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Report of the Vice-President, Grievances, 2018–2019

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It has been another busy year for the grievance portfolio! More members have been seeking UTFA's assistance, and we have been handling more files internally, than has historically been the case. We have also been engaged in drafting, revising, and bargaining a greater number of substantial policies, detailed below.

At its core, the grievance portfolio advises UTFA members on matters related to their employment relationship with the University, on issues such as tenure/continuing status/permanent status reviews, PTR, workload, health and safety, human rights, accommodation, and leaves of absence. We also take proactive measures to advocate for improvements. Members with employment-related questions and concerns are urged to contact faculty@utfa.org.

Tenure/Continuing/Permanent Status

UTFA is currently advising nine tenure candidates, two of whom have received tentative negative decisions from their committees. We are also assisting an additional two members in their tenure appeals and advising several faculty members with pre-tenure committee concerns. Members are urged to seek information and advice early. The grievance portfolio welcomes all questions about the tenure/continuing status review or permanent status review processes. Candidates with questions or concerns should contact faculty@utfa.org for a confidential meeting. All tenure candidates are encouraged to attend UTFA's Tenure Workshop to be held on May 15, 10:00 a.m. to Noon. Faculty members in the teaching stream who are candidates for promotion to continuing status or to full Professor, Teaching Stream, are encouraged to attend UTFA's Teaching Stream Promotion Workshop, to be held on April 25, 3:00 to 5:00 p.m.

Statistics

In 2017–2018, 56 tenure stream candidates were reviewed for tenure, and 2 were denied. During the same period, 16 teaching stream candidates were reviewed for continuing status and were granted a promotion, and 5 librarians were reviewed and received permanent status.

Gender Salary Association Grievance

I am leading UTFA's efforts to redress the gender salary gap at U of T. As I reported in UTFA's December 2018 newsletter, our research on discrimination in compensation included a rigorous and comprehensive statistical analysis, consultation with numerous UTFA committees, and detailed qualitative research. UTFA's analysis uncovered evidence of a persistent, systemic, pervasive, and significant gender salary gap that affects our members. UTFA has filed a draft Association grievance as the first step in seeking redress. I worked closely with the grievance portfolio to produce a 57-page brief in support of mediation, which began in December 2018 and continues in April 2019 and likely beyond.

It is vital to recognize that gender bias in salary and other forms of compensation cannot be rooted out through a one-time salary adjustment. Rather, to truly redress gender discrimination in compensation, one must use an interdisciplinary approach to address the root causes of bias, carefully studying the various factors that affect compensation. Those factors include PTR, the negotiation of starting salaries, assessments of merit/merit pay, promotion, and market retention and anomaly adjustments. UTFA's analysis has found that gender bias affects each of these aspects of salary determination for faculty and librarians at U of T. It is UTFA's position that any remedy must be comprehensive, addressing each of these factors.

UTFA's findings are consistent with a significant body of research that reveals that female faculty are systemically disadvantaged in relation to a variety of factors that are used to reward and advance faculty and librarians. For example, in addition to having consistently found evidence of a gender-based salary gap in academia, studies have found that the gap is larger when "discretionary judgements of merit" are used to determine salary. It has also been found that, where there is less transparency and more discretion, unconscious and implicit biases are more likely to taint those decisions in ways that may be unrecognized by institutional decision-makers.

UTFA is determined to go beyond merely addressing gender bias, and to identify bias in the compensation of members of other equity-seeking groups (e.g., racialized and Indigenous members). While UTFA does not yet have access to the type of data that would permit a statistical analysis of the issue, UTFA has found evidence that there may also be a significant salary gap for members of other equity-seeking groups. UTFA is dedicated to trying to redress this issue.

UTFA is also involved in an ongoing process of member engagement and consultation on this important issue. UTFA has already conducted various focus groups, and is planning a survey, newsletters, and additional focus groups in the coming year. I have continued to work closely with the Vice-President, University and External Affairs and the chairs of the Membership and Equity Committees to plan our outreach/engagement campaign in support of UTFA's grievance on this issue.

