



Report of the Ad Hoc Committee on Post-SJAC Options
Presented to University of Toronto Faculty Association Council

April 7, 2014

Executive Summary

This document reports on the findings of an ad hoc committee convened by UTFA Council and tasked with identifying and assessing options for action following the termination of the SJAC process. The committee draws on the mandate from the UTFA membership that Council should seek to reform the Memorandum of Agreement (MoA) in order to make all terms and conditions of employment for faculty and librarians subject to negotiation.

The committee consulted with 11 faculty associations across Canada and with the leadership of the Canadian Association of University Teachers (CAUT), and the Ontario Confederation of Faculty Associations.

The report contextualizes a discussion of options by situating University of Toronto faculty in relation to other faculty associations across the country. Of 85 faculty associations in Canada, UTFA is one of six that are not unionized.

The report identifies and discusses 6 options:

- Retain the Status Quo
- Accept the Outcome of the SJAC Process
- Establish an Ongoing Dialogue with Administration
- Re-establish an Academic Senate
- Voluntary Recognition of UTFA as a Faculty Union
- Certification of UTFA

While these are all options for structuring relations with administration following the SJAC process, not all satisfy the expectation of a 'modernized' MoA that provides the capacity to negotiate all terms and conditions of employment. The only two options that clearly meet this objective are voluntary recognition and certification, particularly given the current repudiation clause that allows Governing Council to veto any agreement reached between UTFA and the University administration.

The report also addresses the effect of these options on distinct UTFA constituencies, particularly retirees, concluding that certification would have minimal effect on the status of retirees as UTFA members. It also examines the cost of certification and concludes that these would be minor and largely offset by a CAUT policy that largely reimburses the legal costs of certification for member associations.

Report of the Ad Hoc committee on Post-SJAC Options

A) Context

As the end of the Special Joint Advisory Committee on revising the Memorandum of Agreement between UTFA and the University of Toronto administration approaches, a motion was put to Council seeking support for the formation of an ad hoc committee to explore post-SJAC options. Council voted in favour of the motion on January 16, 2014.

The committee operated under the following terms of reference:

1. The committee will advise on post-SJAC options and their ramifications for varied UTFA constituencies (e.g., retirees).
2. The committee will work toward March 1 as a deadline to research and report back to the Executive and Council.
3. The committee will consult with CAUT and/or OCUFA to assess the availability of different dispute resolution methods available and explore what we can learn from recent experiences of other faculty associations.
4. The committee will advise on the formal (i.e., legal) requirements for certification under the Labour Relations Act of Ontario.
5. The committee will examine the question and advisability of certifying as a standalone bargaining unit (i.e., UTFA certifies as UTFA) or of certifying through affiliating with another union, and identify the mechanisms through which affiliation could be implemented.
6. The committee will identify and evaluate existing models to organize and mobilize faculty engagement in the pursuit of Post-SJAC options.

B) Process

The members of the committee consulted, jointly and individually, with the leadership of a selection of faculty associations across the country. Faculty Associations consulted included:

McGill University (<http://www.mcgill.ca/maut/>)
McMaster University (<http://www.mcmaster.ca/mufa/>)
Osgoode Hall Law School
Queen's University (<http://www.qufa.ca/>)
Ryerson University (<http://www.ryerson.ca/~rfa/>)
University of British Columbia (<http://www.facultyassociation.ubc.ca/index.php>)
University of Guelph (<http://www.ugfa.ca/>)
University of Ottawa (<http://www.apuo.ca/>)
University of St Michael's College
University of Victoria (<http://dev.uvicfa.ca/index.html>)
University of Western Ontario (<http://uwofa.ca/>)

The committee also consulted with the leadership of the Canadian Association of University Teachers (CAUT) and the Ontario Confederation of University Faculty Associations (OCUFA).

Our discussions were open-ended but guided by a set of questions that focused on the form and quality of the relationship between the faculty association and university administration, models of engaging with university administration outside of certification, the advantages and disadvantages of certification, costs associated with certification, and the implications of certification for retirees. Discussions were open-ended but guided by a set of common questions and typically lasted 1-2 hours. Because the majority of the faculty associations we consulted were certified (explained below) we learned a great deal about the process of certification that is not reported on here.

