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PART A – INTRODUCTION

1. The Legal Framework for this Arbitration

1. The University of Toronto Faculty Association ("UTFA" or the "Association") is the professional organization of the faculty and librarians of the University of Toronto and affiliated institutions (St. Michael's College, Trinity College, and Victoria University). It originated as the Committee to Represent the Teaching Staff in about 1940. In 1954, it was reorganized as the Association of the Teaching Staff, and, in 1972, it became UTFA. As stated in its Constitution, "the purpose of the Association is to promote the welfare of the current and retired faculty, librarians and research associates at the University of Toronto." The Association is thus concerned with the economic well-being and terms and conditions of employment of its members, as well as with maintaining the quality and integrity of the University as an academic institution.
2. In 1977, UTFA negotiated the Memorandum of Agreement (the "Memorandum") with the University of Toronto, which guarantees the minimum rights, privileges

and benefits to which the members of the academic staff and librarians are entitled. By means of the Memorandum, the University's Administration (the "Administration") recognizes UTFA (outside the framework of the Ontario *Labour Relations Act*) as the representative of the faculty and librarians for the purposes of negotiation for salaries, benefits and pensions, and the Memorandum provides a process for those negotiations. The Memorandum also provides that certain important policies governing terms and conditions of employment for faculty and librarians cannot be changed without the mutual consent of the Association and the Administration (commonly referred to as the "frozen policies"). In addition, the Memorandum enshrines the principle of academic freedom, sets out the rules governing sabbatical leave and personnel files, provides protection against

discrimination and harassment, and establishes a grievance and arbitration process for breaches of the Memorandum and University policies.

See Appendix at C-2 of this book, or Book of Documents, Volume I, Tab 1.

3. Article 6 of the Memorandum governs negotiation, mediation and dispute resolution with respect to salaries, benefits and pensions, including the instant proceeding. The 2003-2005 agreement between the parties expired on June 30, 2005, but the parties have been unsuccessful in reaching a new agreement. As mediation failed to produce a settlement, the parties have now appointed a Dispute Resolution Panel. The powers of the Dispute Resolution Panel are set out in Article 6 as follows:

16. The Dispute Resolution Panel shall make every reasonable effort to issue a unanimous report which shall attempt to reflect the agreement the parties would have reached if they had been able to agree. In endeavouring to reach a unanimous report the members of the Panel may confer with their appointing parties. The members of the Panel shall make their decision without taking into account the possibility that it may be repudiated by the Governing Council.

17. The Dispute Resolution Panel shall prepare a report setting out recommendations for terms of settlement together with reasons in support thereof.

18. Before preparing a report, the Dispute Resolution Panel shall hold a hearing after giving both parties appropriate notice. The Dispute Resolution Panel shall determine its own procedure but shall allow each party to:

- (a) be represented by counsel or an agent;
- (b) call evidence and make submissions and arguments, oral and written; and
- (c) conduct cross-examination of witnesses at the hearing.

19. The jurisdiction of the Dispute Resolution Panel shall encompass only those unresolved matters relating to salaries and benefits that have been referred to it by the parties. The Dispute Resolution Panel shall, however, take into account the direct or indirect cost or saving of any change or modification of any salary or benefit agreed to by the parties in making its recommendation for terms of settlement.

20. The report of the Dispute Resolution Panel together with any minority report shall be issued to the parties no later than twenty (20) days after conclusion of

the proceedings before the Dispute Resolution Panel. It is agreed that neither the Panel nor either of the parties will publish such report for the period of ten (10) days after the receipt thereof.

21. If the parties fail to reach agreement within ten (10) days after delivery to them of the report of the Dispute Resolution Panel, the report shall be made public. Publication shall be made jointly by the parties in the University of Toronto Bulletin.

22. In the event the report of the Dispute Resolution Panel is unanimous on all matters referred to it by the parties, the recommendations for terms of settlement contained in the report shall be binding on the parties.

23. If the report of the Dispute Resolution Panel is not unanimous on all matters referred to it, the recommendations for terms of settlement of the majority of the Panel, or in the event there is no majority report, in the report of the Chair (hereinafter referred to as a "non-unanimous report"), shall be binding on the parties unless repudiated within fifteen (15) days after the date of publication of the report in the University of Toronto Bulletin by a majority vote of the Governing Council. Repudiation of a non-unanimous report by the Governing Council shall be only on the recommendation of the President.

24. In the event of repudiation by the Governing Council of a non-unanimous report and in the event no agreement is reached by the parties after the issuance by the Dispute Resolution Panel of a non-unanimous report, the matters in dispute shall be determined by the Governing Council on the recommendation of the President of the University. The President's recommendation shall not be less favourable to faculty members and librarians than the administration's position before the Dispute Resolution Panel on all matters in dispute and shall incorporate:

(a) all matters agreed upon by the parties both before and after the issuance by the Dispute Resolution Panel of its non-unanimous report, and

(b) all matters upon which the Dispute Resolution Panel is unanimous.

25. If the settlement for any academic year is determined by decision of the Governing Council following repudiation of a non-unanimous report of the Dispute Resolution Panel, negotiations for the next academic year shall follow the procedure contained herein except that the report of the Dispute Resolution Panel shall be final and binding if unanimous, and if non-unanimous, the report of the majority of the Dispute Resolution Panel, or in the event there is no majority, the report of the Chair shall be final and binding on both parties and there shall be no right to repudiate. The procedure contained in this paragraph 25 is subject to the Arbitration Act. The Chair of the Dispute Resolution Panel under this paragraph 25 shall not be the same as the Chair of the Dispute Resolution Panel established in the previous year.

26. If negotiations in any academic year are resolved without repudiation of the report of the Dispute Resolution Panel by the Governing Council, the negotiating procedures contained herein, including the right to repudiate a non-unanimous report of the Dispute Resolution Panel, shall apply for the next academic year, and thereafter, unless repudiation of a non-unanimous report occurs again, in which case, the procedure outlined in paragraph 25 will apply.

27. The fees and expenses of the Mediator/Fact Finder and of the Chair of the Dispute Resolution Panel and the costs of publication of any reports contemplated by this Article shall be borne equally by the parties.

28. No person shall be appointed as Mediator/Fact Finder or member or Chair of the Dispute Resolution Panel who is an employee or officer of the University or a member of the Governing Council or who has a direct pecuniary interest in the matters coming before him or her, or, within the period of six (6) months immediately before the date of his or her appointment, has acted as a negotiator for either of the parties.

29 For greater clarity “days” as used herein means calendar days.

30. This Article 6, being part of the Memorandum of Agreement, shall continue in full force and effect as part of the Memorandum of Agreement; however, this Article 6 is severable from the Memorandum of Agreement and may be terminated by either party notifying the other in writing by no later than November 1 following the issuance of a final and binding non-unanimous report pursuant to paragraph 25.

2. The University of Toronto – A Leader in Teaching and Research

4. The mission of the University of Toronto “is to rank with the finest public teaching and research universities in the world.” The University is “committed to being an internationally significant research university, with undergraduate, graduate, and professional programs of excellent quality.”

“Performance Indicators for Governance – Annual Report, September 2004”, University of Toronto, Office of the Vice-President and Provost, at p. 1 – See Book of Documents, Volume II, Tab 3.

Statement of Institutional Purpose approved by Governing Council on October 15, 1992, as posted on the University website. See Book of Documents, Volume II, Tab 1-A.

5. Professor Shirley Neuman, then Vice-President and Provost, in her November 2003 report “Stepping UP – A framework for academic planning at the University

of Toronto: 2004-2010”, stressed this commitment to excellence in research and teaching:

At the University of Toronto we have, over our 176 years, appointed and educated a high proportion of Canada’s leading scholars and researchers. We have created programs and conducted research in a vast range of fields. By any measure, the University of Toronto leads Canada’s research community and exercises considerable international influence. We have built some of the world’s most important research institutes and one of the best research libraries in North America. We offer a rich and complex set of highly regarded programs – the widest range of any Canadian university – to Canada’s largest undergraduate and graduate student populations. We educate over one-third of Ontario’s and about 15% of Canada’s graduate students. We exercise our public stewardship function in our research and teaching programs and in the expert advice we provide to a wide range of national and international stakeholders. We have taken exemplary leadership on equity issues, through our financial aid policies, our equity policies and our programming.

“Stepping UP”, at p. 4 – Book of Documents, Volume II, Tab 5.

6. The outstanding achievements and reputation of the University arise directly from the distinguished research and teaching of its faculty and the dedicated work of its librarians. This was affirmed recently by President David Naylor in the address he gave at his installation as president on November 7, 2005:

Our students come here because of our outstanding faculty. As just one measure of excellence, our faculty produce more publications and are more highly cited in the academic literature than the faculty of virtually any public university in North America.

President Naylor’s Installation Address, Book of Documents, Volume II, Tab 6.

7. The names of the University of Toronto’s faculty comprise a “Who’s Who” of the international academic and intellectual world. We mention but a few: John Polanyi, Nobel Laureate (Chemistry) and disarmament activist; Tak Mak, internationally known immunologist; Endel Tulving, whose works in psychology are known to every student in the field; John Beckwith, one of Canada’s foremost composers; J. Ll. J. Edwards, founder of the Centre of Criminology; Elspeth Cameron, author of the controversial biography of Irving Layton; Michael Bliss, eminent historian; Peter Russell, constitutional expert; Mel Watkins, political

economist, and David Foot, whose demographic studies are on the “best-seller” lists across Canada.

8. The list of former University of Toronto professors who have gained national and international fame is exceedingly long and includes: Bora Laskin, a charter member of the Faculty of Law at the University of Toronto and, of course, former Chief Justice of Canada; Mr. Justice Frank Iacobucci, member of the Supreme Court of Canada; Northrop Frye, international authority on myth and symbolism in literature; Ursula Franklin, renowned metallurgist and peace activist; Marshall McLuhan, philosopher of communications; J. Tuzo Wilson, whose work confirmed the theory of “continental drift”; Harold Innis, Canada’s most creative economic historian; world-famous philosopher Emil Fackenheim; Etienne Gilson, Catholic theologian and member of the French Academy; Brough Macpherson, political philosopher; economist Vincent Bladen; Canadian historian Donald Creighton; Leonard Boyle, internationally renowned medieval scholar, now Prefect of the Vatican Library; Dean Caesar Wright of the Faculty of Law; Harold Rapson, who revolutionized the pulp and paper industry; Barker Fairley, distinguished Goethe scholar and Canadian artist; Frederick Banting and Charles Best, whose discovery of insulin vaulted the University of Toronto into the international medical spotlight in 1927; E.J. Pratt, Canadian poet; and Robertson Davies, acclaimed novelist.
9. Professors at the University of Toronto can be found working in their offices and laboratories seven days a week. The research advances made by them not only increase the world’s store of knowledge, but often result in inventions and innovations that directly affect the public good. The pacemaker, now seen as an almost mundane piece of equipment, was developed at University of Toronto. The “g-suit”, a forerunner of the space suit, which counteracted the gravitational forces that caused pilots to lose consciousness, was developed here during the Second World War. At the Connaught Building, medical researchers spend their time reaching for new ways to restore the gift of sight through implants and

transplants. “Pablum” – everyone’s first food – was developed at the University of Toronto. The now-famous “Canadarm”, used in the U.S. Space Shuttle program, was developed with the aid of University of Toronto professors. And, of course, as mentioned earlier, it was University of Toronto researchers who discovered insulin.

10. The University of Toronto’s status as “Canada’s major research-intensive university” was reflected in its research revenues in 2002-2003. In that year, the University continued to have the largest research revenue of any university in Canada (a total of \$566.4 million including funding for research at affiliated teaching hospitals.)¹ In 2002-2003, it led all universities in Canada in terms of (a) funding from each of the three major granting agencies in Canada (the Social Sciences and Humanities Research Council, the Natural Sciences and Engineering Research Council, and the Canadian Institutes for Health Research), and (b) total funding from all three agencies. In the same period, the University of Toronto with its affiliated teaching hospitals ranked first in terms of funded awards by each of the Ontario Government Research Infrastructure Programs.

“Performance Indicators for Governance”, Book of Documents, Volume II, Tab 3, at p. 41.

11. In the period 1998 to March 2004 the University also ranked first in awards from the Canadian Foundation for Innovation, the mandate of which is to increase the capability of Canadian universities, colleges, hospitals and other not-for-profit institutions to carry out important world-class scientific research and technology development.

“Performance Indicators for Governance”, Book of Documents, Volume II, Tab 3, at pp. 39-40.

¹ This number increased to \$613,291,000 in 2003-2004: see “University of Toronto 2004 – Facts & Figures”, Book of Documents, Volume II, Tab 4, p. 25.

12. In the period 2000 to 2005, the University also led all other Canadian universities in terms of the allocation of Canada Research Chairs by the three granting agencies. During this period, 13.4% of all Canada Research Chairs were allotted to the University of Toronto, far ahead of McGill University which, at 8%, had the second highest allotment of these Chairs.

“Performance Indicators for Governance”, Book of Documents, Volume II, Tab 3, at pp.40-41.

13. There is also much research undertaken without the support of external grants, especially in the Humanities and Social Sciences.
14. In addition, in the period 1980 – 2004, the University of Toronto faculty continued to lead other Canadian universities in the receipt of honours awarded to faculty by national and international bodies:

The University of Toronto should be the pre-eminent Canadian university in the receipt of these honours, from both national and international bodies; and that is the case. What is especially notable is the extent to which the University of Toronto leads in the receipt of awards from prestigious international bodies, securing a significant Canadian presence in these ranks.

“Performance Indicators for Governance”, Book of Documents, Volume II, Tab 3, at pp. 43-44.

15. As Professor Neuman stated in November, 2003 in the “Stepping UP” document: some 21.7% of honours recognizing faculty research in Canada go to the University of Toronto. These include Steacie Awards, Killam Research Fellowships and Royal Society of Canada medals, as well as fellowships in the Royal Society of Canada, the Royal Society (London) and the American Academy of Arts and Sciences in the U.S.

“Stepping UP”, Book of Documents, Volume II, Tab 5, at p. 20.

16. Two of the key indicators of research output intensity in journal-based disciplines, predominantly in the physical and life sciences, are counts of publications and counts of citations. On publication counts, for the period 1998 – 2002, the

University ranked first among public AAU (Association of American Universities) and G10 (Canada's ten most research-intensive universities) for all the science files combined, and second only to Harvard when the private institutions were included based on data exchange consortiums formed to facilitate comparative analysis and benchmarking. On citation counts in the same period, the University ranked second among public AAU and G10 public institutions in all science fields (after Washington), and fifth when private institutions were included (after Harvard, Johns Hopkins, Washington and Stanford). In all science discipline groups, on both of these measures, the University ranks ahead of all other Canadian G10 universities, indicating the strong presence of the University of Toronto in the world of science.

"Performance Indicators for Governance", Book of Documents, Volume II, Tab 3, at pp. 45-46.

17. University of Toronto faculty have earned distinction in the field of teaching, as evidenced by numerous external teaching awards. For example, among University of Toronto faculty, there are 10 winners of 3M Teaching awards, the only national award recognizing teaching excellence and leadership in Canadian universities.

Book of Documents, Volume II, Tab 10

Libraries and Librarians

18. The faculty and students are supported in their work by Canada's foremost university library, tended by approximately 129 full-time and 20 part-time professional librarians, in the 31 libraries at the University of Toronto. Scholars from all over Canada come to the University of Toronto to make use of the research opportunities available through the libraries' collections.

19. As the Administration has noted, library resources are central to the University's mission as a major public research university. For comparator purposes the peer group for the University of Toronto is the Association of Research Libraries (ARL), whose membership comprises the largest (over 100) university research libraries in North America. The ARL annually reports a ranking of its membership based on an index of size (based on holdings, acquisitions, staff and expenditures). The index measures the size of a given library relative to the mean for the ARL membership:

The University of Toronto ranked fourth on the ARL index in 2002/03, and second among publicly-funded universities... The University of Toronto is the only Canadian university with a positive (above the mean) index score. In terms of gross volumes added, the University of Toronto ranked second after Harvard among research university libraries in North America in 2002/03. In terms of total volumes held, U of T ranked fourth.

"Performance Indicators for Governance", Book of Documents, Volume II, Tab 3, at p. 53.

20. While the University of Toronto ranked fourth overall, the nearest Canadian university – the University of Alberta – was ranked twenty-second overall, followed by the University of British Columbia which was ranked twenty-fourth.

"Performance Indicators for Governance", Book of Documents, Volume II, Tab 3, at p. 53.

Students

21. The largest and most distinguished university in Canada dates its beginnings to a charter obtained by John Stratton from George IV in 1827. From an enrollment of a couple of hundred students in the 1880's, the University of Toronto has expanded at an extraordinary rate. Less than 35 years ago, its full-time enrollment was approximately 11,500 – a figure that had risen by November 2003 to approximately 67,279 full and part-time students enrolled on three separate campuses in downtown Toronto, Scarborough, and Mississauga. Matching this expansion in the number of students was a related growth in the

number of fields of knowledge in which research is conducted and students are instructed.²

“University of Toronto 2004 – Facts & Figures”, Book of Documents, Volume II, Tab 4.

(a) Arts and Science

22. The core of the University of Toronto is the Faculty of Arts and Science which encompasses a wider range of disciplines than any other university in the country. Fields of study in that Faculty alone range from astrophysics and molecular biology to Ukrainian history, Sanskrit, and modern drama. In addition to teaching approximately 2,000 courses in conventional classroom settings,³ the Faculty of Arts and Science also offers instruction in downtown office towers and in suburban shopping malls. 43,915 students (graduate and undergraduate) were enrolled in the Faculty of Arts and Science alone as of November 2003.

² The statistics in the succeeding paragraphs in the section come from the same source unless otherwise noted.

³ The Dean’s message in the 2005-2006 Arts and Science Course Calendar indicates that the faculty is offering “more than 2,000 courses in some 300 programs.” See Book of Documents, Volume II, Tab 8.