Pay Equity Complaint

In tandem with its work on the gender salary gap, UTFA is pursuing a complaint under Ontario's Pay Equity Act. This statute addresses the compensation of female-dominated job classes. Historically, Librarian and Tutor/Senior Tutor (early titles for teaching stream faculty) were considered female-dominated jobs. UTFA is dedicated to ensuring that the compensation for Librarian and Teaching Stream members continues to comply with the Act. We are in the early stages of discussing and sharing information with the Administration in relation to our complaint.

Improvements to Workload Policy (WLPP)

Given the heavy and competing workload demands placed on our members, juggling the three components of the academic appointment—teaching/research & scholarship/service for faculty, and professional practice (which may include instruction)/ scholarship/service for librarians—is often a daily struggle. Work-life balance and educational quality both suffer when UTFA members are pulled in multiple directions without clear boundaries in relation to the weighing of assigned workload responsibilities. Workload policy is one of the areas of Salary, Benefits, Pensions and Workload (SBPW) negotiations on which I have taken the lead in this round.

UTFA's workload proposals have sought to bolster collegiality (e.g., clarifying the respective roles of the dean and the unit committee in the creation and review of the unit policy), improve transparency (e.g., information to be included in individual workload letters), and strengthen equity (e.g., adding provisions to the WLPP for CLTA faculty and librarians). We have also continued to argue that the availability of teaching assistant support should be included in the list of relevant factors in considering the teaching component of normal workload (s.4.2 of the **WLPP**), although it is UTFA's firm view that unit policies may include relevant factors regardless of whether or not they appear in the (non-exhaustive) list in the WLPP.

UTFA is scheduled to return to mediation with the Administration on workload on April 15. Any issues on which we cannot reach agreement will proceed to arbitration with arbitrator William Kaplan later in the spring.

Merit Pay (PTR) Instructions

As you may know, the document that was formerly issued as annual PTR instructions is now part of the online Academic Administrative Procedures Manual (AAPM). As part of SBPW negotiations last fall, I took over the lead on bargaining PTR instructions from Cynthia Messenger, who was focusing her attention on the UPP.

In this round UTFA's proposals do not aim to bargain or improve the complete set of PTR instructions, only selected sections and themes: PTR for members in small groups, equitable PTR for part-time and contract members, transparency in criteria and procedures for evaluation, weighing the three areas of the academic appointment, communicating results in the PTR letter, and the process to be followed for members on maternity/parental leave or sick leave/LTD.

Policy on Sexual Violence and Sexual Harassment

UTFA and the Administration have continued to meet to productively discuss UTFA's proposal for a Letter of Understanding (LOU) on the Policy on Sexual Violence and Sexual Harassment. I am leading these negotiations on behalf of UTFA, and am thankful for the thoughtful contributions of the members of our negotiating team: Roy Gillis, Azita H. Taleghani, and Matthew Allen. We expect to continue meeting throughout this spring.

Asbestos Review Process

It has been over two years since UTFA first became aware of, and began to investigate, reports of asbestos contamination in the Medical Sciences Building (MSB). Despite UTFA's best efforts, including multiple information requests to the Administration and Freedom of Information Requests, many key questions remain unanswered. In 2017 UTFA filed a group grievance relating to this situation, seeking the establishment of a joint task force to examine asbestos-related issues at the University, the retention of a mutually agreed upon environmental consultant, and other remedies. The grievance will be heard by the

University's internal Grievance Review Panel beginning in September 2019.

