without saying that a court order granted in the context of a 50-day occupation of Front Circle cannot ground a policy that, for all purposes and in all circumstances, prohibits interruptions of "University activities", interference with access to campus, and limits to "designated areas" the affixing of signs, posters, or flyers "including chalk, marker, paint, and projects". *This is particularly the case given that the court order did not directly engage with the issue of academic freedom, nor how prohibitions such as those enshrined in the User Guide may unlawfully interfere with the associational rights of UTFA.*

In light of the User Guide's violation of our fundamental rights and the Administration's abdication of its responsibility to consult with UTFA prior to enacting new policy, we ask the Administration to fully rescind its User Guide, and to announce that it has done so as soon as possible and no later than November 1, 2024. UTFA further asks the Administration to uphold the rights of UTFA members, and to affirm its commitments to the principles of freedom of association, freedom of expression, and academic freedom for the University at large.

Sincerely,

UTFA Executive Committee

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