C) Options

A central task of the committee was to explore options for organizational action moving forward from the SJAC process. We outline potential options below, but these must be contextualized and qualified in two ways: i) the majority of people we consulted represent faculty associations that are certified; and ii) according to representatives of CAUT and OCUFA as well as the leadership of faculty associations who are familiar with our current MoA, UTFA is “as close as you can get to being a union without calling it one”.

One implication of these remarks is that the exploration of Post-SJAC options that would not be, in practice, regressive is limited. The other is that there is little experience in engaging with university administrations outside of a certified faculty association. That is not to say that they do not exist but to put this in perspective, there are currently only six universities of 85 in Canada that do not have certified faculty associations¹: University of Toronto, McMaster University, University of Waterloo, McGill University, Simon Fraser University (SFU) and the University of Northern British Columbia (UNBC). Certification campaigns are currently underway at SFU and UNBC. Because of the predominance of certified faculty associations in the country, our conversations were primarily, but not exclusively, with members of certified faculty unions. Based on these discussions we present the following

¹ This does not include Alberta where the Post-Secondary Learning Act (2004) prohibits faculty associations from certifying and excludes university faculty from the Alberta Labour Relations Act. The Act mandates that faculty be members of named faculty associations that negotiate collective agreements with university administrations. The legislation precludes the right to strike for university faculty. The Act mandates binding arbitration.

'options' as possible courses of action (or inaction) as we move out of the SJAC process.

1) Status quo

One clear option is to continue a relationship with the administration under the Memorandum of Agreement (MoA) as it currently stands. However, this position does not reflect the desire of the majority of our members based on the results of recent surveys. There is a general and pervasive dissatisfaction with the status quo that led to the Special Joint Advisory Committee process.

2) Accept the Outcome of the SJAC Process.

It is unclear what the SJAC process will yield in terms of changes to the current MoA. Reports to Council do not yet indicate that the process will result in substantial changes to the ability of UTFA to negotiate all terms and conditions of employment. However, this report is being presented in advance of the conclusion of the SJAC process and it is unclear what gains might be secured during facilitation. Accepting the outcome of the SJAC process, however, relies upon the development of a set of criteria to determine what constitutes gains that would be acceptable to UTFA's membership. While determining those criteria is not the responsibility of this committee, it is part of presenting acceptance as a post-SJAC option. It is conceivable that the outcome of SJAC might be accepted with the expectation or hope that an ongoing dialogue could continue in order to secure further gains.

3) Establish an Ongoing Dialogue with Administration

Recognizing that it might not be possible to secure all of the gains we might desire in the initial SJAC process, a possible option moving forward is to institutionalize an SJAC-like process through which cumulative gains might be gradually secured. Given the current structure of the MoA that precludes comprehensive negotiation over terms and conditions of employment, this might be to achieve gradual, cumulative and progressive change to the language that currently limits the scope of bargaining. This is not unlike the process followed by the McMaster University Faculty Association (MUFA), which has a "Joint Administration/Faculty Association Committee to consider University Financial Matters and to discuss and negotiate matters related to Terms and Conditions of Employment of Faculty." This committee comprises three members of faculty and three members of the administration and meets once per month ostensibly to discuss remuneration, benefits and terms and conditions of employment. In practice the primary focus of the committee is on salary and benefits, not on academic planning. It is important to note, however, that the ongoing regular dialogue at McMaster is an integral part of a negotiation process that involves three distinct stages: i) an attempt to reach agreement in committee (which is able to call in the President to assist in reaching agreement); ii) failing an agreement in committee or a ratification vote by faculty,

the establishment of administration and faculty association teams to negotiate unresolved or disputed items; and iii) failing an agreement or a ratification vote, the choosing of a Selection officer by lot, to make a decision on unresolved items. The selection officer does not mediate or arbitrate but must select, as written, either the faculty or the administration's final position (final offer selection).²

That said, this posits a somewhat awkward parallel track to, and possibly undermines the strength of, our current bargaining process. There is no reason to expect that administration would agree to engage in such a process sincerely unless they saw a liability in relation to UTFA's pursuit of other alternatives (such as certification), and given the recalcitrance they have demonstrated in the current SJAC process, there does not seem to be any reason to expect that the administration's approach to this process would change. McGill Association of University Teachers (MAUT) operates in a similar way with the exception that in Quebec, employee associations can take complaints of inappropriate behavior on the part of an employer to La Commission des Relations du Travail even if the association is not certified. MAUT has done this as their current agreement, like McMaster, has no formalized mutually agreed upon grievance procedure. This process, however, relies on hiring legal representation to handle cases. Colleagues at McGill also stressed the importance of a faculty senate as leverage/ moderating factor in the dealings of the administration with respect to academic affairs and its relationship to faculty.