The MSB asbestos crisis brought to light the need to review the Administration's policies regarding asbestos. Following UTFA's request for a joint task force on asbestos, the Administration announced the creation of its own Asbestos Review Panel (ARP). UTFA raised significant concerns with the ARP as proposed, including its narrow scope of reference and that it was not sufficiently arm's-length from the Administration (including members with responsibility for questionable prior decisions in relation to asbestos management at U of T). UTFA expressed these concerns clearly and publicly, including through its September 19, 2017, open letter. Despite our questions and objections and those of other campus unions and groups, the Administration proceeded with a largely unchanged ARP. In March 2018, UTFA made oral and written submissions before the ARP. Although the ARP stopped taking submissions in March 2018, it still has not released its final report despite terms of reference directing that it "aim to deliver a brief written report" by about May 2018, and a public release a month later. As of March 2019, with the exception of one announced deadline extension to the fall of 2018, there has been no further update on the ARP's progress or findings. For more information about UTFA's work on asbestos, please visit our website.

The asbestos crisis also highlighted the importance of having robust worker-side representation for our members on the University's Joint Health and Safety Committees (JHSCs). UTFA has explicitly sought such representation since 2017. The worker representatives on JHSCs have crucial powers, including the ability to obtain information from an employer about hazards and testing, to be present at the beginning of testing that is being conducted, and to direct a work stoppage if dangerous circumstances are found. UTFA is also concerned that our members who are sitting on the management side of JHSCs are being delegated inappropriate responsibility (and therefore liability) as "managers" within the meaning of the Occupational Health and Safety Act. While some of our members may exercise supervisory authority, it is UTFA's view that our members do not "exercise managerial functions" (i.e., hiring, firing, disciplining). I am leading a team engaged in negotiations with the Administration with respect to the issue of JHSC representation for our members, including UTFA's involvement in the terms of reference for a proposed MultiWorksite JHSC (MWJHSC).

Divisional Guidelines

Changes to the Policy and Procedures on Academic Appointments (2015) and the approval of the new Policy and Procedures Governing Promotions in the Teaching Stream (2016) have resulted in a university-wide initiative to bring divisional teaching guidelines into line with new policy language. The grievance portfolio has been studying these changes and is working on an Association grievance to address instances where divisional guidelines inappropriately raise the standards for tenure/continuing status and promotion. There are clear violations of frozen policy that we aim to address through this grievance. Members who have questions about their unit's divisional teaching guidelines are encouraged to contact faculty@utfa.org.

Student Questionnaires on Courses and Teaching (SQCTs), a.k.a. Student Evaluations of Teaching (SETs)

Since the release of Arbitrator Kaplan's decision on the appropriate use of SETs in tenure decisions in June 2018, SETs have become a lively area of activism for faculty associations across the province. I contributed as the human rights expert to OCUFA's Working Group on Student Questionnaires on Courses and Teaching, which released its Report in February 2019. The report focused on the methodological

weaknesses, research ethics implications, and human rights concerns inherent in SQCTs.

On September 13, 2018, the University of Toronto released its Course Evaluation Validation Study report. UTFA has determined that many of the conclusions reached in the U of T report are intrinsically flawed because they are based on fundamental misunderstandings about statistics. For example, the report frequently makes inappropriate quantitative conclusions about generalizability and effect size and it treats a self-selected sample (the students who choose to respond) as if it were a random sample. Additionally, the report systematically conflates “no evidence of a difference” with “evidence of no difference.” UTFA has raised these and related issues with the Administration and is currently developing a strategy to ensure that SETs are not used inappropriately. This will include seeking advice and feedback from faculty and librarians through a survey and focus groups.

Thanks

I am grateful to my dedicated colleagues on UTFA’s Executive and Council. I especially appreciate the extraordinary institutional knowledge, experience, and leadership of our president, Cynthia Messenger. I would also like to acknowledge this year’s Grievance Committee and the gender salary group for their thoughtful and energetic participation, input, and assistance. Many thanks to UTFA’s lawyers, Helen Nowak (General Counsel), Reni Chang, Heather Diggle, and Samantha Olexson, for their stalwart support, to the external counsel at Goldblatt Partners, and to our Grievance Assistant, Rucsandra Schmelzer. Invaluable assistance has been provided by Chris Penn, Marta Horban, and the rest of the UTFA staff.

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