UNIVERSITY OF TORONTO

OFFICE OF THE VICE-PRESIDENT
HUMAN RESOURCES & EQUITY

HR #9, 2010-11

To: PDAD&C

From: Angela Hildyard
Vice-President, HR & Equity

Date: October 12, 2010

Re: **UTFA Arbitration Award for July 1, 2009 to June 30, 2011**

Arbitrator Martin Teplitsky has released his long-awaited faculty and librarian salary and benefits award for the period July 1, 2009 to June 30, 2011. Notwithstanding the fact that we value greatly the contributions of our excellent faculty and librarians, this award will have a significant impact on the University's finances, with unwanted consequences bound to follow on its heels. Also noteworthy is the fact that the award has been released at a time when the Province has asked for compensation restraint. I believe it is therefore important for our community to understand the context of these negotiations and the differences between the positions of the University and the Faculty Association.

The financial terms of the award are summarized below and the report can be found in its entirety at: http://www.hrandequity.utoronto.ca/Assets/policy/acad/Oct2010award.PDF

Background

The University and UTFA commenced discussions in January, 2009. Early in the process we agreed to ask Mr. Teplitsky to act as both mediator and, if necessary, arbitrator in the event we were unable to reach mutual agreement. Over the next several months our discussions focused not only on salary and benefits but also on other matters of mutual interest, including a new professorial appointment stream, time to tenure, and changes to workload policy. Progress on all fronts was slow. We agreed with UTFA that we would focus first on the Workload Policy (Article 8 in the Memorandum of Agreement) leaving the other issues to be taken up later (these issues remain outstanding).

By the end of 2009, some progress had been made on workload issues, with Mr. Teplitsky providing assistance in narrowing the differences. One particular issue, of considerable importance to UTFA, was that the workload provisions should be subject to the dispute resolution process currently restricted to salaries and benefits (Article 6 in the MOA). Since this would be precedent setting, the University took the proposal to the Academic Board and to Governing Council and in February 2010, Governing Council approved this change. As of this date workload discussions are continuing, much progress has been made and we are hopeful that the outstanding issues will be resolved shortly.

In February 2010, the Governing Council also agreed that the salary and benefit discussions – or mediation/arbitration – should cover a two-year period (July 1, 2009 to June 30, 2011). In the Spring of 2010 Mr. Teplitsky attempted to mediate an agreement on salaries and benefits. However, because the University and UTFA were so far apart on these issues (see below), mediation was unsuccessful.

The University's Position

All who work at the University of Toronto will be aware of the continuing challenges that Ontario universities face due to the comparatively low level of per-student funding provided by the provincial government. Unfortunately, the Province now faces large deficits and growing indebtedness. The Province has therefore signaled for many months that, absent enrolment growth, transfers to universities will be more or less flat-lined. The result is an acute exacerbation of a chronic under-funding problem.

With a partial recovery from the downturn in financial markets, the University has resumed full endowment payouts. However, the pension plan remains in deficit, and employee contributions to the University pension fund are significantly lower than is the case for many peer plans with similar levels of benefits.

Our excellent faculty and librarians are integral to our continuing institutional success, and we must compete to recruit and retain talent. However, with inflation at very low levels, the impact of restraint in across-the-board increases is partly offset by the continuation of merit pay averaging 1.9% for faculty and librarians.

The University's proposals were therefore extremely conservative in keeping with these realities. They focused on limited increases to compensation as well as a proposal to increase employee contributions into our pension plan so as to make the contributions more commensurate with the value of the benefit. The unsurprising introduction in late March of the Compensation Restraint Program, as part of the Provincial Budget, and the subsequent release of proposed guidelines regarding pension solvency relief reinforced the position that we had already tabled.

In particular, the legislation prohibited compensation increases other than those based on existing merit schemes for employees who do not bargain compensation collectively. For those, such as UTFA's members, who engage in collective bargaining, the Government advised that universities and similar entities must "seek agreements of at least two years duration that do not include net compensation increases" in new contracts. That position was reinforced in the summer during meetings among faculty representatives, University administrations and Government officials. Government officials again insisted that universities should aim to register two years of zero ATB increases with all employee groups within the five years following passage of the Act.

The University's position was as follows:

- Normal PTR/Merit July 1, 2009 (implemented) and normal PTR/Merit for July 1, 2010 if the increases in member contributions to the Pension Plan proposed by the

University were awarded **and** there was zero increase to ATB for both years;

- Increases in faculty and librarian contributions to the Pension Plan of between 2.25 and 3% depending on salary level over two years, with a commitment that in future the annual University contribution would be no less than the total of plan member contributions for the year; and,

- No improvement or change to any benefits.