4) Seek to re-establish an Academic Senate

It is notable that all non-certified faculty associations in Canada exist at universities where a faculty voice is still represented through an academic senate. While this might provide a vehicle through which faculty could exercise greater influence in academic planning and university governance, it would not provide any advantage in negotiating all terms and conditions of employment. Many of the faculty associations that are unionized, certified despite having an academic senate, because the academic senate was losing its effectiveness as a mechanism for representing the interests of faculty in university governance, and because gains in terms and conditions of employment could not be secured through the senate. This is borne out by a recent study of university senates in Canada in which faculty members were less likely than administrators to view a senate as effective and showed less support for expanding the role and influence of the senates where they

² 'Final offer selection' (FSO) is not unusual in non-unionized faculty associations (cf., Simon Fraser University). We should note, however, that FSO was the standard followed by a number of other faculty associations prior to certification and the failure of FSO to secure continued gains in the face of the erosion of faculty participation in academic planning and governance eventually contributed to certification. An additional element of McMaster's agreement is that it lacks a grievance procedure. The Faculty Association does not represent grievors. MUFA sends an observer to hearings to ensure that the administration's policy is followed.

exist.³ Indeed, some faculty members suggest that the faculty association strengthens faculty representation in the senate. Aside from these disadvantages, it could only happen with the permission of Governing Council, and through an amendment to the University of Toronto Act, thereby involving the province. It's difficult to imagine any circumstance under which the university administration would agree to this, and if they did, to allow a senate that would enhance faculty's voice in governance. In opening the possibility for the re-establishment of a senate, a political arena would be created in which multiple parties, not simply faculty, would be seeking to extend their interests. A great deal of effort would be expended that would bring us no closer to the objective of making all terms and conditions of employment subject to negotiation. The re-establishment of a senate is, strictly speaking, not an UTFA issue and if UTFA were to become involved Council would need to consider how much of its energy could be taken up in a campaign to secure a senate and at what cost. Indeed it could well be that the easiest and most efficient way to re-establish a senate at the University of Toronto would be through certification and the negotiation of a new collective agreement.

5) *Voluntary Recognition*

A possible option in the event that SJAC does not secure acceptable gains in the MoA is to ask the administration to voluntarily recognize UTFA as a union⁴. There is no reason to expect that they would do so and this should not be done without a broad mandate from the membership, but it is not unprecedented. The UBC faculty association (UBCFA) was voluntarily recognized as a union by the UBC administration, which was guided by advice from the BC Labour Relations Board, and avoided the need for a certification drive. The administration was seeking to prevent sessional faculty from being organized under CUPE and approached the faculty association to ask them to consider allowing sessional faculty as members and representing them as a bargaining agent. Sessional faculty agreed, UBCFA members approved, and UBCFA was recognized as a union. At the time that UBCFA was recognized there were no pressing issues on the part of faculty. As a result, their existing agreement became their first collective agreement, which included binding interest arbitration as the final dispute resolution mechanism. Notably, they have discovered that arbitrators are reluctant to give awards that address the language of collective agreements and therefore UBCFA have secured few gains in terms and conditions of employment, or faculty's role in academic planning or

³ Pennock, L (et al.) 2012. Academic Senates and University Governance in Canada: Changes in Structure and Perceptions of Senate Members. Paper presented at the annual meeting of the Consortium of Higher Education Researchers, Belgrade, Serbia, September 10-12, 2012 (available online).

⁴ Voluntary recognition, by the employer, of an employees association as a union is a provision of the Ontario Labour Relations Act.

university governance.⁵

6) Certification

The final option identified by the committee is certification of UTFA as a union representing faculty and librarians at the University of Toronto. Unlike the other options presented here, that rely on the goodwill of administration to achieve some measure of making the terms and conditions of employment subject to negotiation, the process of establishing a collective agreement is established in law.