The Medical School

23. As of November 2003, over 5,119 students were enrolled in the University of Toronto Faculty of Medicine, Canada's largest medical school, including undergraduate and post-graduate medical students, as well as students in professional and research programs ranging from Immunology and Medical Biophysics to Occupational Therapy and Public Health Sciences.

(b)

(c) Engineering

24. In the same period, the Faculty of Applied Science and Engineering enrolled 3,944 undergraduates and another 1,155 seeking advanced degrees.

Other Facilities

25. The remainder of the University of Toronto's degree-seeking students are enrolled in Architecture Landscape and Design, Dentistry, Education, Forestry, Law, Information Studies, Management, Music, Nursing, Pharmacy, Physical Therapy, Physical Education and Health, and Social Work.

(d)

(e) Transitional Year Programme

26. The Transitional Year Programme is an intensive one-year course for those who did not have an opportunity to finish high school because of financial problems, family difficulties or other circumstances. Admission to the University of Toronto is granted upon successful completion of the Transitional Year Programme.

(f) Undergraduate Admission Standards

27. The quality of the student body at the University of Toronto is extremely high: the mean high school grade average of all full-time first year students in 2002-2003 was 84.1% - a grade 12 mark of 80% is all that is necessary for the distinguished "Ontario Scholar" designation. Admission to the professional schools is, as one might expect, even more selective. The School of Graduate Studies and the Faculties of Law, Medicine, and Dentistry all receive many more applications from highly qualified students than they can accept.

Graduate Students

28. Reflecting the research orientation of the faculty is the size and strength of the graduate school. In November 2003, it had an enrollment of over 7,300 doctoral stream candidates alone. The graduate school's webpage states that there are over 12,000 graduate students "studying in an extraordinary range of scholarly fields," and part of "over 80 graduate departments and over 35 collaborative (interdisciplinary) programs".

Community Outreach

29. The University of Toronto's roots extend deeply into the texture of Ontario society. The School of Continuing Studies offers hundreds of non-degree courses, ranging from "Intensive English as a Second Language" to "Financial Accounting and Analysis". According to the School's webpage, in 2004-2005, over 13,000 students were registered at the School. The Faculty of Dentistry, which has educated most of Ontario's dentists, operates a minimal-cost full-service dental clinics, and the Faculty of Law operates a community legal aid

centre, which offers legal services to low-income communities. Students in the Faculty of Music hold public recitals. Every year, the University hosts dozens of conferences, and hundreds of lectures are held, to which the public is invited.

School of Continuing Education, website, Book of Documents, Volume II, Tab 7.

3. Faculty Members and Librarians: Rank Structure

30. The Faculty Association represents in excess of 2,500 faculty members⁴ and 150 librarians in the seventeen faculties and thirty-one libraries of the University of Toronto spread across three campuses – St. George Campus in downtown Toronto; the University of Toronto at Scarborough College; and the University of Toronto at Mississauga. The vast majority of these are full-time members, although there are also part-time members.⁵ The Association negotiates directly only with the University of Toronto, but by custom and agreement, terms and conditions of employment, as well as salaries and benefits, negotiated by the Association with the University of Toronto are applied also to colleagues at the federated universities.

31. The recognized ranks of faculty members at the University of Toronto are: Tutors, Senior Tutors, Lecturers, Senior Lecturers, Assistant Professors, Assistant Professors (Conditional), Associate Professors, Full Professors, Research Associates; Senior Research Associates and Athletics Instructors and Senior Athletics Instructors. In addition, as explained below, there are four ranks of Librarians.

Policies and Procedures on Academic Appointments, October 30, 2003,
Book of Documents, Volume II, Tab 1-A.

⁴ This number does not include “status only” appointees, primarily M.D.’s at the Toronto teaching hospitals affiliated with the University who must have a University of Toronto appointment to qualify for a staff appointment at the teaching hospital.

⁵ The *Policy and Procedures on Academic Appointments* applies to full-time faculty, defined in that policy as faculty appointed for a period of a year or more at more than 75% of full-time employment. Part-time faculty represented by the Association are faculty appointed at 75% or less of full-time employment for a period of a year or more. Part-time faculty are subject to the *Policy and Procedures on Employment Conditions of Part-time Academic Staff*, which is also a “frozen” policy under the Memorandum. Faculty members with part-time appointments for less than 12 months (“sessionals”) are represented by CUPE 3902, Unit 3, as a result of a recent certification application, and are covered by a separate collective agreement as of July 2005.

Lecturers and Senior Lecturers, Tutors and Senior Tutors

32. Approximately 300 faculty members at the University of Toronto carry the title of Lecturer or Senior Lecturer. The Policy and Procedure on Academic Appointments (a “frozen” policy under the Memorandum that can only be amended by mutual agreement of the Association and the Administration) defines Lecturers as those faculty “whose duties consist primarily of teaching students who are in degree programs or the Transitional Year Programme, and related professional and administrative responsibilities”. Lecturers may have “independent responsibility for designing and teaching courses”. Promotion to Senior Lecturer requires “excellence in teaching and evidence of continued future pedagogical/professional development”, which in reality will almost always require research and ongoing engagement with developments in pedagogy as well as within a given field. Since a fair number also hold Ph.D.’s, many are equipped to engage in research.

33. Lecturers are employed in such diverse areas as German, Chemistry, French, Microbiology, Family and Community Medicine, Engineering, Management, Transitional Year Programme, Geology, Mathematics, Computer Science, Psychology and Nursing.

34. Under the Policy, Lecturers are initially appointed annually, though a few are given longer appointments. At the beginning of the fifth year, the Lecturer must be considered for promotion to Senior Lecturer, which is a continuing appointment. The review process is conducted according to formal procedures and rigorous standards, comparable to the review for tenure.

35. In addition, there are approximately 30 faculty members with the title Tutor or Senior Tutor.⁶ In a completely separate process, a Tutor who has received a favourable

⁶ These are members who opted to remain at that rank and continue to be governed by the former policy, when a revised version of the *Policy and Procedures on Academic Appointments* was approved by Governing Council in May 1999. Under the revised policy, all new teaching stream positions that formerly

review in her third year may request promotion to Senior Tutor. Senior Tutors receive five-year renewable contracts – renewable only after a further review (every five years).

Assistant Professors (Conditional)

36. This rank is held by scholars in the tenure stream who are working on, but have not yet completed, their doctoral degrees. Upon attaining the Ph.D., the faculty member is eligible for promotion to the rank of Assistant Professor, which usually follows automatically.

Assistant Professors

37. Generally speaking, the Assistant Professor rank is held by those in the tenure stream who have not yet been assessed by a tenure committee. Consideration for tenure comes during the fifth year at this rank. To attain tenure, the Assistant Professor must show clear promise of future intellectual and professional development plus excellence in either research or teaching and clearly established competence in the other.

Associate Professors

38. Generally speaking, promotion to Associate Professor is automatic if tenure is granted. If tenure is not granted, the faculty member is given a one- or two-year terminal contract.

Professors

39. Promotion from Associate Professor to Professor does not come at a specific time, but, on average, comes 10-11 years after the granting of tenure, or 15-16 years

would have been designated Tutor/Senior Tutor were to become Lecturer/Senior Lecturer positions. All full-time Tutors and Senior Tutors were given the option of having their appointments changed to Lecturer/Senior Lecturer under the revised policy or of remaining at their current rank and continuing under the former policy.

from initial appointment. The policy governing promotions sets out the criteria for promotion:

The successful candidate for promotion will be expected to have established a wide reputation in his or her field of interest, to be deeply engaged in scholarly work, and to show himself or herself to be an effective teacher.

Contractually Limited Appointments at the Professorial Ranks

40. While the majority of full-time appointments at the rank of Assistant Professor (Conditional), Assistant Professor, Associate Professor and Professor are in the tenure stream, appointments at those ranks may also be made for contractually-limited terms, normally of one, two or three years' duration. Full-time contractually limited term appointments may be renewed only once and the total number of years served in such an appointment cannot exceed five years.

Athletics Instructors and Senior Athletics Instructors

41. The primary duties of faculty members holding appointments as Athletics Instructors and Senior Athletics Instructor consist of teaching in co-curricular instructional programs in athletics, and/or coaching in intramural or inter-university athletics. Initial appointments are at the rank of Athletics Instructor and are annual. No later than the fifth year of appointment, the Instructor's performance is reviewed for possible promotion to Senior Athletics Instructor. Senior Athletics Instructors hold continuing appointments.

Research Associates and Senior Research Associates

42. Research Associates are highly-qualified academics whose work focuses almost entirely on research, though they may be asked to do some teaching related to their special expertise. Their employment depends on external funding. Contracts for Research Associates may not be renewed for more than a total of five years. Senior Research Associates hold continuing appointments in the expectation that the grant

funding will continue for some time, but there are provisions for severance pay in the event that the funding is terminated. Although the Association was not a party to the "Policy, Procedures and Terms and Conditions of Appointment for Research Associates (Limited Term) and Senior Research Associates" signed in March 2003, it accepts Research Associates as members, and the Policy specifies that ATB increases negotiated by the Association are applied to the salaries of all Research Associates. Provisions for maternity and parental leave and other benefits are parallel to those of faculty members represented by the Association. Senior Research Associates also receive merit pay on the same basis as the PTR negotiated by the Association.

Book of Documents, Volume II, Tab 11.

Librarians

43. There are four ranks of Librarians at the University: Librarian I, II, III and IV. Librarian I and II are both probationary ranks. A Librarian II is normally considered for permanent status during the third year at that rank, which is similar in many ways to tenure. Normally, promotion to Librarian III is granted at the same time as permanent status. A Librarian III can apply for promotion to Librarian IV. As with promotion to Professor, promotion to Librarian IV is granted only after a rigorous examination of the Librarian's accomplishments in the field.

Policies for Librarians, July 1, 1991 Book of Documents, Volume II, Tab 1-C.

4. The Salary Structure

44. For each rank, there is a minimum salary (or "floor") that is negotiated or awarded in each round of bargaining. However, the Administration is not obliged to hire new faculty members and librarians at the floor for the rank. Thus, starting salaries are fixed by negotiation between the individual and the Administration. As is explored in more detail in the Association's proposals with respect to salaries, the current trend is

for the Administration to hire new faculty at salaries considerably above the minimum for the rank.

45. After a faculty member is hired, there are two distinct, primary sources of periodic salary adjustments to the base salary: across-the-board (“ATB”) increases; and Progress Through the Ranks (“PTR”) adjustments, which are based on merit.

46. In every round of negotiations (or mediation or arbitration), an annual ATB increase, expressed as a percentage, is arrived at which is then applied to the minimum salary for each rank as well as to each individual’s salary. The purpose of the ATB increase is to allow members’ salaries to keep pace with inflation.

47. Many universities, in addition to periodic ATB increases, use a step or increment system: after each year of service, a faculty member moves up one step on the grid, or receives an extra salary increment (sometimes known as a "career development increase") in addition to the ATB increase. However, at the University of Toronto, there is no automatic step or increment system to recognize experience. Instead, economic advancement beyond the basic ATB increases is based on merit: this is the PTR scheme.

48. The PTR scheme was established in 1972. The scheme was designed to produce salary progress leading to a career end salary of 2.5–2.7 times a faculty member’s starting salary, assuming average PTR awards throughout that career. The PTR scheme also recognizes that, in any career, progress is usually swifter in the earlier years than in the later ones. To reflect this principle, the concept of a “breakpoint” was included in the model. For those faculty below the breakpoint, the average PTR award is higher than for those above it. The breakpoint is 2.2 times higher than minimum starting salaries and in the PTR model is intended to occur after about the 20th year of service if the person has received average PTR throughout his or her career. Faculty whose salary is between the breakpoint and a level defined as the senior salary

level participate in a second pool.⁷ For faculty who are above the breakpoint and who have achieved the senior salary level), **all** salary increases (including across the board and PTR) are entirely at the discretion of a Senior Salaries Committee.

See generally the "Extract from the Budget Committee Recommendations for the 1973-1974 Estimates," dated November 30, 1972, Book of Documents, Volume III, Tab 2-E; "UTFA Salary and Benefits Committee Report," dated September 25, 1972, Book of Documents, Volume III, Tab 2-D; "Report of the Committee to Review the Administration of PTR," dated July 7, 1993, Book of Documents, Volume III, Tab 2-H.

49. A look at the actual mechanics serves to illustrate the PTR scheme. Each year, the central Administration transfers two pools of funds to each department or division – one pool from which PTR awards will be made to those under the salary breakpoint, and another pool for those above it. The amount of money in each pool is generated by simply counting the number of faculty members in the pool and multiplying that number by a dollar amount. The first year the salary model was put into effect, 1973, the below-breakpoint pool was \$700 times the number of faculty members in the pool, and the above-breakpoint pool was \$400 per faculty member in the pool. Therefore, a department with twenty people below the breakpoint and five above it would have received, in 1973, a pool of \$14,000 from which PTR awards could be made to those under the breakpoint, and a pool of \$2,000 for awards to those over the breakpoint.

50. Although the pools are generated by a simple "head count", pro-rated for less than full-time appointments, the PTR actually awarded to any particular member of the pool is strictly a function of the assessment by the Chair or Dean of that person's merit. All of the monies in the pool of funds must be awarded to the persons in the pool, but some individuals may get very low awards, while others receive, by comparison, quite

⁷ The senior salary category is described more fully at Tab B-2, item b(v), in respect of the Association's proposal to abolish this category.

large awards. Thus, a PTR award may be well below or well above the statistical average.

51. By 2004-2005, the PTR pools were based on \$2,655 per full-time professor below the breakpoint and \$1,515 for each full-time professor above the breakpoint.⁸ This rise in the amount in the pools since 1973 illustrates another feature of the PTR scheme and demonstrates the inter-locking relationship between the ATB increase and PTR: the amount of PTR available rises in each year by the previous year's percentage of ATB. For example, because the ATB increase for 1973 was 3.5%, the PTR amounts for 1974 were the 1973 PTR amounts, increased by 3.5% (1973 PTR = \$700/400; 1974 PTR = \$725/415).

52. The costs of the PTR scheme are recovered by the Administration out of the difference between the salaries of those retiring and the much lower salaries of those hired as replacements. As of this date, the scheme is not yet entirely funded in this manner, owing to the combined effect of skewed age distribution of the faculty as a result of the massive growth of the University in the late 1960's and early 1970's and the steady increase in starting salaries relative to the minimum.⁹ However, the recoveries grow each year and, eventually, the monies recovered will be increasingly greater than those needed to fund the PTR scheme.

53. The lecturer, tutor and librarian PTR schemes work on the same principles, but with different amounts in the pools of funds.

PTR Not Meant to Offset Inflation

⁸ See Memorandum #64 from the Vice-President and Provost, "PTR/Merit Assessment and Salary Increase Instructions for 2004-2005," Book of Documents, Volume III, Tab 1, at pp. 6-7 for a full breakdown of merit pool funding by academic rank for 2004-2005, (also at Appendix C).

⁹ The phenomenon of increasing starting salaries relative to the minimum is discussed in detail at Tab B-2(a) (i).

54. Arbitrator Burkett, in his award in 1982, described the salary model at the University and the PTR scheme in the following terms:

9. Before outlining the respective positions of the parties it is necessary to describe in summary form the progression through the ranks scheme (P.T.R.) which is in place at the University. Although the parties are agreed that the P.T.R. scheme should remain in place there is a disagreement between them with respect to whether or not the value of P.T.R. increases should be included for purposes of calculating the value of the University's offer. More importantly, there is a fundamental disagreement between the parties with respect to whether or not average P.T.R. increases should be included in calculations to determine the relative position over time of the salaries paid to University of Toronto faculty compared to the wages and salaries of other groups in society or to movement in the consumer price index.

10. The P.T.R. scheme in place at the University of Toronto is designed to facilitate movement of a faculty member from the rank of assistant professor to associate professor to full professor by means of wholly discretionary salary increased based on merit. There are similar P.T.R. schemes for librarians and lecturers. The average annual P.T.R. increase to faculty since the inception of the plan in 1973 has ranged from 2.79% to 3.5%. The plan is designed to provide those at the lower end of the salary spectrum (the breakpoint is \$47,500) with proportionately larger increases than those at the higher end of the salary spectrum with the results that the ratio between end point and beginning point is approximately 2.5. The plan assumes that a person completing the necessary PhD prerequisite does not attain assistant professor status until age 28. The breakpoint is reached after 20 years. A further 17 years is required to reach the end point. The increased provided by faculty under the P.T.R. plan are in addition to the across the board economic increases which are negotiated annually, as was made clear in the Budget Committee [a committee of the Governing Council] recommendation for the P.T.R. scheme dated November 30, 1973. The Budget Committee recommendations provided in part:

that allocation of funds to the full-time academic salary account for career advancement be considered separately from across the board changes. We recommend that the career advancement component be allocated to individuals entirely on the basis of merit...

The Budget Committee went on to comment that:

In the event that funds available are insufficient to permit award of merit increases as proposed, we envisage reduction in salary scale as being necessary.

Under the plan an individual does not receive an additional increase upon promotion from an assistant to an associate professor or from an associate professor to full professor.

11. The cost to the University of P.T.R. increases is partially offset by the replacement of longer service faculty who retire or leave the University for other reasons, with replacements who enter at the lower end of the salary scale. The current annual cost of providing P.T.R. increases, taking into account the staff turnover factor, is 1.9% of payroll. It is projected that in the future the cost of the P.T.R. plan will be more than offset by the savings generated by staff turnover.

See Arbitrator Burkett's 1982 decision at Appendix C-3 of this book, or Book of Documents, Volume I, Tab 1.