UTFA's Position

UTFA bargains for the interests of its members, as is its duty; and it is not appropriate for the University to provide a rationale for the UTFA salary and benefit proposals. I would simply note here that we estimated that UTFA proposed total compensation increases for faculty and librarians amounting to approximately 26% over the two years, resulting in an increase in annual cost of approximately $105 million at the end of the second year, including:

- ATB increases of approximately 3% to 4% per year on top of usual PTR/Merit increases;

- Approximately 15 benefit improvements, estimated to cost almost $10 million annually;

- All benefit improvements to be made equally available to active and retired faculty and librarians, with a resulting increase of approximately $50 million to the unfunded liability of $116 million for faculty and librarian retiree benefits as of April 30, 2009; and

- Pension benefit improvements which the University estimated would increase accrued liability in the Pension Plan by $243 million and result in a $5.3 million increase in current service costs and an additional $25.2 million in special payments by the University for the next 15 years.

The Arbitration Award

The University made a number of attempts to reach a settlement with UTFA, and returned to mediation for two further sessions in late August and in September. Unfortunately we were still unable to reach an agreement and Mr. Teplitsky proceeded to make his arbitration award, as follows.

	Jul 1, 2009	Jan 1, 2010	July 1, 2010	Jan 1, 2011
ATB	1.25% or minimum flat dollar amount	1.0% non-compounded or minimum flat dollar amount	1.25% or minimum flat dollar amount	1.0% non-compounded or minimum flat dollar amount
PTR	normal, previously implemented	--	normal	--
PERA all faculty and librarians pre-tenure and pre-promotion teaching stream faculty	 increase of $250 increase of $500			
Pension **-** no increase to pension contributions - no pension benefit improvements including no augmentation				
-increase to minimum overload Teaching Stipend	increased from $14,490.00 to $15,000.00		increased to $15,340.00	

The University's Perspective on the Award

There is nothing more important to the University than the contributions of our outstanding community – faculty, librarians, staff and students. We firmly believe that our faculty and librarians are cornerstones of the excellence of the institution. They must be compensated competitively.

The University also has an obligation to operate in a fiscally responsible manner, having due regard to our long-term sustainability, our reputation with taxpayers and fee-paying students and families, and our relations with the Province. The University's proposals and arguments reflected those responsibilities and the serious fiscal challenges we and other Ontario universities face. The Government's compensation restraint program sharply underscored the relevance of containing ATB increases – and that position was further reinforced during our discussions with Government officials this summer.

We are, therefore, disappointed that the arbitration process did not yield a zero ATB for one of the two years at issue. The awarded ATB increases apply on top of merit pay that averages 1.9% per annum. The continuing merit pay and the new ATB increases will have immediate and very significant financial implications for departments and divisions.

As noted, we also sought an increase in employee pension contributions to align those contributions more closely with both the value of the benefit and the level of contributions made by faculty members at other institutions. We are very concerned that this cycle of negotiations did not yield any increase in contributions. It is anticipated that the Government will not grant long-term solvency funding relief to the University unless UTFA agrees to (or future arbitrators order) increased employee contributions as a measure ensuring the future sustainability of the pension plan. If we do not receive solvency funding relief, the University will be required to make much larger solvency payments that will substantially augment the financial pressures on the institution and all those in it. In this regard, arguments to-and-fro about the financial history of the plan (e.g. regarding contribution holidays and surpluses) do not change the fact that **all** decisions in the past were made with the full knowledge and consent of UTFA. And our shared frustration with the recent performance of our asset managers does not address the reality that employee contribution levels need to be increased even if the recent pension fund returns had been typical of our peer group.

In accordance with the normal cycle for the negotiation of compensation with UTFA, we will be back in discussions with the Association shortly for the year starting July 1, 2011. Our approach will again reflect a commitment to compensating our excellent faculty and librarians competitively and fairly. We have other discussions ongoing that are clearly to everyone's advantage, e.g. the introduction of professors of practice. As before, our position will also be guided by our ongoing financial challenges, the provisions of the Province's compensation restraint program, the financial status of our pension plan, any solvency funding relief regulations, and the need for contribution rates that are aligned with both peer institutions and the pension benefits that our employees receive. And as always, we expect UTFA will represent the interests of its members. However, I urge our colleagues to take positions at the bargaining table that serve both the immediate financial interests of their members, and the longer-term interests of the University community at large. We have a common cause in increasing public funding for the University. We also, I hope, have a common interest in ensuring that the University of Toronto continues to be both an employer of choice and one of the world's great institutions of higher learning and advanced research. To this end, and in these difficult times, we believe short-term salary restraint and a realistic approach to funding the pension plan must be addressed by the University and UTFA.