Certification effectively generates three conditions, not allowed by our current MoA:

- It provides the right to negotiate all terms and conditions of employment for members of the bargaining unit;
- It makes agreements between the faculty association and university administration that are enforceable in law (before the Ontario Labour Relations Board rather than in Court)⁶; and
- It provides members of the faculty association with greater democratic rights.

The corollary to this is that the association has a much stronger obligation to fairly represent everyone in the bargaining unit. Certification and the negotiation of a new collective agreement would abrogate the current MoA. Our research suggests that the greatest range of options to address terms and conditions of employment exist within and not outside of certification. This is reflected not only in the number of certified faculty associations across the country but in the diversity reflected in their collective agreements. The conditions that currently restrict the scope of bargaining would disappear and the ground would be laid for a much more open, frank, democratic and participatory dialogue on the part of faculty as to what a collective agreement should look like. This is a dialogue that has not existed at the University of Toronto since the MoA was established. Certification provides the capacity for a broad discussion around potential modes of settlement such as binding interest arbitration, final offer selection or strike/lockout. Given that the primary concern of U of T relate to terms and conditions of employment, rather than salary, it is important to point out that the faculty associations we consulted that rely on interest arbitration openly stated that while they realized salary and benefit improvements through arbitration, arbitrators had consistently shown little willingness to award changes in language over terms and conditions of employment.

⁵ As an example, consider the faculty associations inability to affect UBC administration's assumption of rights over the intellectual property of faculty(<http://www.facultyassociation.ubc.ca/index.php>).

⁶ Conflicts over agreements like our current MoA are not actionable under the Ontario Labour Relations Act, and would rely on common law for settlement. A legal dispute could easily bankrupt the Faculty Association.

Recognizing that issues around a strike are the most anxiety ridden for our membership, a collective agreement means that a strike decision is entirely in the hands of the members of the bargaining unit; that it must be decided upon based on a vote; and that the definition of the minimum vote necessary to authorize a strike is decided by faculty as part of a renewed constitution. The majority of faculty associations that we consulted use strike/lock out as a settlement mechanism largely claiming that it secures more sincere and effective engagement in negotiation on the part of both parties. Faculty are reluctant to go on strike, and administration is reluctant to lock faculty out, which helps to explain why strikes and lockouts have been so rare on university campuses across the country despite the majority of faculty having been certified for over 2 decades. As one of the people we consulted put it, “unionization does not suddenly radicalize faculty.” And a number pointed out that some of the most strident critics of certification had become some of the most active faculty association members post-certification.

We should also note, in relation to ToR #5, that there is not a single university faculty body in the country that has certified under an agent other than itself (i.e., the existing faculty association). In every case, certification has meant independent certification by the faculty association, and the faculty association has always become the certified agent for faculty post-certification. This is not true of other constituencies within universities. Teaching assistants, sessional instructors and staff often organize with the assistance of existing unions. In the case of academic staff and graduate students, this is primarily because they did not have representation within a faculty association that could act as a bargaining agent, leaving them without access to the resources required for certification. In a number of cases, sessional faculty have elected to join faculty associations following the certification of those associations.

D) Impact of Options on Retirees

The committee was mandated to address the effect of options on different UTFA constituencies. In practice this meant considering the impact of certification for different groups of faculty, librarians and retired faculty members since the other options listed above would make no difference to the role of faculty in UTFA or the MoA as it currently stands. Certification would imply an end to the MoA and the establishment of a new collective agreement under the Ontario Labour Relations Act. This situates constituencies differently. It is difficult to predict the establishment of a new collective agreement on faculty and librarians other than to say that they would have greater input into shaping that collective agreement, thereby securing greater control over the terms and conditions of their employment, and would secure a right to vote on the ratification of any agreement - all conditions they do not currently enjoy.

The situation is different for retirees. The committee consulted on how certification affected the role of retirees in the faculty association. The primary concern

regarding retirees is that they are not, under the Ontario Labour Relations Act, considered to be part of the bargaining unit. The Ontario Labour Relations Act prevents anyone who is not a current employee in the relevant bargaining unit from participating in the certification petition and election; and from voting (formally) on contract ratification or any aspect of the collective agreement. In some ways this is not a substantive change, as members of UTFA do not currently vote to ratify agreements. Retiree voting on UTFA settlements, for instance, is restricted to the four representatives on Council.

