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Special Joint Advisory Committee Tentative Agreement October 2014

UPDATED!

SJAC Information Report #7: A New Deal?

Introduction

As announced in the recent joint statement, key elements of a tentative agreement arising from the Special Joint Advisory Committee (SJAC) process are now in place. Specifically, negotiators representing UTFA and the Administration have agreed to recommend (to UTFA's Council and the Governing Council of the University of Toronto respectively) the following:

1. Modernization of the Memorandum of Agreement (MoA) between UTFA and the Governing Council;
2. Changes to policies for tenure stream faculty appointments, including an extension in the time to tenure and provision for a pre-tenure research term;
3. Changes to policies for teaching stream faculty including enhanced security of initial appointments, professorial titles, and three ranks (Assistant, Associate, and Full); and
4. A new policy laying out procedures to be followed in instances of significant academic restructuring.

The detailed provisions of the tentative agreement are available on the UTFA website (appended to the bottom of this document online). You may also wish to consult background information and context for the tentative agreement provisions on our Ongoing Negotiations page under the "Special Joint Advisory Committee" heading.

By means of the following questions and answers, we try to provide some guidance to reviewing the documents. This report can only serve as an overview. It is vital that you read the actual documents carefully and discuss them with colleagues.

The tentative agreement is the product of negotiations originating when the SJAC arrangement was

established in April of 2012. At stake are matters fundamental to the terms under which you do your work in the University and how those terms are established and may be changed over time. You will be asked by means of an electronic poll in early December to advise the UTFA Council on whether or not to approve the tentative agreement. UTFA's Council will then vote on December 15, 2014, after which the Governing Council will vote. Prior to ratification, UTFA will host information sessions on all three campuses as follows:

- St. George, November 19, 4:00 – 5:30 pm, Sidney Smith Hall Room 2102
- UTM, November 27, 4:00 – 5:30 pm, UTM Faculty Club
- UTSC, November 28, 3:30 – 5:00 pm, Ralph Campbell Lounge

Please mark at least one of these information sessions on your calendar and make it a point to attend with colleagues in order to learn more, ask questions, and make comments.

Q: What is SJAC?

The Special Joint Advisory Committee was established in April of 2012. It has the following core terms of reference:

i. To consider possible changes to appointments policies for both teaching stream and tenure stream faculty;
ii. To examine the participation of faculty and librarians in significant academic restructuring initiatives; and
iii. To review the strengths, weaknesses, and options for modernization of the MoA.

Q: What is the MoA and how does it affect me?

The current MoA is the document that enables ***and*** constrains UTFA in its capacity to advocate on behalf of faculty and librarians at U of T. It was first written in the late 1970s and was primarily aimed at providing a means of formally negotiating minimum compensation for faculty and librarians. It features a prescribed collective bargaining process and, when necessary, independent neutral and binding arbitration over salary, benefit, pension, and workload provisions when UTFA and the Administration are unable to agree.

The MoA also provides that a limited set of policies comprising non-monetary terms of academic employment are "frozen" unless there is mutual agreement on changes. But the current MoA includes no terms of engagement for altering and updating frozen policies. Moreover, the list of frozen policies in the current MoA is incomplete.

The MoA has remained largely unchanged since the early 1980s, with some important exceptions, including an end to mandatory retirement and inclusion of workload as a matter subject to collective bargaining.

Q: What is wrong with the MoA and why does it need to be modernized?

The current MoA has served the University fairly well and is one of the main reasons faculty and librarians at U of T are the best paid in Canada. But the MoA does not provide a means for negotiating most non-monetary terms of employment for faculty and librarians. It also omits important issues such as privacy language pertaining to academic records, and procedural language defining what collegiality

means in the context of significant academic restructuring (e.g., department or division closures or amalgamations). These and other issues have proven to be contentious over time, yet the MoA is not a resource for addressing them.

More generally, U of T is the only University in Canada with no union for faculty and librarians ***and*** no academic senate. This creates a vacuum of collegial governance at a time when higher education – in Canada and elsewhere – is facing significant challenges, particularly where publicly funded universities are concerned.

Q: How is the MoA being altered?

