



UTFA Bargaining Report

University of Toronto Faculty Association December 2, 2009

Bargaining Report #5 for 2009–2010

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FACE-TO-FACE TALKS LEAVE IMPORTANT ISSUES UNRESOLVED

For the past nine months, UTFA and the Administration have been engaged in unprecedented face-to-face negotiations. During these negotiations a wide range of issues has been discussed including some that fall nominally outside the scope of Article 6 of the Memorandum of Agreement (MoA), i.e., the bargaining article. Face-to-face talks have now ended. We are entering the mediation and, if necessary, arbitration phases of negotiations.

In this bargaining report, our goals are (i) to report on what progress we made in the face-to-face phase, (ii) to explain why we are entering mediation now, and (iii) to present important questions and challenges to be considered by all of our members going forward. Some of these questions and challenges speak to the most fundamental aspects of UTFA's relationship to the Administration of the University of Toronto.

As we have discussed in previous bargaining updates, we have emphasized the need for substantive, face-to-face negotiations and the embrace of a more problem-oriented approach in order not to be bound by a strict and confining interpretation of the MoA. This approach is motivated by a desire to negotiate issues based on their importance to our members. Escalating and inequitable workloads that pose a threat to the research and teaching mission of the university are prominent among such issues. As we have consistently argued, this matter is too important to allow it to continue to fall outside the scope of negotiations.

For those of you not familiar with the MoA, this agreement requires the Administration to negotiate with UTFA over salary, benefit, and pension issues; sets out a procedure for handling grievances; deals very briefly with workloads and working conditions; establishes the Administration's obligations in providing UTFA access to information; and establishes a number of "frozen" policies which can be changed only by mutual agreement of the parties.¹ The MoA was once a cutting-edge and powerful document, and while it still serves us reasonably well in matters of compensation and benefits, its basic structure splits apart monetary and non-monetary

¹ The MoA, along with other important guiding documents including UTFA's constitution and by-laws, is available on our web site at www.utfa.org.

issues, and leaves the latter outside the scope of annual negotiations, mediation and arbitration. The simple truth is that the MoA restricts our capacity to effectively advocate for our members in areas of concern that are integral to the teaching and research mission of the university and that are increasingly important to our members. As a result, we are rapidly being left behind in important areas of concern by more comprehensive and effective collective agreements from around the country, including some of the top universities in Ontario.

Our approach to these limitations of the MoA in the current round has been consistent throughout. In the initial list of proposals that we presented to the Administration in March, 2009, we indicated, “we believe simply that we should proceed with good faith negotiations in a comprehensive sense, rather than attempt *a priori* to reach agreement on what is and what is not subject to negotiation or mediation. We intend to proceed in this fashion until it becomes apparent that we will be unable to do so.” Moreover, on specific matters, we proposed changes to the MoA to accommodate our bargaining strategy. For instance, in reference to workload in our proposal tabled on May 19, 2009, we stated, “In general, UTFA seeks agreement that workload, along with other non-monetary issues identified in negotiations, will be added to the list of items subject to ongoing negotiation, mediation and arbitration as per what is now covered under Article 6 of the MoA.”²

That brings us to the present. Our experience with this problem-based approach has been decidedly mixed. Certainly both sides have shown willingness to explore issues not explicitly named in Article 6. The Administration clearly wishes to extend the time to tenure, and attempted to engage us on this issue. As we have previously reported, we also spent considerable time negotiating what the Administration has called a “Professor of Practice” title which we agreed to continue exploring via a Joint Working Group. For our part, in addition to workload, we identified issues such as the absence of third party arbitration in dispute and appeals procedures (including on procedural grounds in tenure and promotion). We also have consistently flagged job security in the teaching stream as an issue.

But most importantly, we spent considerable time over the last several months negotiating a number of workload proposals the Administration tabled in response to the initial proposal we tabled in May. This is an important change in itself. At a minimum we believe we have established an important precedent for subsequent negotiations: workload is in our view now a legitimate topic for negotiation that is best addressed together with the compensation and benefits issues now named in Article 6 of the MoA.