However, nothing in the Ontario Labour Relations Act prevents retirees from being members of the union, acting in an advisory capacity, or holding elected office within the union. Indeed, this continues to be the case at a number of certified faculty associations across the country, where retirees continue to be members of the faculty association but NOT of the bargaining unit. In these cases, the constitution of the faculty association stipulates clear voting rights. Certification, then, would only affect retirees in terms of distinguishing between UTFA and the bargaining unit. While the Ontario Labour Relations Act, following the Rand formula, specifies the rights of members of the bargaining unit, UTFA, as an organization distinct from the bargaining unit, is free to define membership as it sees fit and may define membership to be more inclusive than the bargaining unit. UTFA already has experience with this as it recognizes St. Michael's College faculty as members, but as constituting a distinct unit within the association because of their certification status. UTFA members who are not considered part of this bargaining unit have no legal right to vote on any aspect of the collective agreement that governs St. Michael's College faculty. Those faculty, however, continue to have delimited rights in UTFA and serve in administrative positions on UTFA Council.

Retired members, then, could not be part of the bargaining unit and would have no right to vote on agreements. They would, however, be able to express their interests in the context of being UTFA members and act in an advisory capacity, or elect members to represent those interests on UTFA Council and to the executive. Indeed, certified faculty associations routinely bargain for items on behalf of retirees, such as the rights of retirees to use university space and facilities, apply for grants, etc., and such agreements are included in the collective agreement. Depending on the wording of the collective agreement, breaches of agreement provisions regarding retirees usually can be grieved by the faculty association.

Clearly, in the case of certification, it would be necessary to amend the constitution to make it clear that retirees could not vote on matters related to the bargaining unit.

E) Support from CAUT and OCUFA

Leadership of both CAUT and OCUFA were asked about dispute resolution mechanisms that would be an improvement on our current MoA. Their responses were consistent: Given how very much UTFA currently resembles a faculty union

that there is little short of full certification that would be an improvement on the current MoA. Alternatives might include:

- i) the re-establishment of a faculty senate with mechanisms that would provide significant and meaningful input into academic planning, or;
- ii) a fully revised MoA that releases all frozen policies and removes the repudiation clause that allows Governing Council to veto any agreement reached between UTFA and the University administration.

However, they could not envision how this might be achieved under the current structure of management relations that govern universities. That said, both CAUT and OCUFA offered to provide a variety of forms of support as we move forward:

- a) to provide support to consult with faculty from cognate disciplines at peer institutions to discuss specific departmental and disciplinary concerns regarding certification;
- b) to provide support to bring in people from UBC, Queens, Western or similar peer institutions to talk with UTFA Executive, Council and any organizing committee in order to benefit from their experience and to identify successful and unsuccessful approaches to certification;
- c) to review the UTFA constitution to ensure that it complies with the requirements of the Ontario Labour Relations Board for a body that's approaching the OLRB to be certified as a union.
- d) to provide reimbursement for most of the legal costs associated with certification. This is provided through CAUT's policy on reimbursement of certification costs, which covers first \$10,000 of all legal fees. If costs exceed \$10,000 CAUT covers 66.6% of the subsequent \$15,000, and 33.3% of any costs that exceed \$25,000;

Both CAUT and OCUFA were extremely supportive of UTFA's current attempt to build upon the MoA and expressed a strong desire to help in any way that they can, even as both organizations felt that the most effective way forward was through certification.

F) Costs Associated with Certification

The committee was asked to address the question of the cost of certification. According to the leadership of faculty associations and representatives of CAUT and OCUFA, costs vary, largely depending on the degree of challenge mounted by the employer.

i) Legal Costs

The most significant costs associated with certification are the fees associated with retaining legal counsel to oversee certification, to instruct the organizing committee on the rules of the OLRB to ensure that they are not transgressed during the

process, to file the application with the OLRB, and to represent the Faculty Association in dealing with any objections from the university administration. Final legal fees depend largely on whether the employer files objections with the OLRB over the certification process. This would in all likelihood require UTFA to secure legal advice and representation. However, in CAUT's experience \$10,000 has been sufficient to cover the legal costs associated with certification of faculty associations across the country. It is also important to note that these are one-time, rather than ongoing, costs and they are largely offset by CAUT's reimbursement policy.