The proposed changes to the MoA are significant. In general terms, the full scope of significant terms and conditions of employment for faculty and librarians will now be negotiable through two different avenues of dispute resolution. The first avenue is retained from the current arrangement and features independent neutral mediation and arbitration. This limited scope collective bargaining process has been a feature of the MoA since the early 1980s and is used to establish matters such as across-the-board salary increases, health care benefits, pension benefits, and a workload policy. Under the proposed new agreement, the scope of mediation/arbitration has been expanded slightly, primarily to include leave provisions (e.g., sick leave, parental leaves, and research leaves).

The bigger change, however, is a proposal for a second avenue of dispute resolution. This second avenue features non-binding facilitation and fact-finding when necessary. There is a graphic representation of the twin tracks on the UTFA website to help explain how negotiations will work under the modernized MoA. Essentially, the proposal is that any significant term or condition of employment for faculty or librarians of a University-wide character that is not eligible for arbitration will now be eligible for facilitation and fact-finding, when necessary. This includes:

i. All of the now frozen policies listed in Article 2 of the current MoA together with the new policy on academic restructuring;
ii. Numerous articles of the MoA itself where these comprise important employment conditions (e.g., Article 7 of the MoA specifying the grievance process); and
iii. Other policies comprising significant terms and conditions of employment ignored in the current MoA[1].

Q: How will the new fact-finder process work?

The facilitation and fact-finding track will work somewhat like mediation and arbitration. However, the fact-finding phase would feature a mutually-agreed three person panel or a mutually-agreed independent single fact-finder (with an academic background) empowered to issue a public report with non-binding recommendations pertaining to matters where the parties are unable to agree. Our hope is that the independent and public character of this process will encourage agreement. But where there is no agreement, the wider community will be able to evaluate the respective positions of UTFA and the Administration.

Q: Given that the fact-finder's recommendations will be non-binding, what are the chances the process will prove effective?

Of course we don't know if the new process will prove to be effective. It represents a unique, experimental, made-at-U-of-T solution. Time will tell if it is effective in breaking impasses and in

facilitating negotiated changes to terms and conditions of academic employment that are not subject to arbitration. The new arrangement is unlike a strike/lockout regime featured in cases where faculty associations are certified unions (the vast majority of cases in Canada). It is also unlike independent neutral and binding arbitration that features imposed settlements by an independent third party.

The facilitation and fact-finder process is a compromise. To date, the majority of faculty and librarians at the University of Toronto have not embraced union certification for UTFA, though that option will remain open into the future. At the same time, the Administration resisted UTFA's proposal to make broader use of the mediation/arbitration framework in the current MoA. The new process is what both sides are now prepared to recommend.

Q: Why lengthen the tenure clock?

Most research intensive universities in Canada have a six- or seven-year clock, and peer institutions in the US generally also have longer clocks than our current five years. Some candidates, particularly those who rely on books to establish their publishing careers or who require expensive laboratory equipment, find the current five-year clock tight. Many colleagues favour extending the clock, while many others do not. However, we agreed to an extension on the condition that a new professional development term be established for pre-tenure candidates following a successful interim review. This professional development term will normally be free of assigned teaching and will allow candidates a chance to focus on research and scholarly dissemination of findings to enhance their candidacy for tenure. The change is strictly on a go-forward basis and will not be imposed on anyone already hired.

Q: What else concerning the tenure process is being changed?

There are some other important changes. These include adjusted and explicit timelines for the tenure process expressed directly in policy (where it belongs, ***not*** in imposed guidelines) in order to provide clarity to candidates, chairs, and committees. Also, there is new language concerning the summary of evidence from external reviewers provided to candidates. It is designed to provide candidates with direct access to the language used by external expert peer reviewers (i.e., to discourage excessive paraphrasing) while still protecting the anonymity of the reviewers.

Q: Why the new Policy on Academic Restructuring?

For many years, there have been widespread concerns about real and perceived breakdowns in collegial governance in deliberations over significant proposed changes to academic units, including potential closures, moves, and amalgamations. Examples include the 2010 controversy over the Arts and Science planning process, and a protracted attempt by the former Provost to unilaterally force closure of the Faculty of Forestry. Expectations that significant academic restructuring initiatives be undertaken in a collegial manner are widespread. Yet, to date, no policy specifies what that means.