55. Determining the true nature of the PTR scheme and its role in the salary model was integral to Arbitrator Burkett's decision that faculty were entitled to a restoration of their salary levels and that there had indeed been severe erosion. He found conclusively that the annual PTR increment is given as a total amount in recognition of merit and in place of promotion increases; accordingly, only the amount of the economic increase in each year could be taken into account for the purpose of determining how faculty salaries had fared over time and relative to inflation and other groups:

25. I have briefly described the mechanics of the P.T.R. scheme and the nature of the dispute between the parties with respect to whether or not P.T.R. increases should be included in assessing the relative position of faculty salaries over time. The answer to the question which has been raised -- and which is fundamental to a resolution of the issue before me - - is to be found in the purpose of the plan. The University maintains that the P.T.R. increment combines recognition of career progress and a discretionary salary increase. On the information before me I am unable to compartmentalize the annual P.T.R. increase on the basis suggested by the University. Indeed, if that portion of the annual P.T.R. award which the University labels as a discretionary salary increase is based on merit, as it appears to be, then the distinction which the University attempts to draw between that portion of the P.T.R. increase made in recognition of progress and that given for merit is superficial. In point of fact, the annual P.T.R. increment is given as a total uniform amount in recognition of merit and in place of promotion increases.

26. There are three levels of professors at the University; the entry-level assistant professor, the associate professor and the full professor. The salary range for an assistant professor is \$20,500 to \$34,900. The salary range for an associate professor is \$25,200 to \$41,900. The salary range for a full professor commences at \$33,700 but is open-ended. It is not disputed by the University that as a faculty member progresses from an assistant to an associate to full professor he becomes a more productive and valued human resource. Although faculty members are formally promoted from one rank to the next, there is no promotional salary increase to mark the progress and yet under the plan the end salary of a faculty member who receives average or above average PTR is more than double the start salary in constant dollar or real terms. The P.T.R. increases received by a faculty member over time are given in recognition of his increasing contribution to the University so that large, one time only, promotional increases are not required or justified. The original recommendation of the Budget Committee in support of the P.T.R. scheme was framed in terms of an allocation of funds for "career advancement" and I am satisfied that the annual P.T.R. increase is given, where it is earned, to effect this purpose. The purpose of the P.T.R. increase, therefore is not to advance the salary ranges but to recognize merit by moving individual faculty members through the salary ranges. Upward movement of the salary ranges is achieved by means of, and in the amount of, the annual economic increase. It follows that only the amount of economic increase should be included for purposes of determining how faculty salary ranges have fared over time.

27. The defect in the University's position is illustrated by the example of the faculty member whose salary, including P.T.R., has kept pace with, but not exceeded, inflation during a period when he has been promoted from assistant to associate to full professor. The University does not dispute that the faculty member is entitled to monetary recognition for promotion. However, because his salary has remained constant in real terms throughout the period, it cannot be said that he has both maintained his salary level in real terms and received recognition for his promotions. It is open to the faculty member in this situation to claim one of two things; that he has not received real monetary recognition for his promotion or that the value of his base salary has fallen. In either case, if it is accepted that the maintenance of salary levels in real terms is a legitimate objective, the faculty member is in a disadvantaged position. For purpose of this award I assume that he has received recognition for his promotions in the form of annual P.T.R. increases, but that the economic increases he has received during the period have not kept pace with inflation.

28. The conclusion I have reached in this regard is implicit in the recently released Brief to the Ontario Council on University Affairs prepared by the Council of Ontario Universities committee on operating grants, March 1982 (see pages vii and 23). The Council of Ontario Universities is an

organization of Ontario university administrators. Furthermore, Professor Christie, in his 1981 mediation report to the parties, also reached essentially the same conclusion. He found that 'the cost to the university of progress-through-the ranks while it is a real cost, is not appropriately included in assessing how well the average faculty members is fairing in his struggle against inflation.' [sic]

56. For faculty and librarians above the senior salary level, the PTR system differs in three respects. First, the PTR pool includes the ATB adjustment. In other words, for senior salary group members, there is no automatic ATB increase. Second, the 5% division-wide merit pool does not apply to senior salary group members. Third, PTR funds are pooled across the University as a whole, and allocated to individual faculty members through the Office of the Provost.

57. The three categories of PTR differ in respect of the size of the group over which PTR funding is pooled. Basic PTR is allocated within a single department or (in the case of single-department divisions) division. The 5% pool is allocated at the divisional level. The senior salary PTR allocations are across the University as a whole.

58. In short, the two parts of the salary scheme, ATB adjustments, and PTR adjustments, were designed to work in tandem to ensure that faculty and librarians can expect, on average, to see their earnings in constant dollars rise over the course of a career. But the salary scheme in place since 1973 only produces the financial career expectations if both parts of the scheme are fully implemented, as they are inter-dependent. In particular, if the ATB increase does not at least match inflation, then the merit increase is de-valued, and its purpose is undermined, because it simply offsets the inflation that the ATB increase should have covered but did not. As a result of the failure of the ATB to match inflation, the career expectations of faculty are not being fulfilled. Based on a 37-year academic career starting at age 28, a faculty member earning an average starting salary would receive only 1.8 times that starting salary at

the end of his or her career, not 2.5 to 2.7. This dysfunction will be addressed in the Association's proposal with respect to funding the PTR scheme.

59. Conceptually, the ATB adjustments are comparable to adjustments to the entire pay scale in a conventional pay grid system; and the PTR merit adjustments are comparable to individual employees' promotional adjustments. Indeed, a faculty member does not automatically receive an increase if the faculty member is promoted to the next rank. Upon promotion, the faculty member is entitled to be paid at least the floor salary for the new rank, but the faculty member may already be at or above that floor. In that case, the only promotional increase a faculty member would receive would be through PTR.

60. However, there are two differences which are of some importance between the system at the University of Toronto and a conventional pay grid system. First, the starting salary for a faculty member is not based on a particular spot on a pay scale. As noted above, a faculty member's starting salary is the outcome of an individual negotiation between the prospective faculty member and the employer. Being the product of individual negotiations, starting salaries reflect, among other things, market conditions at the time of hire. Starting salary at the University becomes an important determinant of an individual's lifetime earnings at the University, and has become a significant issue leading to inversions and anomalies within the salary structure.

61. Second, even after the starting salary has been established and the employee is operating within the salary system described above (i.e. annual ATB increases and awards under the PTR scheme), adjustments can be sought by a faculty member and granted at the discretion of the Administration: these are retention and anomaly adjustments.

62. Retention adjustments are awarded when a faculty member has tested the academic market and is, in effect, threatening to leave the University if his or her salary

is not adjusted to compete with an offer from another institution. These adjustments are made to the individual's base salary, based on negotiations with the individual.

63. Anomaly adjustments are made in response to complaints from faculty members that they are underpaid relative to other University of Toronto faculty members, whether or not there is a competing offer of employment. Like retention adjustments, anomaly adjustments are the product of negotiation. Without a competing offer of employment as leverage, the individual must simply put the best case forward as to why he or she is underpaid.

64. In effect, the Administration has the option of negotiating further upward adjustments in salary for individual faculty members. These post-hiring adjustments are typically made to reflect market conditions as a way to retain potentially mobile employees.

See the PDAD & C # 28, "Salary Adjustments for Academic Staff and Determination of Starting Salary for New Faculty", dated November 21, 2002, Book of Documents, Volume III, Tab 2-G.

65. Thus, the salary system at the University of Toronto reflects the operation of a consensual model, overlaid by market factors which are brought to bear at the time of hire for all faculty, and on an *ad hoc* basis after hiring for some faculty members. This point will be amplified further below, in the context of the proposals for ATB adjustments, PTR and other matters.

5. Article 6 and the History of Bargaining: 1977 - 2005

(g) As noted above at Tab A-1, since June of 1977, the relationship between the Association and the Administration has been governed by a formal voluntary contract, the Memorandum of Agreement, which recognizes the Association as the bargaining

agent for academic staff and librarians. This framework collective agreement details a number of policies and procedures relating to grievances, sabbatical leaves, and freezes other specified policies and procedures (e.g., tenure policies), which may be changed only by mutual agreement. The Memorandum also sets out in Article 6 the procedure for negotiating, and if necessary, arbitrating, salaries, benefits and pensions. It is under this Article that the current proceedings are taking place. In this regard, it is instructive to review the history of bargaining between the parties, including the development of Article 6 itself.

(h) A table, prepared by the Association and attached at the end of this section, entitled "University of Toronto Faculty Association Settlement Highlights" provides a summary of the history of bargaining between the parties for the academic years from 1971 to 2005. (A copy of this table can also be found in Book of Documents, Volume III, Tab 2-A.)

(i) Bargaining for salaries and benefits at the University of Toronto has evolved through three quite distinct stages in terms of formal structures and procedures. W.H. Nelson, a former President of the Association, has described the first informal stage as follows:

In 1973, the first year I was President of the Faculty Association, our salary and benefit "negotiations" took, so far as I can recall, about ten minutes of my time; they might have taken no time at all except that, by chance, I ran into Don Forster, the then Provost, and he told me what the administration had in mind as a salary increase. He wanted to know what I thought of the figure and regarded it as somewhat whimsical of me to refuse to discuss the matter until he had met with our salary and benefits chairman. He did, however, go through the motions of such a meeting, and told Wendy Potter, who was our salary chairman that year,

what our settlement was to be. We dealt with some other benefits issues in a variety of casual and haphazard encounters. Even so, our procedures that year represented an improvement over the memorable occasion when we learned our forthcoming salary settlement by reading about it in the pages of the Toronto Star. And times were changing. Within a year, we had the form, if not the substance, of actual negotiations; within two years we even had an outside mediator, without, however, the power to propose a settlement.

(j) The second, more formal, stage commenced in 1977-78 when, for the first time, salaries and benefits were negotiated under the new procedures spelled out in the Memorandum, which provided for mediation. The key aspect to this agreement, which ultimately led to its being utterly discredited, was the fact that the recommendation of the mediator was subject to rejection by a majority vote of the Governing Council of the University. It was the view of negotiators working under this system (ultimately confirmed by events) that the mediator would be unduly influenced by the fear of a Governing Council rejection.

(k) In three of the four years during which this system was in effect, the parties failed to reach a negotiated settlement and called upon a mediator to help bring about agreement. In all three cases, mediation failed and the mediator recommended an award.

(l) In two of these three instances, the terms of the recommended awards were hardly distinguishable from the final positions of the Administration, and well below the rate of inflation. The mediators' awards facilitated and hastened the decline in faculty salaries relative to their previous levels, to inflation, and to virtually all other comparable groups. Indeed, in 1981, the last year when negotiations were conducted under the old

Article 6, the salary award of 9.1% was one of the lowest at a Canadian university. (According to Statistics Canada, the Consumer Price Index in Toronto for 1981-1982 was 11.4%). The Association, after reflecting on these disappointing experiences, concluded that the problem lay not with the personal qualities of the mediators, but with the process itself. The critical flaw in the process was summed up by Innis Christie, the mediator in the Spring of 1981:

...The real point surely is that arbitrators in the public sector, where "ability-to-pay" has been held not to be an appropriate criterion, have been empowered or mandated by law to determine, in effect, how many public resources should go to pay the employee group whose pay is being arbitrated. That is not the case here. I have no statutory mandate. I am merely empowered by the Memorandum of Agreement to make a recommendation that becomes binding unless rejected by the Governing Council of the University of Toronto.

...If I were to make a recommendation which took no account of the University of Toronto's ability to pay, the result would surely be rejection of my recommendations by the Governing Council, presumably with great harm to the very process which brings me here.

(m) It was this recognition by Innis Christie that the original Article 6 loaded the dice in favour of the Administration that led the Association to look for another system of impasse resolution. Two alternatives quickly emerged: binding arbitration within the framework of the Memorandum or certification under the *Labour Relations Act* of Ontario.

(n) Prolonged and complex negotiations took place in the Fall of 1981 under the threat of certification by the Association and amidst a crisis atmosphere on campus. Ultimately, an agreement was finally entered into between the Governing Council and the Association providing for binding arbitration within the Memorandum.

The Burkett Award

(o) The first arbitration concerning faculty at the University of Toronto took place in the Spring of 1982 with Kevin Burkett as the sole arbitrator. It was held pursuant to the specific amendments to Article 6 of the Memorandum agreed to in December 1981.

(p) The Burkett arbitration was prolonged and all the issues were thoroughly canvassed. The crucial issue was the demand by the Association for the restoration of salaries ("catch-up") because of the systematic erosion of faculty salaries in the period 1971-81. The Administration contested that faculty were entitled to "catch-up," and even that there had been any erosion of salary levels at all. Moreover, the Administration argued that, even if there had been erosion, restoration was not appropriate.

(q) In coming to his decision, Mr. Burkett was required to make rulings on the nature of the salary model at the University of Toronto, and in particular, on the true nature of the Progress-Through-the-Ranks (PTR) salary scheme which had been in effect at the University since 1973. Mr. Burkett made definitive conclusions of fact and law on the crucial issues. He found, *inter alia*, that the claim by the Association that salaries had been eroded was irrefutable, and that in addition to maintaining the position of faculty relative to the annual increase in CPI, which he estimated at 11.5%, an initial amount of 6.5% should be paid in the academic year 1982-83 as "catch-up" on account of the erosion in the prior decade which required 25% overall to rectify. Moreover, he concluded that full restoration should be achieved within some reasonable period. (To date, this goal has not, even in part, been achieved.)

See the Burkett Award, Book of Documents, Volume I, Tab 2.

(r) Mr. Burkett's award was issued on June 3, 1982. In September, 1982, the government passed Bill 179, the *Inflation Restraint Act*, which imposed a 5% ceiling on wage and salary increases in the public sector and confined PTR merit increases to those earning less than \$35,000 per annum. As a result of this legislation, free collective bargaining was generally suspended in the public sector and no real bargaining took place at the University with respect to salaries for the period July 1, 1983, to June 30, 1984. Bill 179 was replaced by Bill 111 which imposed a guideline, followed with few exceptions in the Ontario public sector, of 5%. Bill 111 applied to the faculty of the University of Toronto with respect to the academic year commencing July 1, 1984 and ending June 30, 1985.

(s) Since the 1981 agreement on binding arbitration was for a two-year period, there were difficult and protracted negotiations through late 1983 and most of 1984 between the Administration and the Association with regard to the re-negotiation of Article 6. As in 1981, the Association insisted on independent and binding arbitration and, as in 1981, it was only the likelihood of a move by the Association to seek certification under the *Labour Relations Act* that finally led to an agreement between the parties in late 1984. Thus, in 1984 the third Article 6 in eight years was finally approved by both the Association's Council and the Governing Council and this arbitration is taking place pursuant to its terms.

(t) Negotiations for a compensation settlement for the year July 1, 1984 - June 30, 1985, began only in December, 1984, after the new Article 6 procedure was in place. This delay was contrary to the previous practice of the parties and the intent of Article 6 which contemplated that a settlement would be in place well before July 1 of each year. (July is the commencement date for every new agreement.) Thus, as of December, 1984, when negotiations commenced, faculty members' and librarians' salaries had not risen since July of 1983. Negotiations continued unsuccessfully for several months. By the Spring of 1985, faculty salary levels had been unchanged for almost a year and it was apparent that, if an arbitration was to be held, a final decision would not be handed down for many months. Finally, in May of 1985, with the assistance of mediator Martin Teplitsky, the parties entered into a "temporizing" agreement for the period July 1, 1984 - June 30, 1986. The first year of this settlement was governed by Bill 111, referred to above; the second year of the agreement was the first, since the Burkett Award, outside any government controls.

See Book of Documents, Volume I, Tab 3.

(u) Negotiations and mediation with regard to salary and benefits issues for the academic year 1986-87 were unsuccessful and, for the first time, the parties presented their arguments before a Dispute Resolution Panel as outlined under the new Article 6. Chairing the arbitration panel was Donald R. Munroe, an arbitrator from British Columbia.

1987-1993 Settlements

(v) Salary settlements for the academic years 1987-89, 1989-91, and 1991-93 were all reached during mediation between the parties, each mediated settlement covering a two-year period.

See Book of Documents, Volume I, Tabs 5, 6 and 7.

1993-94 Arbitration Award

(w) For the 1993-94 year the parties were unable to come to an agreement and Mr. Munroe was again selected as the chair of the Dispute Resolution Panel. Even though there had been inflation in Toronto from 1992 to 1993 (the final figure, July 1992 to July 1993, was an increase in CPI of 1.4%), Mr. Munroe found that the economic climate in Ontario at that time was "savagely recessionary"; as a result he awarded no across-the-board increase, although he did award some benefits improvements and some pension augmentation.

See Book of Documents, Volume I, Tab 9.

The Social Contract Act (June 14, 1993 - March 31, 1996)

(x) In the Spring of 1993 the Ontario government enacted the *Social Contract Act*, the purpose of which was to control wages of both public sector and broader public sector employees, including university employees. Under the *Act*, broader public sector employers were encouraged to enter into local agreements with their employees. If an agreement could not be reached, there was a "fail-safe" clause that would dictate the

terms of the contract for a nearly three-year period. The Association and the Administration were, however, able to come to a local agreement.

(y) The agreement provided:

- no across-the-board increase through March 31, 1996;
- 2 unpaid days in each of the three years (a diminution in wages of 0.92% in each year);
- the usual merit increases in 1993 and 1994, but none in 1995.¹⁰

See Book of Documents, Volume I, Tabs 10 and 11.

1996-1999 Arbitration Settlement Under Gold and the Rand Formula

(z) The 1996 round of negotiations from start to finish took 19 months. The first four days of the interest arbitration hearing in front of a Dispute Resolution Panel, consisting of Mr. Justice Alan Gold, Roy Heenan, and Jeffrey Sack, were devoted to mediation.

(aa) The mediation having been unsuccessful, hearing dates for the interest arbitration were set for mid June 1997. The parties met just prior to the June hearing dates with the parties' nominees and made considerable progress in resolving many of the outstanding issues. On June 17, 1997, following a formal hearing, in light of further movement by the parties and of the proximity of their positions, Mr. Justice Gold was successful in mediating the final terms of a three-year settlement, together with a process for resolving the Rand formula issue.