That said, progress has been very slow and difficult. We made little progress on monetary issues. On workload, while we have exchanged multiple drafts, we have yet to agree on specific language for mechanisms to redress and regulate spiralling workloads for faculty and librarians. Some of the remaining issues at stake have particular bearing on the teaching stream, including a need to recognize and protect scholarly activities in teaching stream appointments while placing a check on the proliferation of teaching-related and administrative duties. In reference to the tenure stream, the main thrust of our emphasis is to achieve some protection for research time via better and more equitable, fair, and transparent management of administrative and teaching responsibilities. For librarians, a principal motivation is to arrest the de-professionalization of

² For the full text of UTFA’s workload proposal please go to our web site www.utfa.org.

librarians through spiralling workloads and non-collegial relations in work assignment and governance. The fundamental principle here, as you have repeatedly conveyed to us, is that escalating workloads are undermining the quality and integrity of teaching, research, and professional duties. We continue to seek an immediate remedy.

But the two sides remain some distance apart. Perhaps most fundamentally, we have yet to secure explicit agreement that we have a right to negotiate workload in the same manner as other issues named under Article 6 of the MoA. We consider this essential. Workload, as we have repeatedly indicated, is far too important and complex to address in one round of negotiations. It is irresponsible to suggest otherwise. And this particular issue only makes the limitations of the MoA and our manner of bargaining more painfully evident. Without clear deadlines and enforcement mechanisms for issues not explicitly named in Article 6, we are trapped in negotiations that lack urgency and seriousness of purpose. Our members deserve better than this.

Because we feel enough time has passed, and because the two sides remain far from a settlement, we are now heading toward mediation. This is a natural next step in the negotiating process in seeking to converge on a settlement. We feel it makes good sense at this stage to seek the assistance of a skilled and informed professional to guide both sides toward a resolution, a process that may end in an arbitration award if mediation is unsuccessful (as per the terms of Article 6).

Members should note, however, that during this next phase UTFA is committed to continuing our problem-oriented approach. That is, we are communicating to the mediator that our preference is to continue with a comprehensive approach that is truly open. Therefore, in addition to asking the mediator to help the two sides make progress on monetary issues, we are seeking to include other important priorities such as workload, security, and title in the teaching stream, third party dispute resolution, and information-sharing provisions in the mediation/arbitration process. These are all priorities UTFA identified in its initial list of proposals approved by UTFA Council in March.

If we are successful in widening the scope of mediation and arbitration in this manner, it will represent an important change. In this respect, our bargaining strategy during the face-to-face phase and now in mediation/arbitration entails an important “test” of the MoA. Faculty and librarians are essential to fulfilling the educational and research missions of this institution, and to ensuring that the highest standards of quality are met. From this it follows that UTFA, as the representative of faculty and librarians, must be accorded a central and active role in shaping the future of this institution, and in upholding standards of fairness, dignity, respect, academic freedom, professional autonomy, accountability, and good governance. UTFA’s relationship with the Administration must reflect these basic premises going forward.

Your bargaining team is committed to doing all we can in the mediation phase, carrying forward from the face-to-face phase. Critically, this includes insisting that all issues we take to mediation will also be subject to binding arbitration if necessary. Otherwise, we run the risk of replicating all the failings of the MoA.

But this only underscores the central point that, one way or the other, UTFA's leadership, with strong support repeatedly articulated by our members, is seeking fundamental change. We do not know where this process will end. What we do know is that the status quo has become intolerable. In all likelihood, much work will remain when we have a settlement. As noted in our fall newsletter, we will be conducting a series of consultations in the new year to help better define the linkages between our collective goals for the University of Toronto and the ways UTFA and its relationship with the Administration need to change.

Until then, we thank you for your support and patience. Your bargaining team is fully committed to securing a settlement worthy of our members. We wish you all the best in wrapping up various teaching and administrative duties as we approach the end of term, and wish you a safe and happy holiday.