In our discussions, the leadership of faculty associations did not have clear itemized line items for costs, but clearly state that the largest cost was legal fees. Neither had in house legal counsel with the kind of experience held by UTFA staff. As an example of variability, one recently certified faculty association spent \$7000 in legal fees all of which was billed directly to CAUT. Its certification drive was straightforward, the vast majority of faculty was prepared to sign cards and it ran a face-to-face certification campaign in which members of an organizing committee addressed concerns or questions by speaking directly with individual faculty members thereby eliminating the need for large meetings and the costs associated with them. Administration raised no objections so there were no extraordinary legal fees associated with certification. The costs of certification in this case were next to nothing. As they put it in an email "on a per member basis, frankly, certification costs for you are going to be peanuts unless you have some sort of record-breaking dispute."

In a second case costs were more significant. The representative estimated costs at \$45,000- 50,000. \$40,000 of this was made up of legal fees, \$25,000 of which was reimbursed by CAUT. These fees were high because the faculty association consistently invited their lawyer to campus to speak to faculty, one member of executive consistently sought legal advice when responding to faculty members questions and concerns, and there was a lengthy hearing in front of the provincial labour relations board over how the vote would be held. The remaining costs were associated with convening information panels with academics from unionized faculty associations around the country, and with communication materials such as informational flyers, posters, etc.

As an example, should certification of UTFA require legal fees of:

- a) \$10000, UTFA would pay nothing = 0% of total costs
- b) \$25000, UTFA would pay \$5000 = 20% total costs [approx. \$2.50 per member]
- c) \$50000, UTFA would pay \$16672 = 33.34% of total costs [approx. \$8.34 per member]

ii) Labour Costs

Of course, certification is a labor-intensive process but for the most part it relies on volunteers. Assuming that any certification process would rely on existing UTFA infrastructure and staff, the remaining expenses are subsumed under fixed costs.

iii) Other Costs

Costs other than legal fees are associated largely with the materials and communications associated with certification. These involve incidental fees to cover room rental in the case of convening extraordinary meetings for the membership, refreshments for participants at those meetings, reimbursement for transport costs to any hearings that may be convened by the OLRB (which is located in Toronto). However, some of these costs are also offset through CAUT, which will help, for example, to develop certification cards, and cover the cost of printing and delivering cards to the Organizing Committee.

G) Recommended actions:

While not part of our terms of reference the committee believes that it would be useful to convene a half-day retreat for UTFA Council and Executive to engage in a more substantive discussion of these options. Our conversations with faculty association representatives were informative in many ways, but some of the most useful suggestions were around the importance of having a self-aware and self-informed Council, particularly around the question of certification. Given our location it would also be reasonably inexpensive to invite colleagues from neighboring universities who could serve as resource people to answer questions from Council members around issues of certification. During our conversations our colleagues showed a remarkable generosity and openly offered their time if we thought their insights could be of use.

H) Summary

There is little indication that the SJAC process will secure the outcome that UTFA was seeking as it entered the process. We are in a position where we will have to respond to our constituents concerns with an action plan. In this report we have sought to outline several post-SJAC options. In practice, however, most of these do not effectively address the primary objective of modernizing the MoA such that all terms and conditions of employment are made subject to collective bargaining. With the exception of certification, all of these options rely upon the goodwill of administration. They also imply a long drawn out process with no assurance of significant improvement on the status quo – something the majority of UTFA members have said is unacceptable. It is the committee's opinion that the greatest flexibility – the most options – exist through a process of certification; a process that opens a space for dialogue over all terms and conditions of employment and provides for greater democratic participation in shaping those terms and conditions than currently exists under the MoA or any of the other options we have presented.

APPENDIX - – STEPS INVOLVED IN CERTIFYING UNDER THE ONTARIO LABOUR RELATIONS ACT

Parties involved in a certification application must comply with the Ontario Labor Relations Board's Rules of Procedure. These can be found here:

(<http://www.olrb.gov.on.ca/english/infob/infbul01.htm>)

1) CARD DRIVE:

- a. Design and print cards
- b. Develop strategy for card drive and a network of people who will get cards signed.
- c. Threshold for certification application is 40% of employees in the bargaining unit
- d. A signed certification card is valid for 6 months.