¹⁰ Note that, subsequent to the award, the Administration and the Association were able to persuade the Government of Ontario that normal merit increases should be exempt from the *Social Contract* restrictions.

(bb) The 1996-99 settlement brought into being the Supplemental Retirement Allowance (SRA), and it did improve pension benefits for the members of the Registered Pension Plan (RPP). A major augmentation of pension for those already retired was agreed to.

See Book of Documents, Volume I, Tab 12.

(cc) Subsequently, following a meeting of the Dispute Resolution Panel, Mr. Justice Gold found in favour of the Association and awarded the modified Rand formula that the Association had requested (i.e. Rand for new employees only), effective July 1st, 1998.

See Book of Documents, Volume I, Tab 13.

1999-2002 Mediation Settlement with Teplitsky

(dd) The parties agreed to another three-year settlement, the second in a row.

(ee) The professorial PTR breakpoints were increased by \$2,500 in each of 1999-2000 and 2000-2001. This adjustment resulted from the growing dysfunction of the parameters in the existing PTR model.

(ff) Pension plan changes included continuing augmentation for retirees, and an increase in the payout formula from 1.3% to 1.5% for the CPP portion of salary for future retirees. (Member contributions for this were increased from 3.9% to 4.5%.)

See Book of Documents, Volume I, Tab 14.

2002-2003 Arbitration Settlement with Teplitsky

(gg) During the three years from 1996 to 1999, the across-the-board salary increases had lost about 3.1% to inflation. This was not what the Administration spokesperson anticipated at the time. Vice-President Finlayson is quoted in the May 10, 1999 *Bulletin* as assuring the faculty that:

“In each of the three years, the across-the-board increase more than compensates faculty members and librarians for present and predicted inflation.”

Unfortunately, again because of the unforeseen rise in CPI, a similar loss occurred from 1999 to 2001 when salaries were eroded by an additional 3.4%. The annual losses to inflation were 1.7%, 1.1% and 0.6% respectively.

(hh) In subsequent negotiations, because of the loss to inflation, the Association would not accept similar 3-year settlements. Salary catch-up of past losses to inflation became a principal concern.

(ii) For the round of negotiations for 2002-2003, both sides agreed to Martin Teplitsky serving as both mediator and arbitrator (thereby modifying Article 6 of the Memorandum), on the understanding that Mr. Teplitsky could only impose a one-year settlement as arbitrator and that an arbitration decision would be binding on both parties. The parties failed to reach a mediated agreement. The dispute concluded in December of 2002 with an arbitration award by Mr. Teplitsky.

(jj) The monetary awards included an ATB of 3.0% for 2002-03, an increase in the PTR breakpoint of \$5,000, a senior salary threshold increase of \$10,000, a professional allowance increase of \$250, and the minimum lecturer salary set at \$50,000.

(kk) Pensions were a major issue. For pre-1996 retirees the formula for the CPP portion was increased from 1.0% to 1.3% (for actives the number stayed at 1.5%), an adjustment was made for those retired with annuities resulting from a “break-in-service”, OISE pensions were harmonized with those of the rest of the University’s faculty and all pensioners were given a pension augmentation for 2002-2003 to make up for the 25% of inflation not covered by the indexation rule in the formula.

(ll) In addition, Mr. Teplitsky awarded an increase of \$1,000 (to \$2,500) for the annual Major Restorative Dental Coverage. Due to a supposed ambiguity in the text of this award, the Administration chose to interpret the award as applying only to actives and so excluded the retirees. The Association challenged this unilateral interpretation and at a later date Mr. Teplitsky ruled that retirees were indeed covered by his award.

(mm) As it turned out, the 3% ATB settlement for 2002-03 resulted in catch-up of 0.4%.

See Book of Documents, Volume I, Tabs 15 and 16.

2003-2005 Mediation Settlement with Burkett

(nn) For the following round, the parties agreed to ask Kevin Burkett to act as Mediator. Mr. Burkett was successful in mediating a two-year agreement, for 2003-2004 and 2004-2005, ending on June 30, 2005.

(oo) The major monetary items included: ATB of 2.75% + 0.75% in the first year and 2.75% + 0.615% in the second year, a further increase of \$275 in the Professional Expense Reimbursement, an increase in the PTR breakpoint of \$5,000, and a further increase in the senior salary threshold.

(pp) Until this award, faculty and librarians who had retired prior to 1982 had not had any dental or extended health coverage from the University. (The current retiree coverage started in 1982 and was never made retroactive for earlier retirees). Under benefits, an expense account was initiated for pre-1981 retirees.

(qq) Part-time faculty and librarians were given health and dental coverage. Long Term Disability was made mandatory for all. Physiotherapy and chiropractic care were added to the \$500 yearly maximum coverage for massage. A major improvement was made in Maternity Leave and Parental Leave. Librarians were given Professional Development Days for the first time.

(rr) Pensioners were again given a pension augmentation for the two years to ensure that their pensions kept up with inflation.

(ss) The Association release time amounts were increased and a number of working groups were set up. The work of one of these groups eventually led to the ending of mandatory retirement in 2005.

2004-05 Special Retirement Agreement

(tt) By mutual consent Mr. Kevin Burkett was invited to mediate a new agreement for ending mandatory retirement at the University of Toronto. This agreement, unique in Ontario, was reached on March 14, 2005. Mr. Burkett went on to attempt to mediate salary, pension and benefits. Failing agreement, the dispute has been referred to this Panel.

TAB B - UTFA PROPOSALS

66. TERM

July 1, 2005 to June 30, 2006.

67. COMPENSATION

(a) Salary – ATB (Across-the-Board) Increase

(i) UTFA seeks an ATB increase of 4.0% effective July 1, 2005

(b) Salary Scale

(i) PTR – Progress Through the Ranks: Each PTR pool shall be increased by 1.0% of total salary in that pool, effective July 1, 2005.

(ii) The parties agree to establish a Joint Working Group to review and report with respect to the PTR model.

(iii) Salary Adjustment Fund: An amount of 0.5% of total salary shall be set aside for the purpose of addressing salary inversion and anomalies. Allocation shall be retroactive to July 1, 2005.

(iv) A Joint Working Group shall be established effective July 1, 2005 to study the issue of salary inversion and anomalies and to develop a system for rectifying inequities. If agreement is not reached by April 15, 2006 on the mechanism for distribution and/or on the distribution of the funds, the issue may be referred by either party to arbitration.

(v) The senior-salary category for faculty and librarians shall be abolished, effective June 30, 2006.

(vi) Librarians: The minimum salary for Librarian III and Librarian IV shall be raised to \$62,500 and \$75,700 respectively and the salary ceiling for Librarian II shall be eliminated, effective July 1, 2005.

(vii) The minimum starting salary for Lecturers shall be raised to \$60,000, effective July 1, 2005.

(c) Per-Course Payments

(i) For all individuals in part-time non-sessional appointments (i.e., represented by UTFA), senior research associates, retired faculty and faculty or librarians teaching on overload, the **minimum** rate of pay for each full-course equivalent shall be set at \$12,500 effective July 1, 2005.

(ii) All part-time faculty represented by UTFA shall receive expense reimbursement pro-rated at 33% per full-course equivalent of the PERA rate effective July 1, 2005.

(d) Pensions

(i) All retirees shall receive augmentation to their pensions in an amount equal to full inflation catch-up as of July 1, 2005. This applies to all pensions from RPP, OISE and SRA.

(ii) Faculty and librarians who retired before 1981 shall have the same benefits as those who retired during and after 1981, effective January 1, 2006.

(iii) At the time of retirement, individual faculty and librarians shall have the option of receiving a monthly pension or a lump-sum payment equal to the commuted value of the individual's pension. Those who opt to receive the lump-sum payment shall be eligible to receive benefits on the same basis as those receiving a monthly pension.

(iv) The commuted value of the pension for individual faculty members and librarians shall be included in the annual Benefits Statement along with an explanation of what commuted value means and how interest rate changes and other relevant factors may change the amount.

(v) The parties agree to establish a Joint Working Group to investigate and report with respect to alternative pension arrangements, including design, eligibility, transition, and a framework for its introduction. Each party will include its respective actuary or pension consultant as a member of the Working Group.

68. BENEFITS

Retired and active faculty and librarians shall have the same benefit coverage (excluding only those benefits (e.g., long-term disability) that might be of no value to one party) and the same premium charge and co-pay policy.

(i) Optometrists: The current benefit for massage therapy, physiotherapy, and chiropractic care shall be increased to \$1,000 maximum annually and shall be extended to include the services of a licensed optometrist.

(ii) UTFA shall receive full and complete access to the rules, regulations, and guidelines that Green Shield follows in determining whether or not to pay claims made through the medical and dental insurance plans.

(iii) The long-term disability plan shall be modified to enable disability pension recipients to return to work on a part-time basis for indefinite periods of time without financial penalty.

(iv) Orthodontics: Expenses shall be covered with the employer paying 50% of orthodontic expense costs up to \$3,000 per person per lifetime for active and retired faculty and librarians and their dependent children.

(v) A new premium rate structure shall be introduced to provide the following options:

- Member
- Member plus 1
- Member plus 2 or more

(vi) The PERA shall be increased from \$775 to \$1000 per year effective July 1, 2005.

(vii) The annual number of Research and Study Days for librarians shall be increased from 5 to 20.

(viii) The parties agree to establish a Joint Working Group effective July 1, 2005 to review and report on the dependant scholarship program.

69. SALARY AND BENEFIT-RELATED ISSUES

(i) The University agrees to include a brochure provided by UTFA in its information package sent to individuals on short lists for faculty and librarian appointments. The University also agrees to provide contact information about the Faculty Association and its website address to individuals who are being offered appointments as faculty members or librarians. The University will

provide UTFA with the names and contact information for those who have accepted offers of employment as faculty members or librarians.

(ii) UTFA shall be informed annually on a non-nominal basis of the salaries for all faculty and librarians, set out by department and identifying the date of hire, gender, age and date of Ph.D. or qualifying degree.

(iii) UTFA shall be informed annually of the names and contact information of faculty members and librarians who have given notice of their intention to retire.

(iv) Add the following as a provision of the Salary and Benefits Agreement for July 1, 2005 to June 30, 2006:

The University shall designate an Information Officer who shall conduct the exchange of information with an Information Officer designated by the Association.

If any dispute arises with respect to the implementation of this Article, the matter shall be referred by either party, as expeditiously as possible, to a mutually agreed upon arbitrator who shall, within 48 hours from the referral, confer with the parties and issue a final and binding decision including appropriate directions. If the parties cannot agree upon an arbitrator, or in the event that he or she is unable or unwilling to act, the President of the Ontario Labour-Management Arbitrators' Association shall select the arbitrator.

(v) Joint Working Groups shall be established effective July 1, 2005 to deal with the following matters:

- a. Pensions
- b. PTR
- c. Salary adjustment fund
- d. Dependent scholarship program

The membership of each of these Joint Working Groups shall include three representatives of each party.

The parties agree that each Joint Working Group will be provided with the data it needs. The groups will determine the analysis and presentation methods for data to be used so that both parties work from a common set of data.

The groups will gather facts, identify issues and consult with the University community and will report to their respective principals no later than April 30, 2006.

The deliberations and reports of the working groups shall be confidential, and no public disclosure will be made without the agreement of both parties.

The parties agree that any incremental costs arising from the activities of these working groups will be the subject of future negotiations.

70. MEMORANDUM ISSUES

In accordance with Article 17 of the Memorandum of Agreement, UTFA proposes the following changes to the Memorandum:

(i) The parties agree to appoint a Task Force to report to the parties with respect to any proposed changes to the Memorandum of Agreement. Each party will name a Co-chair and up to four representatives. It is understood that the representatives of either party may consult broadly. The Task Force will report by April 30, 2006.

(ii) In the light of the abolition of mandatory retirement, parties have agreed outside of negotiations to discuss removal of the following phrase from Article 4(c) of the Memorandum: "...provided the requested leave does not fall within seven years of the normal age of retirement."

(iii) Delete the last paragraph of Article 11 and substitute the following:

It is understood that this Article shall not be construed to require the University (a) to compile information and statistics in particular form if such data are not already compiled in the form requested, or cannot, without unreasonable efforts, be compiled in such form, or (b) to provide any information relating to any named individual.

The University shall designate an Information Officer who shall conduct the exchange of information with an Information Officer designated by the Association.

If any dispute arises with respect to the implementation of this Article, the matter shall be referred by either party, as expeditiously as possible, to a mutually agreed upon arbitrator who shall, within 48 hours from the referral, confer with the parties and issue a final and binding decision including appropriate directions. If the parties cannot agree upon an arbitrator, or in the event that he or she is unable or unwilling to act, the President of the Ontario Labour-Management Arbitrators' Association shall select the arbitrator.

GENERAL

- (i) Faculty, wherever it appears in this document, includes Lecturers and Senior Research Associates.
- (ii) It is understood that all salary, benefit and pension improvements negotiated in this settlement will be applicable *mutatis mutandis* to both active and retired faculty, librarians and senior research associates.

B-1 TERM

UTFA Proposal:

July 1, 2005 – June 30, 2006

Administration Proposal:

July 1, 2005 to June 30, 2007

It is clear from the language of Article 6 of the Memorandum of Agreement that the process of negotiation, mediation and, if necessary, dispute resolution in relation to salaries and benefits is an annual one. In particular:

- The opening “NOTE” states that the objective of the Article is to have “a procedure that ends by approximately April 15 of each year.”
- Paragraph 1 states that salary and benefits for faculty members and librarians“ shall be negotiated *annually* in accordance with the following procedures.” [emphasis added]
- The procedures set out in paragraphs 2 to 25 establish a timetable for negotiation, mediation and arbitration on an annual basis.
- The paragraphs governing the procedures for repudiation of a Dispute Resolution Panel report (paragraphs 25 and 26) by Governing Council

are clearly based on the premise that a report of the Dispute Resolution Panel will be limited to a single academic year only.

Accordingly, the jurisdiction of the Dispute Resolution Panel is limited to making a report regarding salary and benefits for the academic year 2005-2006, as is proposed by the Association. The Administration's proposal for a two year term is beyond the authority conferred on the Panel by Article 6.

Tab B-1
Term

B-2 COMPENSATION

Introduction to Association proposals with respect to salaries

The Association is making three key proposals with respect to salaries: an above-inflation across-the-board ("ATB") increase in all salaries; an increase of 1% of salaries in the funding of the merit pay pool; and an allocation of 0.5% of salaries to be used to redress the situation of faculty whose salaries have suffered as a consequence of the history of lower-than-inflation ATB adjustments and the underfunding in the past of the merit pay pool.

While these component proposals are made separately, and are supported by information specific to each component, they work together to address the problems that have emerged over the years in the University of Toronto's salary system for faculty and librarians.

ATB increases have failed to keep up either with inflation or with the market for university faculty. Merit pay increases have not, on average, matched the recognition of faculty experience in the market. The fact that the University is paying retention amounts is proof that it is paying less than the market indicates is appropriate.

The Administration has responded to this problem through the extensive use of retention adjustments to increase the salaries of faculty who are underpaid relative to the market and who test that market by applying for employment and receiving offers from other academic institutions or non-academic employers.

Although every university is forced to rely to some extent on market-related salary adjustments to retain faculty, at the University of Toronto such adjustments have been used as a substitute for addressing the underlying problems with the salary system.

Indeed, the Administration's reliance on ad hoc retention adjustments merely underscores the fundamental problems with the salary structure. It addresses the complaints of those faculty who are prepared to go through the exercise of seeking alternative employment in order to extract a salary increase from the Administration. However, in the process, it creates another problem: low salaries for faculty who are not in a position to participate in the academic transfer market or who choose not to do so, because of the time involved (taken away from their academic responsibilities) – both their's and that of other universities – and the ethical issues in making an application for a position elsewhere that is not genuine but is designed solely for the purpose of obtaining a fair salary from one's present employer. Finally, the present system acts as a perverse incentive, which encourages faculty whom the University desires to retain to look elsewhere for employment.

The Association's proposals, taken together, address all of these problems with the salary system. Our proposals with respect to ATB increases and the funding of the merit pay pool will restore credibility to the implicit salary scale at the University and match career earnings increases more closely to those generated by the market. In doing so, they will reduce both the need for and the size of retention salary adjustments. Our proposal for a low-salary augmentation fund will force the development of a framework within which anomalies created by the "squeaky wheel" approach to salary adjustments can be addressed.

Although it is impossible to solve problems overnight that have accumulated over a more-than-30-year period, over time these changes will restore integrity to a merit-based salary system which, in principle, is still in the view of the Association the preferred way to determine salaries at an institution like the University of Toronto.

ASSOCIATION'S PROPOSALS

(a) Salary – ATB (Across-the-Board) Increase

UTFA Proposal:

- (i) UTFA seeks an ATB increase of 4.0% effective July 1, 2005

Administration Proposal:

2.5% commencing July 1, 2005

2.5% commencing July 1, 2006

ATB increase -- normative increase

As has been demonstrated above, the salary increase measure at the University of Toronto that is comparable to general increases in other agreements is the Across-the-Board (ATB) percentage increase.

For the purposes of exposition, the Association's request for an increase of 4.0% ATB may be divided into two components: a normative increase, reflecting general salary increases in the university sector in Ontario; and an additional increase related to catch-up for prior years' losses.

A review of salary increases in the university sector indicates clearly that the normative increase for the period subject to this arbitration is in the range of 3% to 3.5%.

Table B-2 (a) 1 summarizes percentage changes in salary scales provided for in university agreements in Ontario for the academic year 2005-6, where increases have been determined.

