



University of Toronto Faculty Association
720 Spadina Avenue, Suite 419
Toronto, Ontario M5S 2T9
Telephone: (416) 978-3351
Fax: (416) 978-7061
E-mail: faculty@utfa.org
Website: www.utfa.org

Angela Hildyard
Vice-President Human Resources and Equity
University of Toronto
Simcoe Hall
27 King's College Circle
Toronto, ON

September 14, 2011

Explaining the Origins and the Rationale of UTFA's Proposal to Make All Terms and Conditions Negotiable with Mediation/Arbitration

Dear Angela,

We are writing to explain more clearly and fully why UTFA is now proposing to expand the scope of mediation and arbitration to make all terms and conditions of academic employment for faculty and librarians negotiable in a fair, rigorous and comprehensive manner.

Over the summer, we tabled proposed changes to tenure and promotion policies as well as new language on governance in academic planning. In both instances, we have insisted that these issues be negotiable using the mechanism we now use for workload and matters of compensation (i.e. the process prescribing fair and good faith negotiations in Article 6 of our Memorandum of Agreement). This would provide for independent third party mediation and arbitration, if necessary, to resolve any outstanding issues in our negotiations over these matters, now and into the future.

But we also proposed to make all terms and conditions of faculty and librarians employment negotiable with mediation and arbitration (if necessary).

You may wonder what the rationale behind this proposal is and why this proposal is now on the table. And you may wonder what motivated it.

We are no longer willing to negotiate without accountability, without provision for an adequate and due process, and most importantly, without fairness. Our proposal to expand the scope of bargaining to encompass all terms and conditions is fundamental to our substantive proposals on tenure and promotion and on governance in academic planning. Proposing to change how we bargain cannot be dissociated from the specific language we are tabling at this time, nor in the future. We need a process that is fair and comprehensive and that provides for timely

resolution of outstanding disputes. Without a fair bargaining process, there can be no fair outcome from bargaining.

The proposal on all terms and conditions is the result of an extensive internal dialogue with members about the shortcomings of our antiquated framework agreement. That dialogue involved focus groups with members, one-on-one meetings, our on-line survey of earlier this year, and discussions among our committees, our Council and our Executive.

Direct negotiations between UTFA and the University of Toronto Administration, with access to mediation and arbitration when necessary, has been used to resolve compensation matters for years. Neither side is always happy with this process or the outcomes it provides, but we continue to use it because it works, and because it brings the negotiations to a timely resolution and we move on. There is no principled reason why this mechanism should only apply to compensation matters.

Our members recognize the shortcomings of the current arrangement. They see no reason for the asymmetry in the way we now deal with compensation, on the one hand, and the way we deal with other important terms and conditions of our academic employment on the other. Important non-monetary terms and conditions of our employment – including working conditions, academic freedom, appointments policies, and governance in academic planning – are not now included within the scope of Article 6. As a result, negotiation over these issues is ad hoc, without an explicit commitment to good faith bargaining and without provision for dispute resolution. Yet these matters shape how teaching and research are undertaken at this university. The work of our members is vital to establishing and maintaining the admirable reputation of the University of Toronto. We can no longer accept that the voices of our members in shaping the conditions under which they work are silenced because of an antiquated, fundamentally unfair and ineffectual framework agreement.

We, the UTFA bargaining team, with the support of UTFA's Council and our members, have therefore proposed to make all terms and conditions of our employment negotiable with access to independent third party mediation and arbitration (when necessary) to resolve disputes.

An obvious question you may ask at this juncture is why we do not initiate a card drive to certify the association as a union. Many of us are certainly ready to take this step. And we are well aware that this is one of our options. But in the main, our members have instructed us – the UTFA bargaining team – to attempt to work with the Administration within the current framework to the extent possible. For some of our members, this is about respecting tradition. This is our process. It is our history. It is how we have done things. It is familiar. These members see working within the current framework as a collegial and non-confrontational way to make all terms and conditions negotiable in a manner that institutionalizes shared governance and collegiality. They have placed their faith in us, and in you, to work constructively and productively toward this end.

Many of our members also find arbitration preferable to a strike/lockout framework for resolving disputes. These members feel, for honourable and admirable reasons, that students may be the primary victims of strikes in universities. For this reason, these members are reluctant to give up third party mediation and arbitration in resolving disputes. We should all applaud the commitment and loyalty to the ideals of the university that underpin this perspective.

It must also be said, however, that others among our members, more and more all the time, are ready to certify as a union. No doubt those in this camp are more cynical about how this university works, or at least about Simcoe Hall and its readiness to share power. We should pause to consider the extent to which those favouring certification have been given good cause to feel this way.

A series of governance crises – from UTAM gambling away our pension earnings, to the planning debacle in the Faculty of Arts and Science in the summer and fall of 2010, to the Provost's autocratic engagement with the Faculty of Forestry, to the controversial terms of the Munk agreement – has fueled growing discontent among our members. These are all deeply troubling developments. They point to a serious lack of collegial and shared governance in decisions that shape the future of this university, and the conditions of our work.

Our responsibility, as UTFA's negotiating team, is to represent our entire membership. Our proposals, including the all terms and conditions proposal, are well known. We announced our intentions publicly well in advance of the start of negotiations. The all terms and conditions proposal is principled and has the backing of UTFA's membership. It was approved by UTFA Council in April of 2011 *without a single dissenting vote*. Please consider carefully the significance of this fact.

The proposal to make all terms and conditions of faculty and librarian employment negotiable with access to mediation and arbitration (when necessary) reflects the current will and mood of the broadest cross-section of our members. It also represents a crucial moment in the history of this relationship. Now the onus is on you.

Enlightened leaders understand that power is best wielded when shared and when based on a solid foundation of accountability, legitimacy and consent.

You and your colleagues in the Administration now have a chance to demonstrate the quality of leadership that this community and this institution deserve.

UTFA can be a resource and an ally in confronting important challenges we face. We are committed to making and keeping this university great and to working toward the ideals that unite us as teachers, scholars and intellectuals. That is why we are here and that is why we have tabled this proposal. It is an opportunity, for both sides.

But we need you to willingly embrace that opportunity, and that potential. We need you to decide along with us to turn the page on the past. It is up to you.

Sincerely,

UTFA's Negotiating Team

Sherri Helwig, Program Supervisor, Arts Management Specialist and Humanities Co-op Programs, Senior Lecturer, Department of Humanities (Visual and Performing Arts and Humanities)

Helen Rodd, Professor, Department of Ecology and Evolutionary Biology

Victoria Skelton, Librarian, Industrial Relations and Human Resources Library (Newman)

Judith Teichman, UTFA Equity Chair, Professor, UTSC Social Science (Political Science)

Michael Donnelly, Professor Emeritus of Political Science

George Luste, UTFA President, Professor, Department of Physics
Scott Prudham, UTFA VP and Chief Negotiator, Professor, Department of Geography and
Program in Planning cross-appointed to the Centre for Environment
Luc Tremblay, UTFA Executive Member-at-Large, Associate Professor, Faculty of Physical
Education and Health

cc. David Naylor
Cheryl Misak
Edith Hillan
UTFA membership