COLLEGIALITY: WHAT DOES IT REALLY MEAN?

For most of its history, relations between the University of Toronto Administration and UTFA have depended on good personal relations between individuals on both sides. These relationships have always been understood as central dimensions of "collegiality," a term routinely invoked as a key feature of U of T's governance structures, and often used in reference to relations between UTFA and the Administration. In fact, collegiality is often offered to explain why UTFA is one of the few remaining faculty associations in Canada not certified under provincial labour law as a union. The argument goes something like, "we are not unionized because we are more collegial than that here." But what does that statement mean?

As long as relations between individuals are positive and the Administration shows genuine respect for the concerns of faculty and librarians, collegiality can be said to be honoured and working. Who could dispute this? Moreover, most of us at UTFA have enjoyed working with individuals from the Administration and have generally found them to be honourable, intelligent, hard-working, and well-intentioned colleagues. But what happens when relationships are not enough? What is our recourse when collegiality is found to be lacking in matters of vital importance to UTFA members?

There have been many examples. They include: presidential denials of tenure that violate fundamental principles of peer review; grievance settlements and processes that fall far short of acceptable standards of fairness and justice; workloads that escalate while the Administration refuses to admit there is a problem; program closures in the absence of inclusive and accountable academic planning; arbitrary and paternalistic dismissal of longstanding UTFA concerns about pension governance and the University's asset management more generally. To what extent has collegiality been evident in these disputes in any full-bodied sense of the term?

We can all agree that collegiality is a fine word. But to be a robust guiding principle, it must be backed by more than platitudes, traditions, and personal relationships. Collegiality must mean more than civil tones and the serving of tea and cookies at meetings. If collegiality truly is a fundamental value in the life of the university, it not only must survive breakdowns and major differences, but must in fact be a resource at exactly such times.

The implication of this is that *collegiality actually cannot be about personalities*. Collegiality is about relationships that transcend individuals and can withstand differences of opinion and even deep antagonisms. Real collegiality in the university ensures institutionalized norms of fairness, dignity, respect, academic freedom, professional autonomy, representativeness, and accountability. Real collegiality allows for the productive and fair resolution of conflicts and precludes the arbitrary exercise of power.

In these respects, our Memorandum of Agreement may be the biggest obstacle to real collegiality between UTFA and the Administration. That's why the UTFA negotiating team has worked from the premise that achieving real collegiality depends in substantial measure on opening up the scope of what is jointly negotiated by the parties who make the university work. Workload is perhaps the most obvious issue not addressed in a truly collegial manner by the existing structure of our MoA, but there are others.

Collegiality and fundamental change are not in opposition—quite the contrary. The future of collegiality in fact depends on fundamental change—change that ensures the faculty and librarians who make the University work have their voices heard and their interests respected. Faculty and librarians deserve a form of collegiality that comes in the guise of robust, enduring, institutionalized norms of engagement and dispute resolution. Increasingly, faculty and librarians are concluding that fundamental change is required at the University of Toronto. But the form of change that is in the wind does not turn aside from collegiality; rather, it embraces, refines, and strengthens collegiality in part by ensuring that it is much more than mere rhetoric.

All of us must now evaluate how far fundamental change must go in order to see this process to its logical conclusion. Whether the changes we seek ultimately result in union certification or not, the goal must be a form of collegiality that allows UTFA to advocate fully and effectively for faculty and librarians. Union certification is an avenue open to us in the pursuit of this goal. It would empower the Association to negotiate “all terms and conditions of employment” with the Administration. That alone would be an important step in the pursuit of truly collegial governance. In the weeks and months to come, all members must ask themselves whether they are willing to accept anything less.

As always, we welcome feedback pertaining to our negotiations at bargaining@utfa.org .

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UTFA Bargaining Report is published by:
The University of Toronto Faculty Association
720 Spadina Avenue, Suite 419 Toronto ON M5S 2T9
Phone 416-978-4596 Fax 416-978-7061
Email faculty@utfa.org Website www.utfa.org