Table B-2 (a) 1
2005-2006

(1)	(2)	(3)
University		
	# Faculty	Scale %
Brock	468	3.0
Carleton	645	3.0
Lakehead	249	3.0
Laurier	330	3.5
Nipissing	108	3.0
McMaster	621	3.0
Waterloo	828	3.3
Western	906	3.0
Windsor	438	3.0
York	1197	3.5
Total	5460	3.17

[Source: OCUFA; note: faculty counts are for 2003-4 academic year]

Recent surveys of salary increases Mercer Human Resource Consulting and Watson, Wyatt Ltd. underline the point that the normative salary increase in Canada is in the 3% to 4% range.

In its 2005 Compensation Report (September 6, 2005), Mercer reports that: “employers are projecting average salary increases of 3.4% for 2006”. Furthermore, executive salaries – generally speaking more likely to be comparable to those of university faculty – are projected to be higher. “Pay increases are expected to be awarded in a range of 3.5% for executives”. (See Book of Documents, Volume III, Tab 4).

In its survey, also published in September 2005, Watson Wyatt Worldwide reports average increases of 3.3% for 2005. For 2006, Wyatt reports that “the trend towards higher increases is also reflected in employers’ forecasts for next year. According to the survey findings, Canadian employers expect to provide salary increases in 2006 of 3.3%. (See Book of Documents, Volume III, Tab 5).

The University of Toronto itself recently negotiated a voluntary settlement for its administrative, support and technical staff which provided for an across-the-board increase of 3.0%. (See Book of Documents, Volume III, Tab 2-J).

General settlements in the public and private sectors in Ontario are summarized in Table B-2 (a) 2:

Table B-2(a) 2

Ontario		
Collective Bargaining Highlights		
All Agreements		
	Public	Private
1q 2004	3.60%	2.70%
2q 2004	3.20%	3.00%
3q 2004	3.30%	1.40%
4q 2004	2.80%	2.60%
1q 2005	2.70%	2.20%
2q 2005	2.60%	2.50%
Source: Ministry of Labour, Ontario		
Collective Bargaining Highlights, June 2005		
Ontario Collective Bargaining Review, 2004		

For 2004, negotiated pay increases in the public sector in Ontario were well in excess of 3%. The statistical decline in negotiated increases in the Ontario public sector for the first quarter of 2005 is dominated by the 2.5% increase in a series of settlements involving the Federal Government. The second quarter increase of 2.6% was largely determined by the increase of 2.6% in elementary and secondary education flowing from a central negotiation between teachers’ unions and the Province of Ontario and included major changes in working conditions for both elementary and secondary teachers.

The 3% norm of scale increases is in line with expectations for changes in the Consumer Price Index (“CPI”) for the 12-month period prior to the expiry of the current agreement and the 12-month period that will be covered by the agreement currently subject to arbitration.

Table B-2(a) 3 shows the CPI for Toronto for the last month of the previous agreement period and the first three months of the period to be covered by the agreement at issue.

Table B-2(a) 3

Year	Month	Date	Index 1992=100
2005	6	15/06/2005	128.5
2005	7	15/07/2005	128.6
2005	8	15/08/2005	129.2
2005	9	15/09/2005	129.9

Over that three-month period, the Toronto CPI increased at an annual rate of 4.43%. While oil and gas price inflation, which drove the increase in the index during the third quarter of 2005, has eased somewhat, the CPI is expected to increase at a rate in excess of 3% until mid-2006, coincident with the termination date of the agreement at issue.

According to a recent statement by Bank of Canada Governor David Dodge, "CPI inflation is projected to average near 3 per cent through the middle of 2006"¹¹.

Taking inflation since the last month of the previous agreement together with Governor Dodge's prediction to the end of the second quarter of 2006, we can expect inflation to be in excess of 3% over the period covered by the agreement at issue.

In other words, a normative increase in the range of the ATB settlements in the Ontario university sector of 3% to 3.5% will simply keep pace with inflation.

ATB increase – historical realignment

As we noted above in our overview of the history of the faculty and librarians' salary system at the University of Toronto since its inception in 1972, ATB salary increases have varied substantially in relation to changes in the CPI over the years.

Chart B-2 (a) 4 compares the history of ATB increases since the inception of the current PTR salary model with changes in the CPI for Ontario.

¹¹ Opening statement by David Dodge, Governor of the Bank of Canada to the Standing Senate Committee on Banking, Trade and Commerce, October 26, 2005. See Book of Documents, Volume III, Tab 2-B).

Chart B-2 (a) 4

**University of Toronto Faculty Salary
System
Average PTR and CPI Toronto**

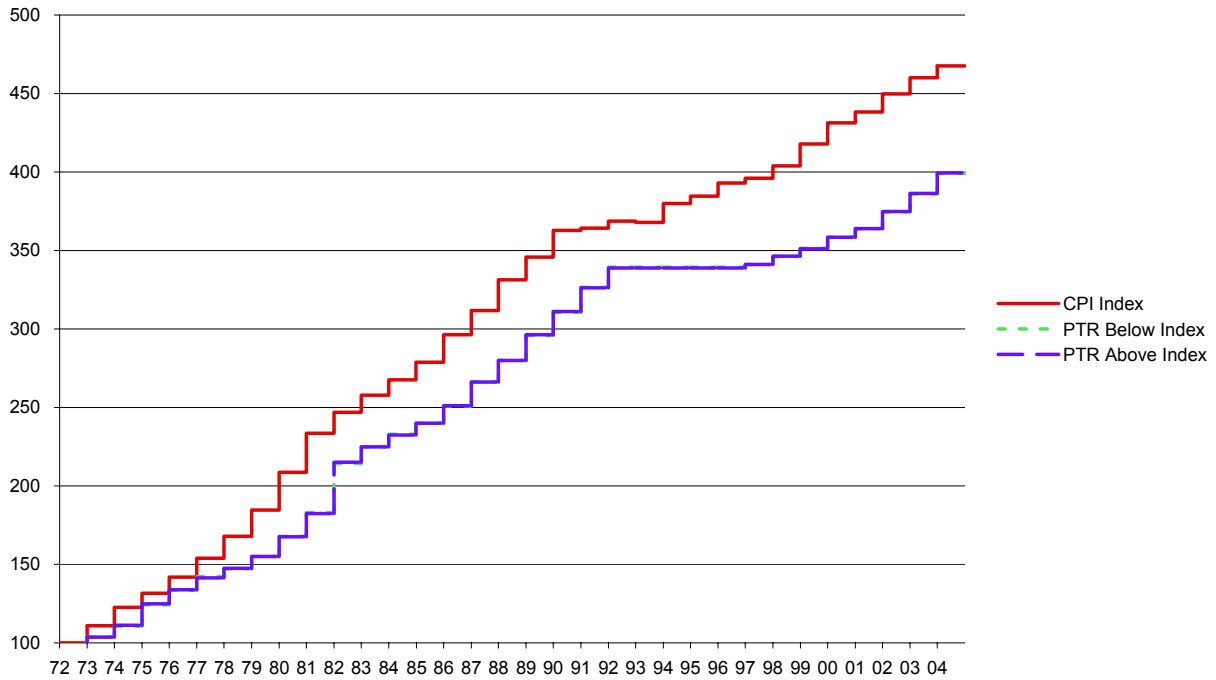
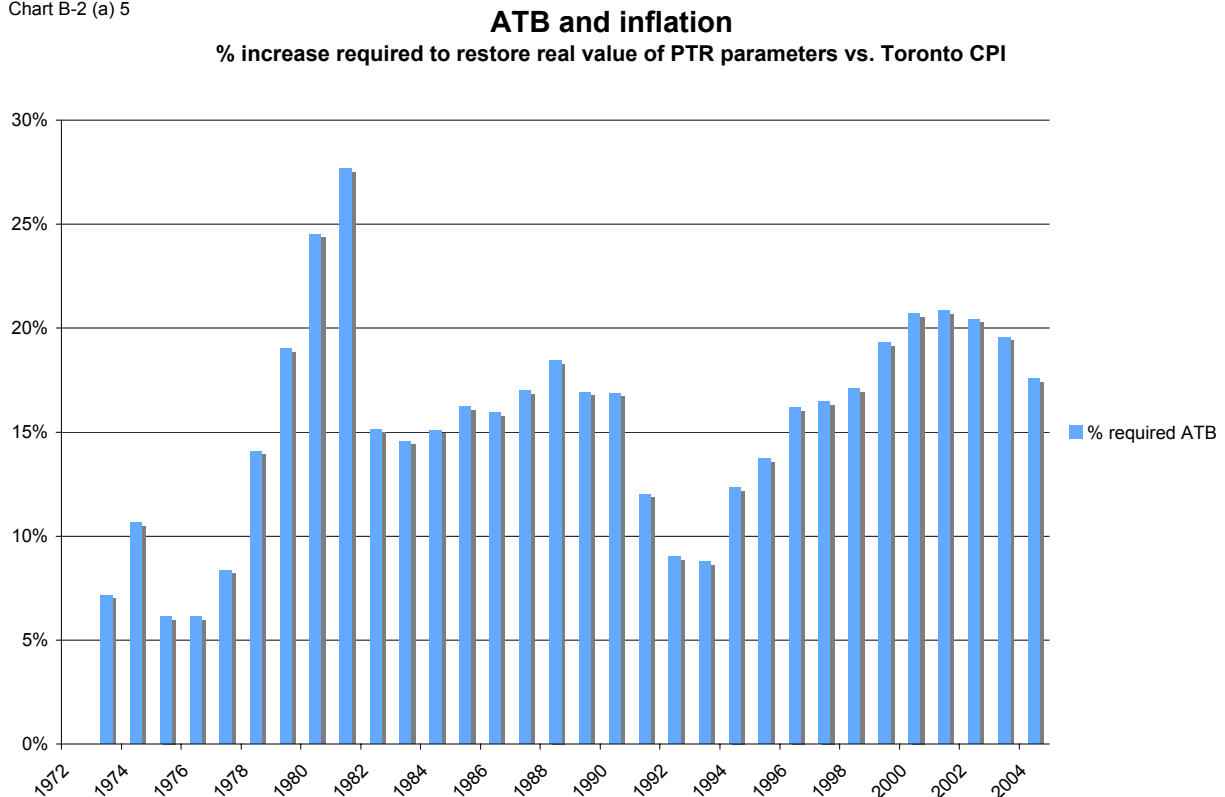


Chart B-2 (a) 5 presents the same information in a format that provides a much clearer indication of the evolution of the system. It shows, for each year since 1972, the percentage ATB that would have been required that year to compensate fully for the accumulated loss relative to inflation from prior ATB adjustments since 1972.

In other words, each data point shows how far behind the pay system had fallen, relative to inflation, as of the given date.

Chart B-2 (a) 5



This chart is particularly helpful because it points to important milestones in ATB changes at the University of Toronto.

In its first decade, the salary system was allowed to erode significantly relative to inflation. By 1981, it would have required an across-the-board increase of 27.7% to offset the loss resulting from below-inflation ATB increases after 1972.

Arbitrator Burkett addressed the issue in 1982, awarding a substantial upward adjustment as an instalment towards the restoration of the ATB losses to inflation over the period since the inception of the system in 1972. That is reflected in the fact that, in 1982 the increase required to offset inflation since the inception of the salary model in 1972 had dropped to 15%. While Arbitrator Burkett specifically referred to his award as a first step towards full restoration inflation losses, there was no second step for nearly a decade.

For the remainder of the 1980s, ATB increases kept approximate pace with inflation. The early 1990s saw a further major step towards restoration of prior losses. The increase required to offset ATB losses relative to inflation dropped as low as 9% in 1993.

From that point until 2002, the situation deteriorated again, as the increase required jumped back to more than 20%. Since then, successive ATB adjustments modestly above the rate of inflation have gradually reduced the extent to which the PTR model has fallen behind inflation. Each year since 2002 has seen a recovery of between ½ of 1% and 2% of prior losses to inflation.

The difference between currently projected inflation of 3% to 3.5% and the Association's proposal for a 4% ATB increase is well within the range of improvements that have been implemented over the past three years.

These data have important implications for the current round of negotiations and interest arbitration.

First, it is clear from the data that the key drivers of the University of Toronto salary model for faculty and librarians have fallen behind increases in the cost of living since the model was established.

Second, there has been a pattern over the past 30 years of addressing the shortfall periodically. Notably, there have been three periods of recovery. We can see a partial recovery in the early 1980s, with the Burkett award. We can see a second partial recovery in the early 1990s in the wake of the substantial settlements in the broader public sector in Ontario. And we can see the beginnings of a third period of recovery in the three years since 2002. It cannot be argued that there is no basis on which the Association might expect further recovery from the erosion of the salary model in the face of inflation. The history suggests exactly the opposite.

Indeed, the evidence is clear from the Administration's own conduct that it understands that its salary scale has been falling behind the market.

Starting salaries at the University of Toronto have been escalating at a rate greater than the rate of ATB and PTR amount increases.

Because the University of Toronto does not provide data for starting salaries separately, starting salaries must be determined from the listing of salaries for professorial faculty provided periodically to the Association by the Administration.

Data provided to the Association by the Administration show on a non-identified basis, each faculty member's current salary, year of hire, year of PhD, rank (assistant professor, associate professor, professor) and department / division.

Analysis of starting salaries over time is complicated by two factors. First, many faculty hired by the University of Toronto join the university in mid career, from other universities. To ensure that variations in the average prior experience and numbers of mid-career hires do not distort the data, our analysis includes faculty hired out of

graduate school only. Second, it is clear from the salary data that salaries vary substantially from division to division within the University. As a general rule, salaries in professional divisions (law, medicine, engineering, business) are higher than salaries in Arts and Science. To reduce the impact of year-to-year differences in the distribution of new hires among divisions, we analyzed data for Arts and Science divisions and for professional divisions separately.

The analysis that follows is based on salary data for academic years 2002-3, 2003-4 and 2004-5 provided by the Administration in February 2005. We limited the analysis to faculty who were hired in academic year 1997-8 or later and were hired within two years of receiving their highest degree. Starting salaries for faculty hired in 2002-3, 2003-4 and 2004-5 are taken directly from the data set. For faculty hired prior to 2002-3, salaries were estimated, using the 2002-3 salary and working backwards assuming average PTR awards and the appropriate ATB increases.¹²

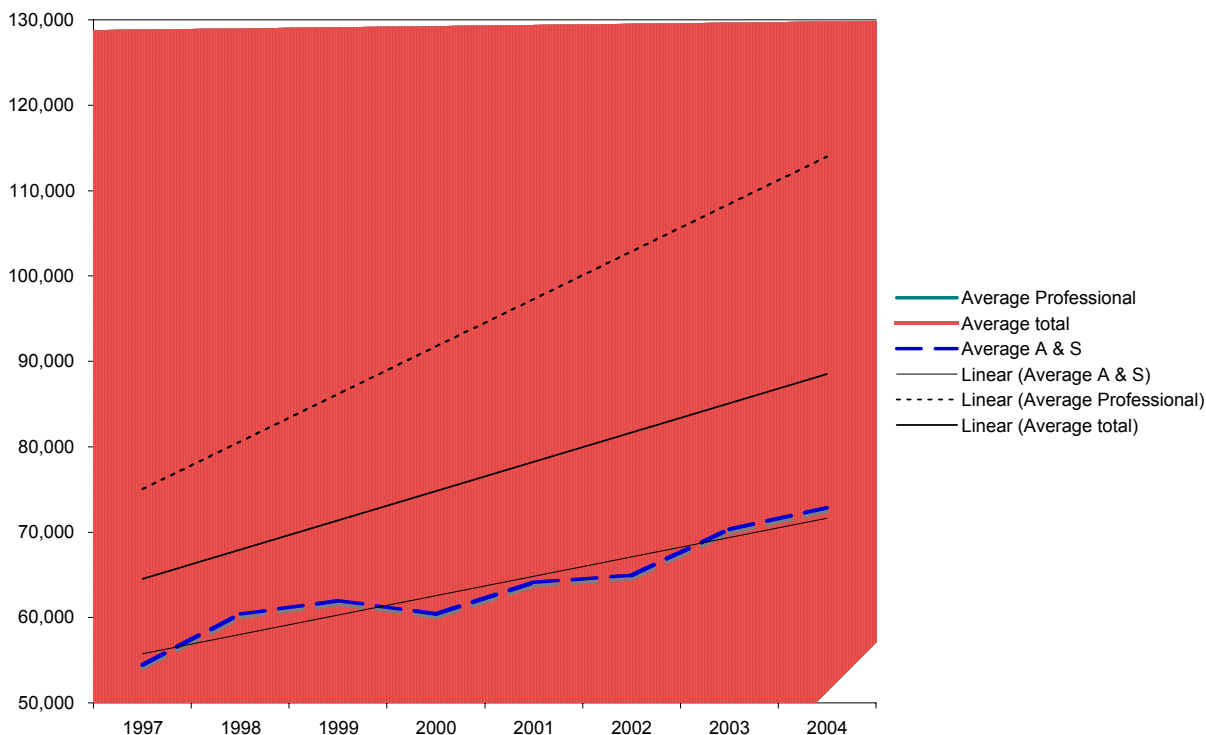
Chart B-2 (a) 6 shows starting salaries for faculty hired within two years of attaining their highest degree in the academic years 1997-8 to 2004-5.¹³

¹² As noted in more detail in the PTR section of this brief, the use of this methodology is subject to two possible sources of inaccuracy. First, it assumes that every faculty member receives average merit pay. Since we are working only with averages, this assumption would not be expected to distort the resulting estimates of starting salaries. Second, it does not account for retention and anomaly adjustments between the year of hire and academic year 2002-2003. While this approach would likely produce distorted results if applied over an extended period of time, it is not likely to have had a substantial impact in this analysis. Because this analysis is restricted to faculty who would have been employed by the University for five or fewer years in 2002-2003 and who would have been hired no more than two years after their year of highest degree, it is unlikely that the faculty subject to this analysis would have received retention adjustments.