As higher education is buffeted by change, collegial deliberation over how to adjust the configuration of academic units is more vital to universities than ever before. Many colleagues affected by past, mismanaged academic restructuring initiatives have been waiting patiently for this new policy. In the future, assuming the new policy goes into effect, academic restructuring initiatives at U of T will be subject to a policy elaborating what rights members of affected units have in terms of access to information and in terms of being consulted in a timely and meaningful way. We hope this policy will discourage shortcutting collegial due process and reduce time- and resource-consuming arguments over how to proceed with proposed restructuring initiatives.

Q: Why is UTFA getting into academic planning?

We are ***not***. The policy deals not with academic planning but with academic restructuring, i.e., significant proposed changes to the configuration of academic units. The policy is purely procedural and UTFA is not a participant in the procedures. The role of the Association is in negotiating the policy, and in helping to enforce it. Existing collegial governance mechanisms are upheld and reinforced in the policy. Please read it carefully.

Q: What is in this deal for librarians?

The new facilitation and fact-finding process applies to negotiations over significant terms and conditions of employment for librarians as well as faculty. Moreover, the new policy on procedural aspects of academic restructuring includes within its scope the UTM, UTSC, and central (UTL) libraries. And UTFA and the Administration have agreed to make review of the Policies for Librarians a priority, including if necessary the use of the new facilitation and fact-finding process.

Q: What about negotiations over a new compensation and workload settlement?

We are working on it. Independently of the SJAC process, UTFA and the Administration have been meeting and will soon be proceeding to mediation. Matters being negotiated include an across-the-board salary increase, changes to PTR, anomaly salary adjustment procedures, revisions to the workload policy, and pension provisions including potentially far-reaching structural changes to the current pension plan.

Conclusion

The SJAC process is significant and deals with fundamental issues of university governance and the role of the faculty association in representing you. It is vital that you and your colleagues take the time to understand and consider the terms of the proposed agreement. Please consult our website for more details, including the exact terms of the tentative agreement. Information sessions will be held on all three campuses, as specified. Your feedback is always welcome at bargaining@utfa.org. In addition, if you would like someone from the UTFA Executive and/or your UTFA Council rep to visit an upcoming department meeting to discuss these issues, please coordinate with your Chair or Director and write to faculty@utfa.org.

The UTFA SJAC team would like to express its genuine appreciation to the Honourable Frank Iacobucci for his assistance in and contributions to the SJAC process and for his willingness to continue working with us. We also want to thank the members of the Administration's SJAC team for their hard work, commitment, and creativity.

You will be asked, via an electronic poll in early December, to advise the UTFA Council on whether or not it should ratify the terms of the proposed agreement. Your voice matters. Please do take an interest and express your views. UTFA works because you do.

The UTFA SJAC team is:

Paul Downes – Associate Professor, Department of English; UTFA Vice-President

Paul Hamel – Professor, Department of Laboratory Medicine & Pathobiology, Faculty of Medicine; UTFA

Executive Member

Jennifer Jenkins – Associate Professor and Canada Research Chair, Department of History; UTFA Council Member

Cynthia Messenger – Senior Lecturer, Director of the Writing and Rhetoric Program, Innis College; UTFA Vice-President

Scott Prudham – Professor, Department of Geography and School of the Environment; UTFA President

Harriet Sonne de Torrens – Visual Resource Librarian, UTM; Chair, UTFA Librarians' Committee and UTFA Executive Member

Judith Taylor – Associate Professor, Department of Sociology and Women and Gender Studies Institute; Chair, UTFA Membership Committee and UTFA Executive Member

[1] Examples could include intellectual property provisions for faculty and librarians, or the process for adjudicating allegations of academic misconduct against faculty or librarians. Disputes over what policies comprise significant University-wide terms and conditions of employment for faculty and/or librarians may be resolved before the Grievance Review Panel.

Terms of the SJAC Tentative Agreement

UTFA and University administration negotiators have reached tentative agreement in the SJAC process on an approach to modernizing the Memorandum of Agreement, a Policy on Academic Restructuring, revisions to Article 5 (Academic Freedom and Responsibilities) of the MoA, and appointments policies for tenure stream faculty. The documents pertaining to each of these areas of concern are posted as links to pdf documents below.

Modernization of the MoA

Policy on Academic Restructuring

Revisions to Article 5

PPAA changes pertaining to tenure stream faculty

Policy changes pertaining to teaching stream faculty

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