If threshold reached:

2) DELIVER CERTIFICATION PACKAGE TO THE UNIVERSITY ADMINISTRATION

- a. UTFA must deliver a Certification Package to the employer before it files its application with the Board. The package may be delivered by hand, courier, or facsimile transmission.

3) FILE CERTIFICATION APPLICATION WITH THE LABOUR RELATIONS BOARD

- a. Must be done within 2 working days of delivering the certification package to the university administration
- b. The application may be filed by any means, except facsimile transmission, e-mail or registered mail.

4) CONFIRMATION

- a. On the day of filing the OLRB confirms with the applicant and the employer that the application has been filed

5) UNIVERSITY ADMINISTRATION POSTS NOTICE TO EMPLOYEES

- a. Notice to employees must be posted immediately upon receiving confirmation of filing from OLRB
- b. Notice must: a) notify employees that a secret ballot vote will likely be held five (5) days after the application filing date; b) advise employees of their rights, including the right to make statements to the Board about the application; and c) alerts them to look for future postings that will inform them of voter eligibility, the date, time and location of the vote, and the date and location of meetings with Labour Relations Officers and hearings.

6) UNIVERSITY ADMINISTRATION FILES AND DELIVERS A RESPONSE TO UTFA AND OLRB

- a. Must occur within 2 working days of receiving confirmation from OLRB
- b. Must include names of all employees in bargaining units proposed by UTFA and the university administration

7) OLRB ORDERS THE VOTE

- a. OLRB vote co-ordinator sets the vote arrangements
- b. Normally vote takes place 5 days after application for certification
- c. A Board Decision ordering the vote and a Notice of Vote and of Hearing is sent by fax to UTFA and university administration. This includes the voting constituency, the date, time and place of vote, directions concerning sealing the ballot box or segregating or counting the ballots where appropriate, and the dates, times and locations of both the Regional Certification Meeting with a Labour Relations Officer and of the Hearing before the Board.

8) NOTICE OF VOTE

- a. University administration must immediately post notice of voting arrangements and confirm to OLRB that it has done so.

9) PRE-VOTE CONSULTATIVE PROCESS

- a. OLRB officer contacts UTFA and University administration in an effort to reach agreement on any issues surrounding the vote (e.g., bargaining unit description, voters list, etc)

10) VOTING DAY

- a. Vote conducted by OLRB officer assisted by observers
- b. OLRB officer holds discussion with UTFA and university administration to resolve any outstanding issue. If parties agree that there are no outstanding issues, they can waive their right to an OLRB hearing. Parties retain their right to file representations relating to any new matter in the five (5) days following the vote.

11) COUNTING BALLOTS

- a. May or may not be done on the day of the vote pending outstanding issues.

12) REPORT OF THE VOTE IS PROVIDED AND POSTED

- a. OLRB officer provides a copy of the Board Officer's Report of Vote to the parties on the day of the vote. Report sets out whether the ballots were counted and, if so, the outcome of the vote
- b. Parties have up to 5 days to file objections to the vote
- c. University administration must immediately post copies of the Report and confirm to OLRB

- d. UTFA must confirm to OLRB that university administration posted copies of the report

13) AFTER THE VOTE 5 DAY REPRESENTATION PERIOD

- a. Anyone with something to say to the OLRB concerning the vote or unresolved issues can submit a statement of representations to the OLRB, the university administration and UTFA within 5 days of the vote.
- b. OLRB reviews representations
- c. If no representations are submitted and all issues are agreed upon by UTFA and university administration, the process is complete

14) POST VOTE MEDIATION PROCESS

- a. OLRB Officer contacts the parties to discuss and attempt to resolve all outstanding issues.
- b. This contact normally takes place in the period after the end of the five (5) day representation period.
- c. If issues are still in dispute after the Waiver Process, the matter proceeds to a Regional Certification Meeting.

15) REGIONAL CERTIFICATION MEETING

- a. OLRB Officer convenes a meeting on the Wednesday of the third week after the week in which the vote is held to assist parties to resolve, or at least narrow, the remaining issues.

16) HEARING

- a. If issues remain in dispute after the Regional Certification Meeting, a hearing begins at the Board's offices in Toronto on the Monday of the fourth week after the week in which the vote is held.
- b. Board issues a decision on outstanding issues in dispute and the process is complete.