¹³ The analysis of starting salaries presented here is based on data for Professorial Faculty. Analogous arguments apply with respect to Librarians, and Lecturers, so that the arguments and conclusions with respect to starting salaries and Professorial Faculty should be taken as applying equally to Librarians and Lecturers.

Chart B-2 (a) 6

Implicit Average Starting Salaries 1997 to 2004



The chart shows average starting salaries for faculty in Arts and Science, in the professional divisions and overall. For each series, we have also plotted a two-stage linear least squares trend line. It clearly illustrates the steady growth in starting salaries over the period measured.

Over that period, starting salaries increased by 34% in Arts and Science and 56% in professional divisions, compared with an increase in ATB awards of 17%. This phenomenon clearly indicates that the salary scale at the University of Toronto is falling behind the market for recently-graduated faculty.

In effect, the increase in starting salaries means that each year's cohort of new hires starts its employment at the university higher on the career salary scale, after allowing for ATB increases, than the previous year's cohort.

(b) Salary Scale

(i) PTR – Progress Through the Ranks

UTFA Proposal:

Each PTR pool shall be increased by 1.0% of total salary in that pool, effective July 1, 2005

Administration Proposal:

Normal PTR in both years.

Distribute a special one time PTR allotment July 1, 2005 calculated on the basis of \$500 per FTE for Professoriate and prorated amounts for Lecturers and Librarians. Ten percent of the additional amount will be set aside to be added to Provostial and Decanal merit points.

Distribute a special one time PTR allotment July 1, 2006 calculated on the basis of \$500 per FTE for Professoriate and prorated amounts for Lecturers and Librarians. Ten percent of the additional amount will be set aside to be added to Provostial and Decanal merit pools.

The merit pay pool¹⁴

The Association is proposing an increase in funding allocated to the annual merit pay pool of 1% of payroll. This would increase the funding available for merit pay increases from approximately 1.9% to approximately 2.9% of payroll.

This would re-establish the merit pay pool at close to the percentage of total salary envisaged for merit pay in the original design of the PTR system in 1972. (See Book of Documents, Volume III, Tab 2-E).

It is important to put merit pay in perspective. Merit pay in the University of Toronto PTR system is not a discretionary bonus. It is as fundamental to the pay determination system for faculty as the pay grid is for employees paid according to a conventional wage or salary scale.

The ATB increases correspond to changes in a pay scale. The merit pay system is analogous to the system through which employees' salaries progress through the pay scale as a result of movements up pay grids and promotions from jobs with lower pay scales to jobs with higher pay scales.

Although there is clearly a relationship between rank (Assistant / Associate Professor or Professor) and salary, and salaries are limited at the lower end by floor salaries for each rank, rank is not explicitly a determinant of salary in the University of Toronto salary system.

In the University of Toronto system, merit pay adjustments encompass both equivalent-to-grid movements and equivalent-to-promotional adjustments.

Merit pay (PTR) and inflation

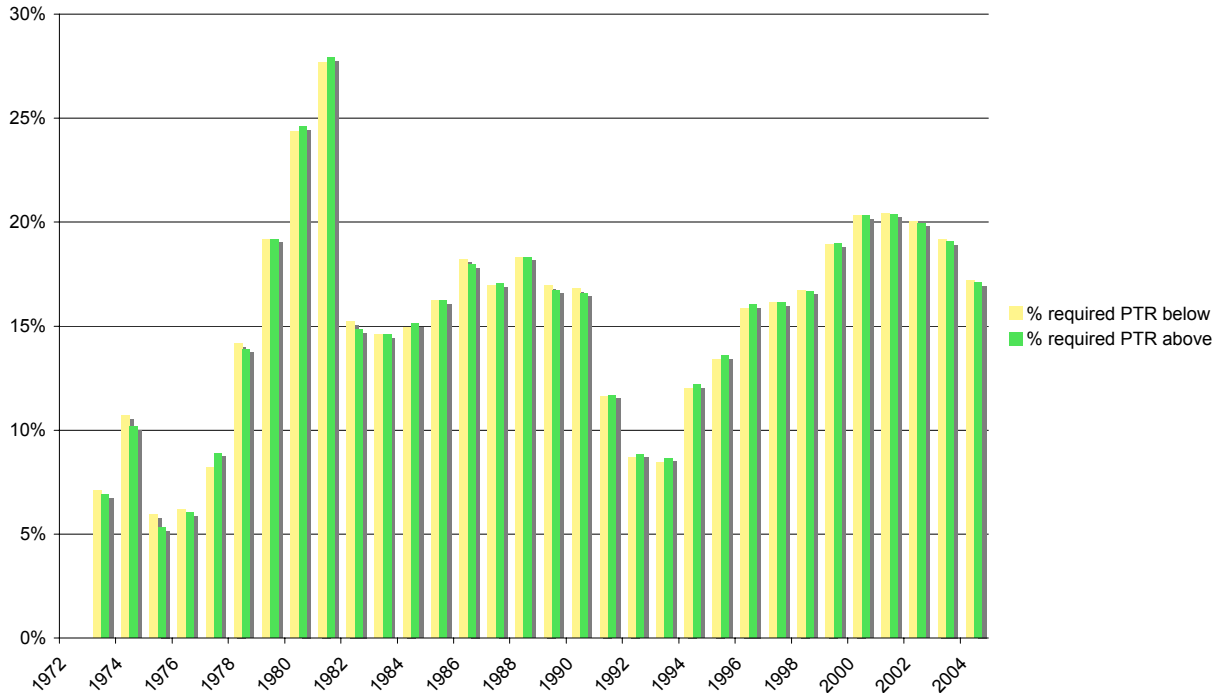
Just as would be the case with a pay grid, because annual adjustments in average merit pay amounts reflect the previous year's across-the-board adjustment, the performance of the two PTR amounts – the above-the-break-point amount and the below-the-break-point amount – relative to inflation since the inception of the PTR system is identical to that of the across-the-board adjustment.

Consequently, the chart (Chart B-2 (b) 1) of percentage increases required to restore the original real value of the PTR pools is essentially identical to that for ATB increases.

¹⁴ The analysis of PTR presented here is based on data for Professorial Faculty. Analogous arguments apply with respect to Librarians and Lecturers, so that the arguments and conclusions with respect to PTR for Professorial Faculty should be taken as applying equally to Librarians and Lecturers.

Chart B-2 (b) 1

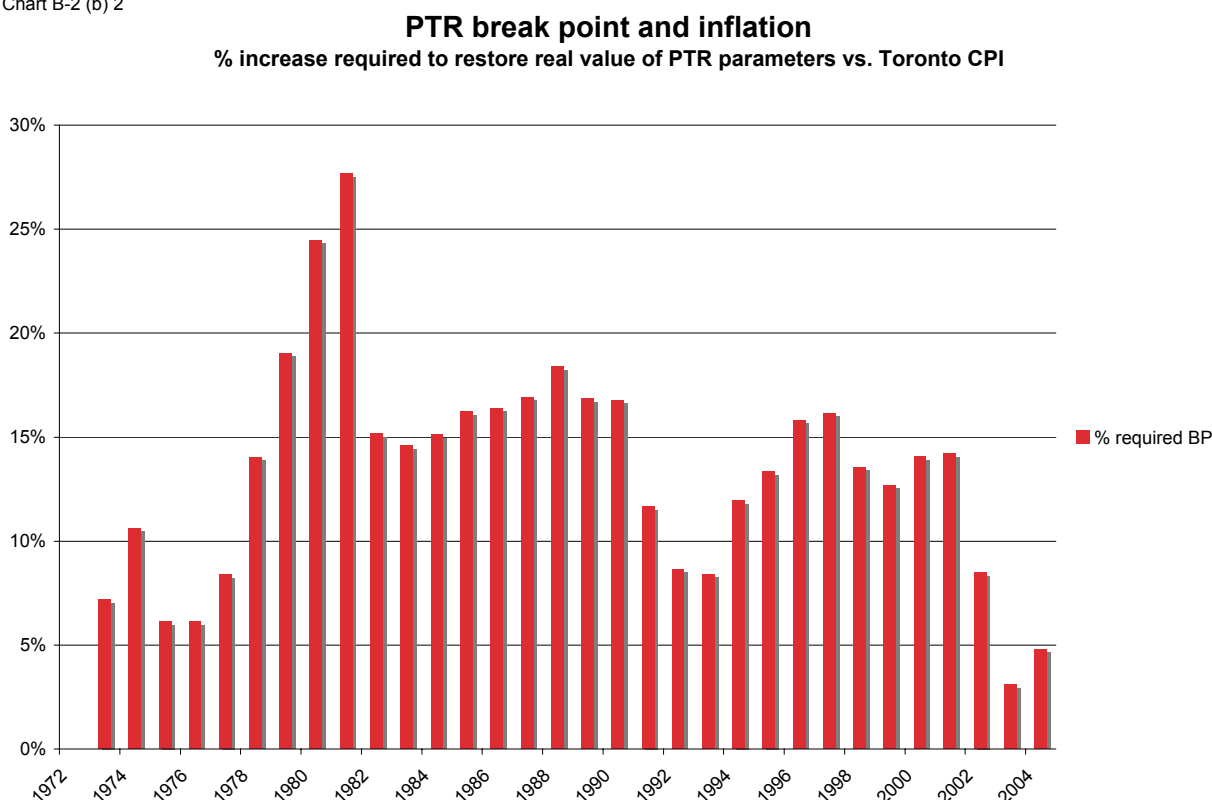
Average PTR above and below break point and inflation
% increase required to restore real value of PTR parameters vs. Toronto CPI



There is one respect, however, in which the PTR system has been adjusted to reflect better the changes in living costs since the system was created. During the period from 1994 to 2002, when both ATB adjustments and PTR amounts were falling rapidly behind increases in the cost of living, negotiated adjustments in the salary break points exceeded those for both the ATB and the PTR amounts.

Chart B-2 (b) 2 illustrates.

Chart B-2 (b) 2



The adjustment in the PTR break point required to restore its real value in 1972 dollars departed from the upward trend of the other elements of the pay system in 1997 and reached a low of 3.1% in 2003 before increasing again to nearly 5%.

Because the per capita merit pay pool for faculty whose salaries are above the break point is lower than the per capita merit pay pool for faculty whose salaries are above the break point, raising the break point has the effect of increasing the total size of the merit pay pool.

Despite this adjustment, however, the merit pay pool has decreased in value relative to total salaries. From its initial level of 3% of total salary, the faculty merit pay pool has declined in relation to total salary to approximately 1.9% in 2004-2005.

The implication of the analysis so far is clear. It is evident from the data that the Administration itself acknowledges and recognizes that the erosion of the PTR model relative to inflation is a serious problem. Indeed, had all of the elements of the salary model been adjusted in compensation for inflation on the same basis as the salary break points, the extent of erosion of the model would be below 5% -- lower than at any point since the first year of its operation. To put the point slightly differently, if erosion of the model elements against inflation is not a problem worthy of addressing, as the

Administration now appears to contend, why would the PTR break point have been adjusted in the way that it has?

Market adjustments and the PTR model

There is ample evidence from the Administration's own behaviour that PTR funding has been insufficient to maintain an appropriate relationship between salaries for professors at the University of Toronto after they are hired by the university and what the market pays for professors.

As noted above, there are two points of connection between the salary structure at the University of Toronto and the market for university faculty.

The first is the determination of the starting salary of a faculty member. While the agreement between the Association and the Administration sets out the structure of the PTR pay system, it imposes no limits at all on starting salaries. Because universities in North America are similar in structure and operate on essentially the same academic calendar, hiring tends to take place on a common schedule throughout Canada and the United States. As a consequence, the hiring process for new faculty members at North American universities tends to be competitive on both sides of the transactions. Universities generally consider a number of potential applicants for job openings; the most attractive applicants are generally presented with a choice of potential positions.

The Administration's concern about the issue of recruitment and the need to compete with other top-rank universities for new faculty is evidenced by a presentation on recruitment made by the Provost to a committee of Governing Council in November 2004.¹⁵ It highlights the University of Toronto's recruitment challenges, as well as the steady increase in salaries commanded by incoming faculty.

The second point of connection arises from the University's need to retain established faculty who either have tested the market for senior academics or are prepared to do so. When the University awards retention salary increases or anomaly adjustments, it is essentially responding to discrepancies between what the market for established academics pays and what the University's salary system pays.

It is important to note that starting salary movements and retention adjustments reflect different issues with respect to the salary structure. Increases in starting salaries relative to salary floors at the University reflect principally the erosion of the general level of salaries in prior years, as reflected in ATB adjustments as discussed above. On the other hand, retention and anomaly adjustments reflect the combined impact of the

¹⁵ "Faculty Recruitment 2003-04 and Estimated Searches 2004-05", Office of the Vice-President and Provost, November 18, 2004. See Book of Documents, Volume III, Tab 2-F.

inadequacy of PTR funding and the inadequacy of ATB adjustments since the hiring date of the faculty member receiving the adjustment.

Why? If we make the reasonable assumption that a faculty member or librarian's starting salary reflects the market at the time of hire, the need for retention adjustments after hiring must be attributable to gaps between the rate at which the ATB and merit pay system permits salaries to increase after hiring and the rate at which market rates increase as a faculty member's experience grows.

The need for retention adjustments is an indicator of the fact that the PTR system is not keeping pace with market forces post-hiring.

The need for retention adjustments to salary is not, by itself, an indicator of underfunding of the merit pay pool in the PTR system. Most universities are required from time to time to offer increases in salary to professors who have received competing employment offers as an inducement to them to remain at the University.

It is a matter of degree.

Retention increases offered only to a limited number of faculty and at a relatively modest total cost to the university are not an indication of any fundamental problem with the salary system; they simply reflect the fact that no pay system can capture perfectly all of the market pressures on salaries at the University.

Where retention increases are offered on a routine basis to significant numbers of faculty and at substantial cost to the University, however, such increases are a clear indication of a problem with the salary system in general, and with the size of the increases awarded through the merit pay pool in particular.

Retention adjustments for large numbers of faculty which in aggregate contribute significantly to higher total faculty salary costs are a clear indication that the merit pay system is underfunded.

The data with respect to retention pay increases over the past nine years demonstrate precisely that (Chart B-2 (b) 3).

	Total retention and anomaly			% of faculty	% of salary
	Number	Amount	Avg. %		
1996-7	46	265,328	8.8%	2.7%	0.15%
1997-8	41	286,771	8.0%	2.4%	0.16%
1998-9	112	805,022	8.3%	6.6%	0.47%
1999-0	148	1,045,053	7.1%	8.7%	0.60%
2000-1	197	2,177,052	10.4%	11.6%	1.23%
2001-2	116	1,116,414	10.4%	6.8%	0.63%
2002-3	195	1,831,434	10.0%	11.5%	1.03%
2003-4	97	816,815	8.4%	5.7%	0.43%
2004-5	122	1,379,629	9.5%	6.9%	0.71%
Cumulative	1,074	11,663,909		61.1%	5.8%

In the years 1996-19977 to 2004-2005 – the only years for which data are available – retention and anomaly adjustments have affected as many as 11.5% of faculty, and have amounted to as much as 1.3% of total faculty payroll. Salary increases awarded through these adjustments have averaged approximately 10% over that period.

In total, over the past nine years, there have been a total of 1,074 adjustments whose cumulative total in 2004-2005 salary dollars has reached 7.0% of payroll. When one considers that the total allocation by the University of Toronto to merit pay adjustments is less than 2% of payroll, the size and scope of anomaly adjustment is clearly a serious problem.

The 1,074 adjustments recorded over the nine year period compares with a total faculty count in 2004-2005 of 1,757. The cumulative value of the adjustments, in 2004-2005 salary dollars, is over \$14 million – approximately 7% of total faculty salaries. Of course, some faculty members have received more than one adjustment during the period, and some faculty members who received adjustments may have retired or left the university for other reasons. Even allowing for some double-counting and some retirements, those numbers are significant.

That the prevalence of substantial ad hoc retention and anomaly adjustments is a serious problem for the salary system is evident from Arbitrator Kevin Burkett's observations concerning the operation of the PTR system in the context of the relationship between professorial rank and salary in his 1982 award.

“The PTR increases received by a faculty member over time are given in recognition of his increasing contribution to the University so that large, one-time-only promotional increases are not required or justified.”¹⁶

¹⁶ See Book of Documents, Volume I, Tab 1, @ p. 26.

Those observations would apply, *a fortiori*, to *ad hoc* retention adjustments. The Association submits that in a properly functioning salary system, with appropriate ATB adjustments and an adequately funded merit pay system, retention adjustments would neither be “required” or “justified”.

Merit pay and salary compression

In all divisions, service and/or experience have less of an impact on salaries than was envisaged in the original concept of the PTR system. In some divisions, the relationship between salaries and experience has broken down to the point where there is an actual salary inversion – salaries for recent PhD graduates are actually higher than they are for more experienced faculty.

The weakening of the relationship between salary and experience results from the interaction of increasing starting salaries on one hand with ATB increases that fall behind inflation and merit pay pools that are too small to permit faculty to keep up with market changes on the other.

To explore the impact of these factors on the pay structure at the University of Toronto, the Association has analyzed the snapshot of faculty salaries provided by the Administration for the 2004-2005 academic year – the most recent year available.

To measure the strength of the relationship between salary and time since PhD, we used the available data to calculate the correlation between salary and time since PhD for University of Toronto faculty.

To account for differences among divisions and among professorial ranks, we measured the correlations separately for each division and, within each division, for each rank.

The results are summarized in Table B-2 (b) 4.

Correlations with year of hire				
	Assistant Prof	Associate Prof	Professor	All
Health Sciences	0.57	0.61	0.16	0.67
Humanities	0.42	0.72	0.39	0.74
Life Sciences	0.50	0.30	0.28	0.70
Physical Science - Engineering & Computer Science	0.31	-0.14	0.25	0.57
Physical Science- excluding Engineering & Computer Science	0.45	0.27	0.14	0.51
Social Sciences - Education	0.48	0.58	0.39	0.74
Social Sciences - excluding Law, Management & Education	0.28	0.57	0.08	0.70
Social Sciences - Law	0.79	-0.04	0.42	0.63
Social Sciences - Management	-0.25	-0.62	-0.53	-0.04
All	0.14	0.27	0.03	0.47
Correlations with year of highest degree				
	Assistant Prof	Associate Prof	Professor	All
Health Sciences	0.37	0.62	0.28	0.74
Humanities	0.27	0.79	0.53	0.85
Life Sciences	0.45	0.50	0.57	0.84
Physical Science - Engineering & Computer Science	0.20	0.09	0.29	0.65
Physical Science - excluding Engineering & Computer Science	0.39	0.35	0.29	0.63
Social Sciences - Education	0.61	0.57	0.53	0.80
Social Sciences - excluding Law, Management & Education	0.18	0.56	0.38	0.80
Social Sciences - Law	0.19	0.08	0.54	0.72
Social Sciences - Management	-0.16	-0.52	-0.24	0.33
All	-0.05	0.29	0.18	0.58

Overall, the correlation between salary and year of hire is relatively weak, at 0.47. The overall correlation between salary and year of highest degree is somewhat stronger at 0.58, but not particularly so.

There is a substantial variability in these relationships across professorial ranks and among divisions of the University. Correlations are strongest in the health sciences,

humanities, life sciences and social sciences other than law, management and education. They are weaker in physical sciences. And in law and management, the statistics demonstrate actual salary inversion for some ranks.

We also investigated the interaction between starting salaries and retention adjustments on one hand and average PTR merit awards and ATB adjustments on the other.

Using salary data for the academic year 2004-2005, the most recent year available, we applied the PTR model in reverse to generate an estimate, of the starting salary of each faculty member. The calculation was done by working backwards from the current salary data provided by the Administration. For each year prior to the current year, the salary was estimated by removing the ATB percentage increase awarded and subtracting the average PTR merit adjustment to which the faculty member would have been entitled. In each year, each faculty member is credited with the appropriate average PTR award (above or below the break point). This calculation is repeated for each faculty member back to his or her year of hire, yielding an implicit starting salary for each faculty member.

It is important to note that implicit starting salaries calculated in this way will differ from actual starting salaries in two respects. First, the PTR adjustments used in the calculation are averages. For faculty members whose PTR adjustments have consistently been above or below the average, this method will over- or under-state the starting salary, respectively. Since in the analysis, we are working only with averages, this shortcoming will not adversely affect the strength of the conclusion.

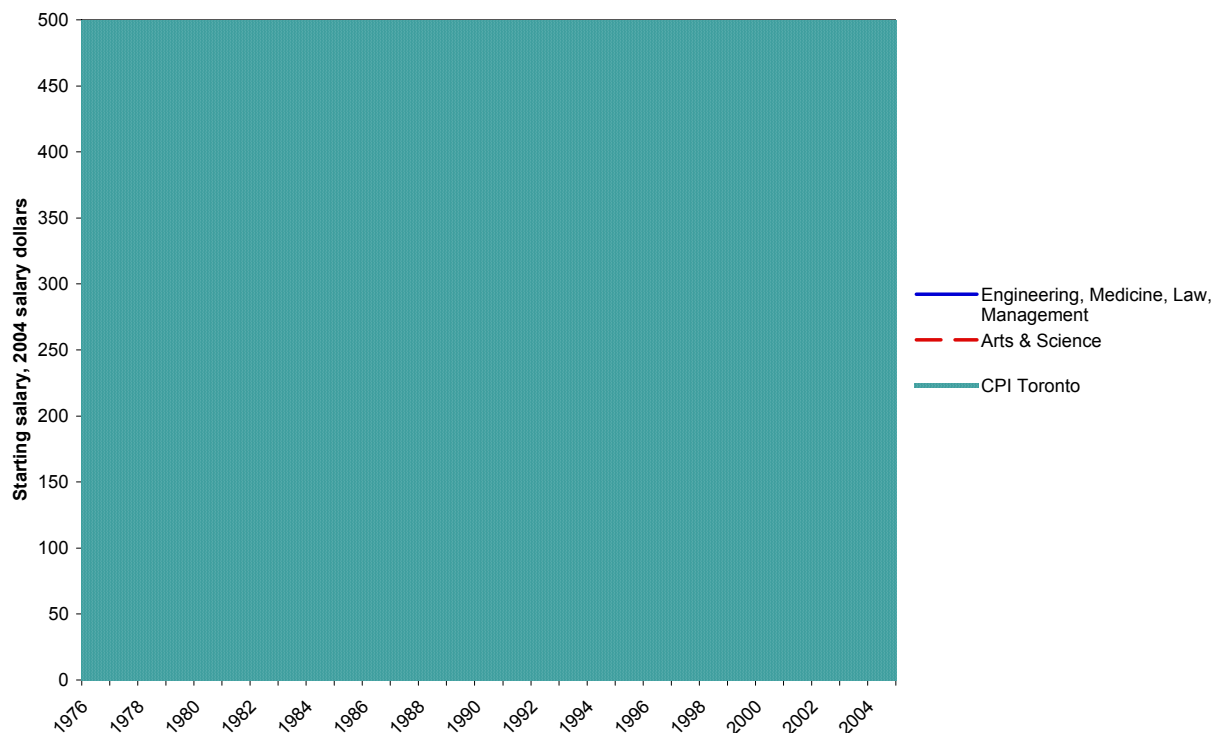
Second, this analysis attributes the full amount of these increases to starting salaries, and thus will tend to overstate the starting salaries of faculty who have received in-career adjustments. As a result, the implicit starting salaries actually capture both changes in initial salaries and in-career market adjustments. While in the description of the results, we refer to changes in implicit starting salaries, it should be kept in mind that we are actually measuring the total impact, by year of hire, of differences in starting salaries and in-career adjustments.

Chart B-2 (b) 5 shows a three-year moving average of the implicit starting salaries of career University of Toronto faculty, from 1976 to 2004.

To ensure that the results are not skewed by variations in the rate of hiring of senior scholars who began their careers at other institutions, the data set excludes faculty who were hired by the University of Toronto more than three years after they attained their highest degree.

Chart B-2 (b) 5

Implicit starting salaries and Toronto CPI, 3-year moving average, 1974-76 = 100



The top line, showing the average of the implicit starting salaries calculated using this methodology shows only what would be expected in a time series beginning in the mid-1970s. Starting salaries have increased substantially.

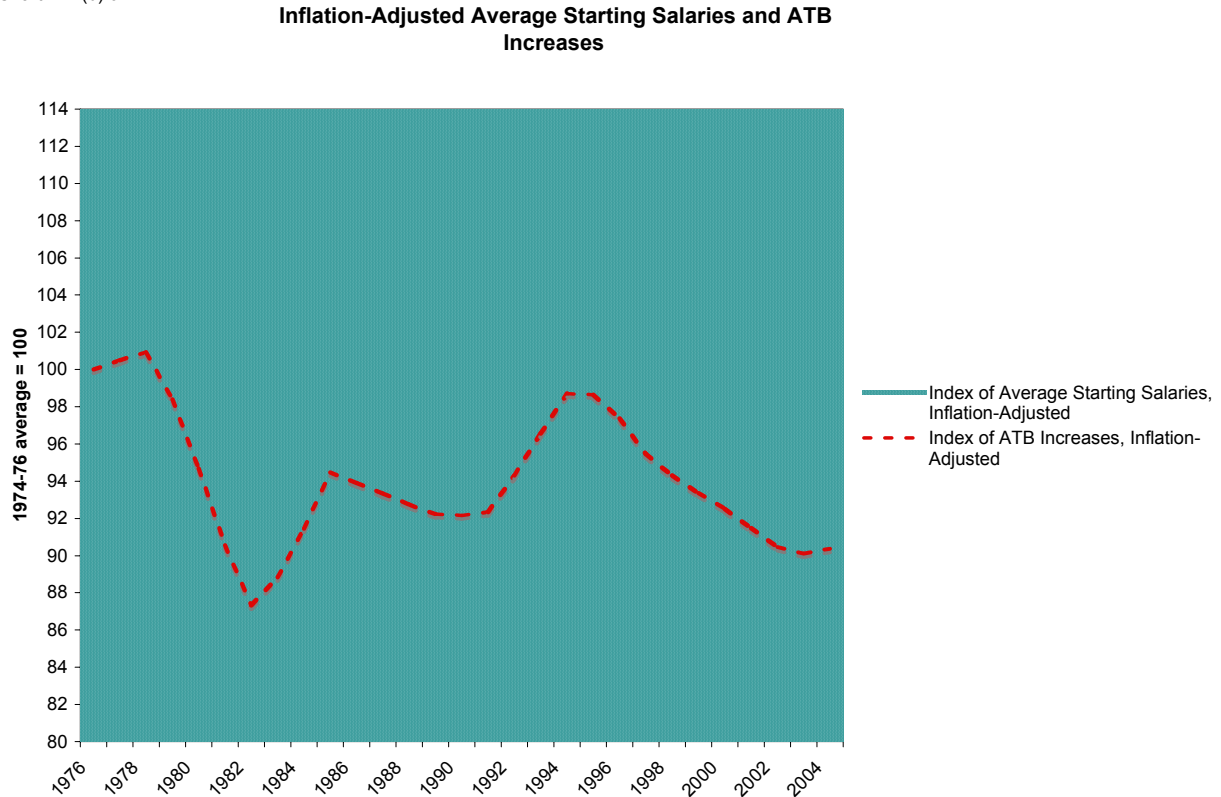
To put these data into perspective, we compare the progress of starting salaries with the changes in the CPI for Toronto and with the ATB increases in faculty and librarians' salaries at the University of Toronto.

The shaded line shows the 1974-1976 implicit average starting salary, adjusted to reflect inflation. Because it lies below the line for starting salaries, it demonstrates that starting salaries at the University of Toronto have increased more rapidly than the cost of living in Toronto.

The dashed line shows the 1974-1976 implicit average starting salary, adjusted to reflect the ATB salary increases at the University. It demonstrates that ATB increases have been below inflation over the period, and that starting salaries have increased at a rate much greater than the rates of ATB increase over the period.

Chart B-2 (b) 6 compares an index of inflation-adjusted starting salaries with an index of inflation-adjusted ATB increases.

Chart B-2 (b) 6



Over the 30-year period, there has been a persistent, albeit variable, gap between inflation-adjusted starting salaries for faculty and inflation-adjusted ATB increase awards.

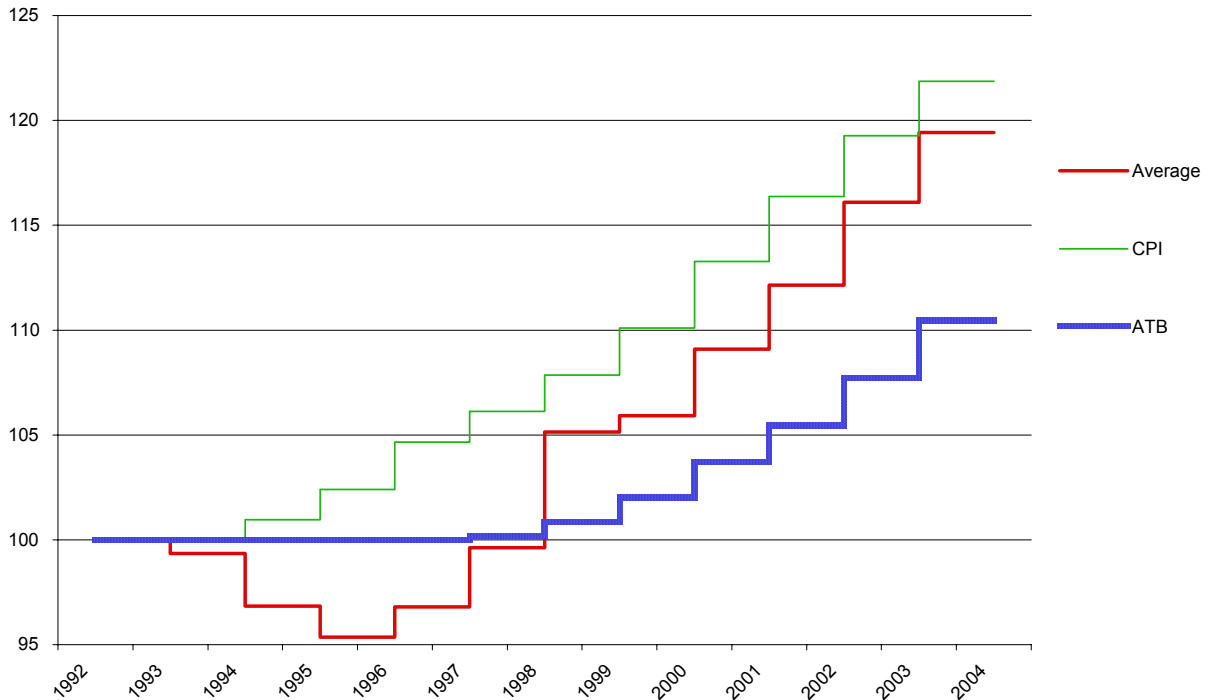
The narrowing of the gap in the early 1990s is particularly noteworthy, as is the widening of the gap since 1995. Indeed, the gap between inflation-adjusted starting salaries and inflation-adjusted cumulative ATB awards is wider now than it has been at any time during the study period.

The effect of this growing gap has been to move starting salaries progressively higher on the notional pay grid for faculty represented by the PTR system.

Chart B-2 (b) 7 focuses on the period since 1992 in particular.

Chart B-2 (b) 7

Average starting salaries, inflation and ATB increases, index 1992-3=100



Neither ATB catch-up nor merit pay pool increases alone will solve this problem. The problem has been created by the combined impact of lower-than-market ATB increases that have effectively moved starting salaries up the pay scale and merit pay adjustments for faculty that have not kept pace with salary increases in the market. A resolution will require both catch-up ATB increases and an increase in the merit pay pool.

The Association's proposal with respect to ATB continues the modest steps towards a rebalancing of the University of Toronto faculty compensation system that began three years ago.

The Association's proposal to increase the merit pay pool by 1% of salary will not solve the problems of salary compression and inversion and below-market salaries for mid-career and senior faculty created by merit pool underfunding over night. It will take several years of merit pay adjustments at this higher percentage of salaries to have a visible impact.

That is why the Administration's proposal as reflected in its exit position in mediation for a one-time-only enhancement of the merit pay pool is not responsive to the salary scale issue. The problem of salary erosion relative to the market in the University of Toronto PTR system is not going to be solved with a one-time-only merit pool enhancement,

especially when it is accompanied by an proposed ATB increase that is below the norm for university faculty in Ontario and below the expected rate of inflation for the agreement period.

(b) Salary Scale

(ii) Joint Working Group re: PTR model

UTFA Proposal:

The parties agree to establish a Joint Working Group to review and report with respect to the PTR model.

Administration Proposal:

The parties agree to establish a Joint Working Group to review and make recommendations with respect to the PTR model.

The parties appear to be in agreement on the establishment of a Joint Working Group on the PTR model.

The Association notes that, during the term of the last agreement between the Administration and the Association, the parties established a working group to consider issues with respect to the PTR system. That working group was not able to reach a consensus on a direction for change, largely because the economic issues addressed in the Association's proposals in this arbitration could not be addressed appropriately in that forum. It is the Association's hope that recognition of the economic issues that underlie the current problems with the PTR system in the next agreement will lay the foundation for a more productive review of the operation of the system.

(b) Salary Scale

(iii) Salary Adjustment Fund

UTFA Proposal:

An amount of 0.5% of total salary shall be set aside for the purpose of addressing salary inversion and anomalies. Allocation shall be retroactive to July 1, 2005.

Salary Adjustment Fund

The need for a salary adjustment fund to address problems of salary equity for faculty, lecturers and librarians at the University of Toronto arises from two factors:

- the exclusive reliance on individual negotiations with faculty for the determination of starting salaries; and
- the interaction of an underfunded merit pay system for advancement within the University's pay structure and the Administration's heavy reliance on retention adjustments in the salary determination process.¹⁷

(See generally "Salary Adjustments for Academic Staff and Determination of Starting Salary for Faculty, PDAD&C #28, 2002-2003 – Book of Documents, Volume III, Tab 2-G.)

The issue with respect to starting salaries is relatively straightforward. In the University of Toronto system, the most important determinant of an individual's lifetime earnings at the university is his or her skill in negotiating a starting salary. Mistakes are made, either because the faculty member undervalues his or her skills and qualifications or because the faculty member finds himself or herself in a weak bargaining position for other reason. Historically, this has been a particular problem affecting women faculty

¹⁷ The analysis of the need for an anomaly adjustment pool of 0.5% of salary presented here is based on salary data for Professorial Faculty. Analogous arguments apply with respect to Librarians and Lecturers, so that the arguments and conclusions with respect to PTR and Professorial Faculty should be taken as applying to Librarians and Lecturers as well.

members, and most universities have on-going programs for salary adjustment in response to these kinds of issues.

With respect to the impact of retention adjustments on salary equity, it is important to note two features of this system (or non-system, as it should be described). First, these adjustments are not one-time only payments; they are adjustments to the base salaries of the faculty members concerned. As a consequence, these amounts are included in the salary base on which future ATB increases are calculated and accumulate from year-to-year.

Second, these adjustments are not the outcome of a systematic review of the adequacy of salaries at the University of Toronto relative to the market. They are initiated by individual faculty members. Those faculty members who choose to go through the process of obtaining a competitive offer, or of putting together a case for an anomaly adjustment, potentially qualify for these adjustments. Faculty members who simply do their jobs and earn their annual merit pay adjustments do not.

These are not systematic adjustments; they are squeaky wheel adjustments.

As was noted above, over the past few years the cumulative impact of this category of adjustment now represents a substantial share of the total salary budget for faculty at the University of Toronto. As such, it now represents a significant distortion of the pay system at the University.

Impact on the salary structure for faculty and librarians at the University of Toronto

The underlying purpose of the PTR model was to provide for progression of salaries throughout a faculty member's career. While the model is intended to reflect differences in merit, through differences in annual merit adjustments, one would expect in theory to see a strong relationship between faculty salaries and career duration. When we look at the actual data, however, it is evident that distortions in pay introduced by variations in starting salaries over time together with in-career *ad hoc* market-related adjustments for individual faculty members have weakened that relationship.

Retention adjustments are not a substitute for a properly functioning pay system; and do nothing for the faculty who do not receive such an adjustment. The effect is clearly visible in scattergrams linking salary to year of highest degree.

The following charts present the scattergrams for the four major academic divisions: humanities, life sciences, physical sciences and social sciences.

These scattergrams show significant anomalies for all years, but particularly after 1990, reflecting the rapid growth rate of starting salaries relative to across-the-board increases beginning in 1995.

Chart B-2 (b) 8, Humanities

Chart B-2 (b) 8 **Distribution of faculty by year of highest degree, Division: Humanities -- Rank: All**

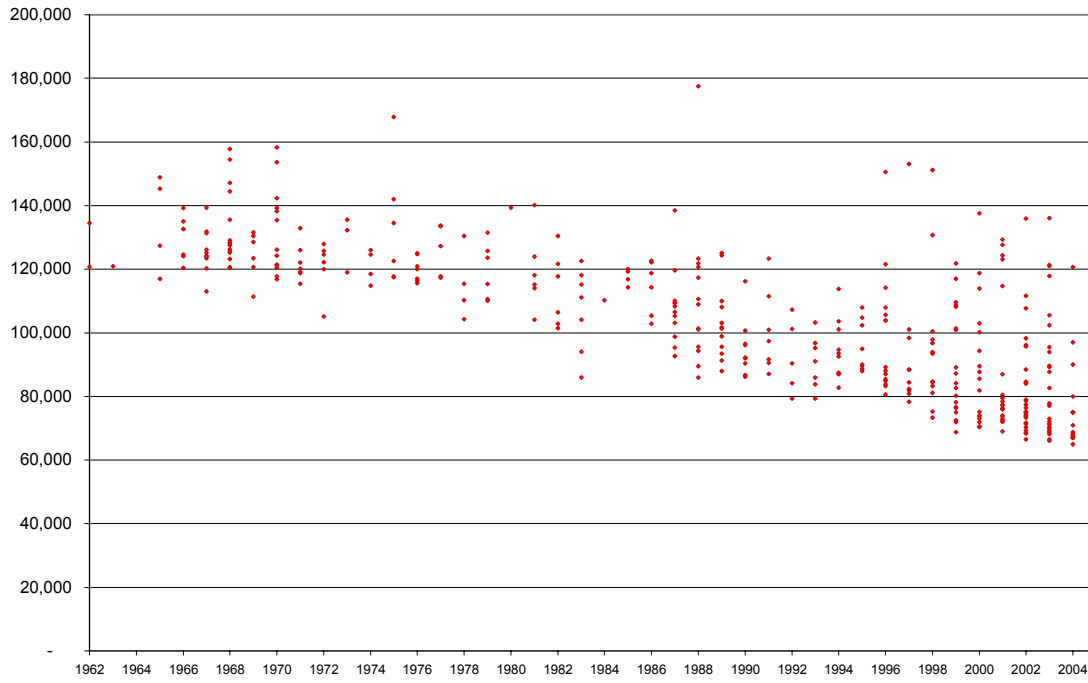


Chart B-2 (b) 9, Life Sciences

Chart B-2 (b) 9

Distribution of faculty by year of highest degree, Division: Life Sciences -- Rank: All

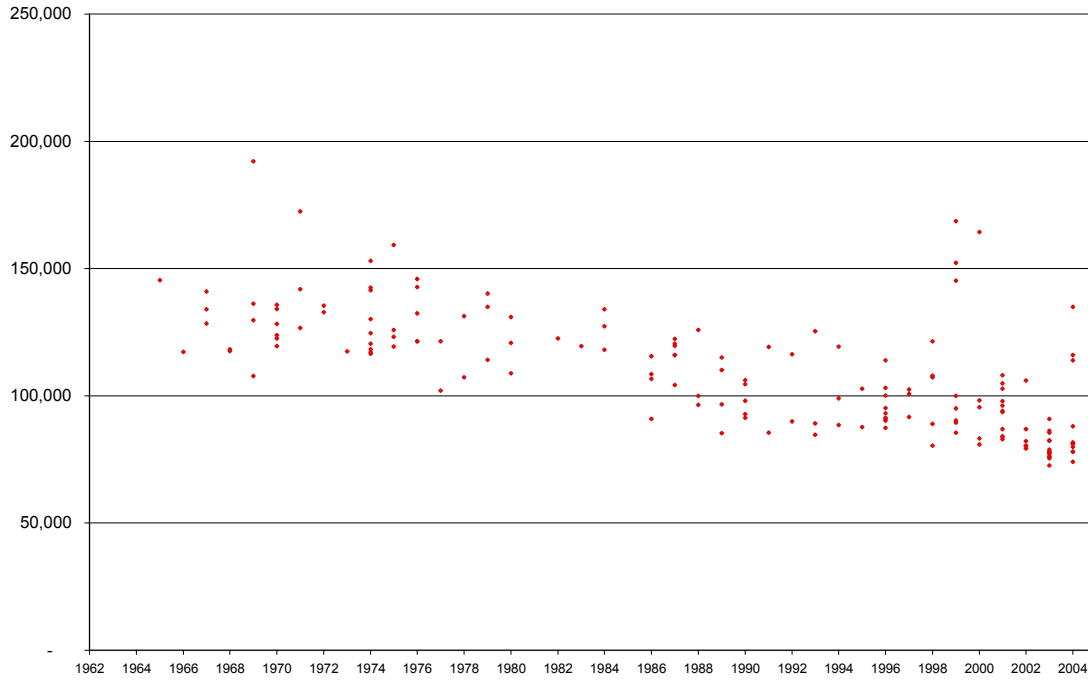


Chart B-2 (b) 10, Physical Sciences excluding engineering and computer science

Chart B-2 (b) 10 **Distribution of faculty by year of highest degree, Division: Physical Sci - excluding engineering & computer sci -- Rank: All**

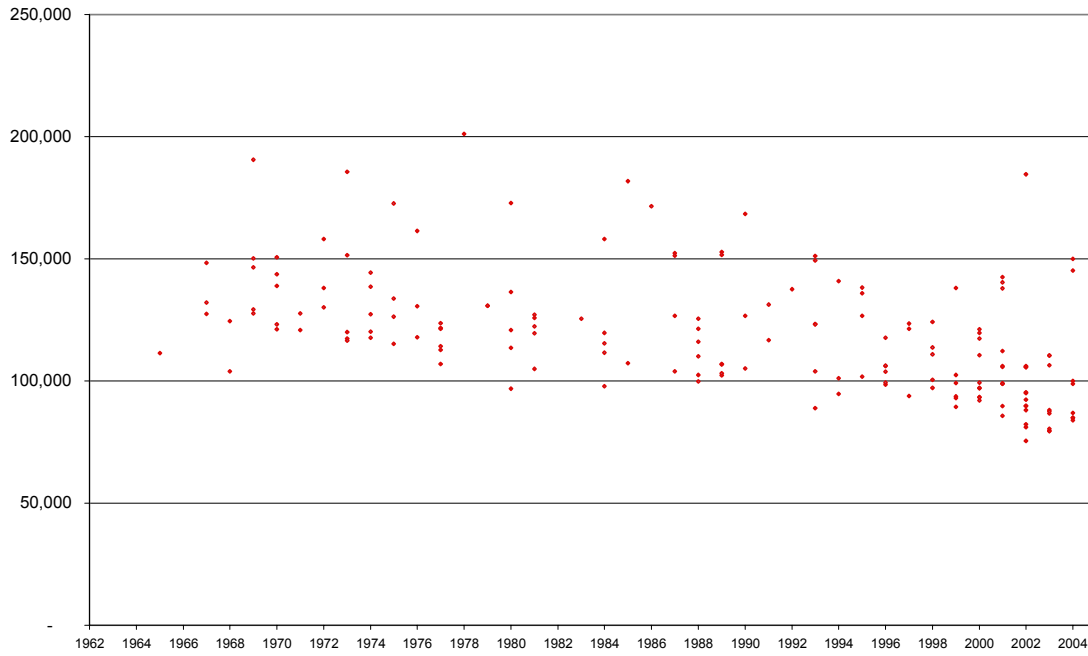
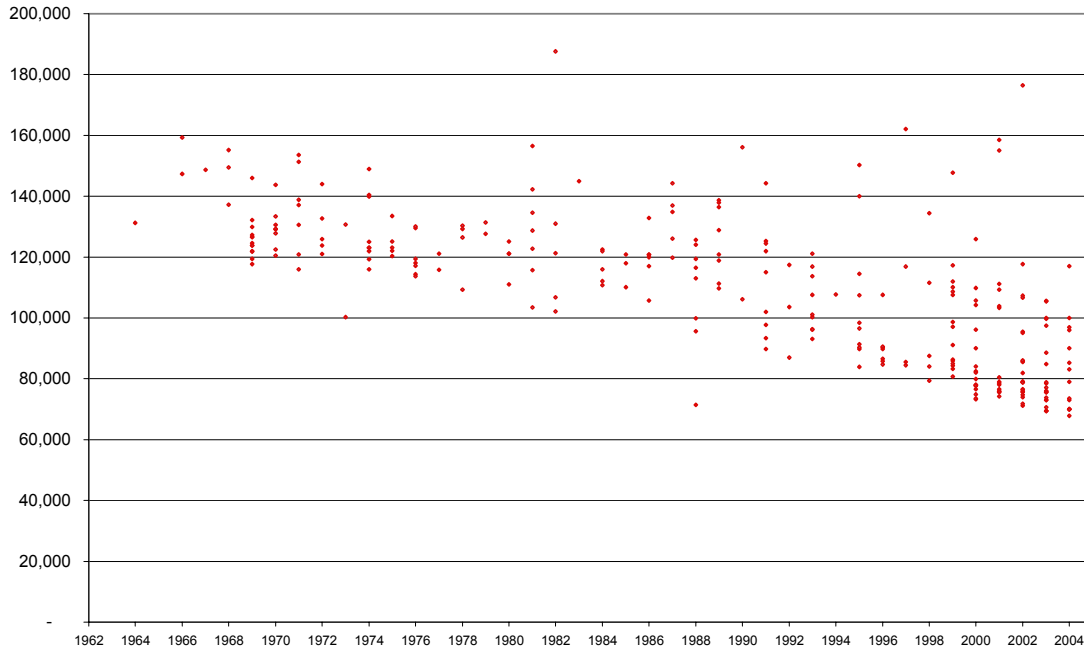


Chart B-2 (b) 11, Social Science excluding education, management and law

Chart B-2 (b) 11
**Distribution of faculty by year of highest degree, Division: Social Sciences - excluding Law,
Mngmt & Education -- Rank: All**



These charts show the dispersion of salaries in only the academic disciplines. Spreads are even greater in the professional divisions (Health Sciences, Engineering and Computer Science, Law, Business). In addition, in Management and Law in particular, the distributions show clear evidence of salary inversion.

The fact that there are variations in the salaries paid to faculty in the same division and with the same year of highest degree merely suggests that there are problems with the salary system. It is possible, for example, that these variations may be explained by differences in performance as reflected in merit awards. However, these variations certainly beg further investigation and require an explanation.

Although an allowance of 0.5% of salary as proposed by the Association will almost certainly be insufficient to address fully the situation of now-paid faculty whose salaries are outliers on the low side and reflect anomalies in the salary system, such an allowance will at least permit the Administration and the Association to make a serious start at addressing these anomalies.

The Association believes that it is of crucial importance to allocate funding to stand behind the task of the joint working group on salary anomalies proposed below.

(b) Salary Scale

(iv) Joint Working Group re: Salary Inversion and Anomalies

UTFA Proposal:

A Joint Working Group shall be established effective July 1, 2005 to study the issue of salary inversion and anomalies and to develop a system for rectifying inequities. If agreement is not reached by April 15, 2006 on the mechanism for distribution and/or on the distribution of funds, the issue may be referred by either party to arbitration.

The evidence presented above is clearly suggestive of substantial salary anomalies affecting significant numbers of faculty members.

The current process for addressing these anomalies is totally inadequate. It is ad hoc, discretionary, unfunded and driven solely by complaints from individual faculty members.

Other institutions have succeeded in developing rational models for use in identifying and measuring salary anomalies. Rather than suggest that any one of these models is appropriate for the University of Toronto, the Association is proposing the establishment of a Joint Working Group to analyze the salary data for the University in greater detail, to develop methods for identifying faculty who are low-paid as a result of salary anomalies and to develop a systematic approach to remedying those anomalies.

In contrast with the Association's position with respect to other joint working groups, we are proposing that with respect to salary anomalies:

- that the Joint Working Group on salary anomalies work to a deadline for completion of its work specified in advance;
- that failure to reach consensus on the anomaly process result in a referral of the issues outstanding to binding arbitration; and
- that funding be allocated in advance for increases required to remedy salary anomalies.

We believe that this more rigorous approach is both appropriate and justified with respect to salary anomalies.

Unlike the situation with respect to the broader review of the PTR system, salary anomalies raise a very specific issue – one which will have to be addressed regardless of the future of the PTR system as a whole. It is therefore not unreasonable to expect the Joint Working Group to complete its work by a specified date and to provide for a mechanism for resolving areas of disagreement. The Association is concerned that, in the absence of a specific deadline and a mechanism for resolving disputes, the Administration will simply talk the issue out.

The allocation of funding to begin implementation of an anomaly adjustment system gives added weight to the sense of urgency which we believe should be afforded this exercise and would permit the process of anomaly adjustment to be effective beginning in the current academic year.

(b) Salary Scale

(v) Abolition of Senior Salary Category

UTFA Proposal:

The senior-salary category for faculty and librarians shall be abolished, effective June 30, 2006.

The Association is proposing the elimination of the Senior Salary category in the PTR system.

The Senior Salary category was a late addition to the PTR system. Its existence does not affect the total cost to the University of operating the PTR system. It simply takes the same pool of money that would be available for faculty in the Senior Salary category and establishes a different method for distributing that salary increase money.

The Senior Salary category is significant in two respects. First, faculty in the Senior Salary category receive no ATB salary increase. These faculty members' ATB increase is not awarded to them as individuals; it is pooled with the ATB amounts generated by the Senior Salary category as a group, along with the merit pay allocation for the individuals in the group, and is entirely discretionary.

Second, whereas most of the merit pay allocation for faculty other than those in the Senior Salary category is done at either the departmental or divisional level, the allocation of increases for faculty in the Senior Salary category is done university-wide, by the office of the Provost. Thus while most faculty are awarded merit pay through a comparison with peers in the same or a similar discipline, Senior Salary category faculty are in effect in competition for salary increases with faculty in completely different disciplines. Furthermore, while much of the merit pay of most faculty is determined with some degree of collegial input, all of the merit pay of Senior Salary category faculty – including what would for others be their ATB increase – is at the discretion of the Provost.

The Association believes that this treatment of scholars in the Senior Salary category is both unfair and unjustified. It singles out Senior Salary category faculty as the only faculty members in the University community who are not entitled to an automatic adjustment in their salary to reflect changes in the cost of living. It forces Senior Scholars – and only Senior Scholars – to compete for their salary increase across the

entire University. Furthermore, the Association is unaware any justification – academic or otherwise – for this differential treatment of faculty in the Senior Salary category.

In addition to being unfair to the individuals concerned, the current procedure runs counter to the collegial atmosphere which the University tries to nurture. It separates Senior Salary category faculty from their colleagues, effectively removing them from their departments for salary determination purposes, and it fosters the suspicion that the process serves to favour some divisions of the University at the expense of others.

(b) Salary Scale

(vi) Minimum Salaries for Librarian III and IV, and elimination of salary ceiling on Librarian II

UTFA Proposal:

Librarians: The minimum salary for Librarian III and Librarian IV shall be raised to \$62,500 and \$75,700 respectively and the salary ceiling for Librarian II shall be eliminated, effective July 1, 2005.

Administration Proposal:

Effective July 1, 2005 the minimum salary for Librarian III and IV to be increased to \$62,000 and \$75,700 respectively.

Effective July 1, 2005 the salary ceiling for Librarian II will be eliminated.

The parties are in agreement on this issue.

(b) Salary Scale

(vii) Minimum Salary for Lecturers

UTFA Proposal:

The minimum starting salary for Lecturers shall be raised to \$60,000, effective July 1, 2005

Administration Proposal:

Effective July 1, 2005 the minimum salary for Lecturers will be increased to \$60,000.

The parties are in agreement on this issue.

(c) Per-Course Payments

(i) Overload – minimum rate of pay

UTFA Proposal:

For all individuals in part-time non-sessional appointments (i.e., represented by UTFA), senior research associates, retired faculty and faculty or librarians teaching on overload, the **minimum** rate of pay for each full-course equivalent shall be set at \$12,500 effective July 1, 2005.

Administration Proposal:

Stipend Rate

Effective July 1, 2005 the minimum per course stipend rate payable to part-time non-sessional appointments represented by UTFA and faculty members teaching on overload will be increased to \$12,500.

The parties are in agreement on this issue.

(c) *Per-Course Payments*

(ii) *PERA*

UTFA Proposal:

All part-time faculty represented by UTFA shall receive expense reimbursement pro-rated at 33% per full-course equivalent of the PERA rate effective July 1, 2005.

The Association is seeking 33% of the PERA for each full-course equivalent taught by part-time lecturers up to a maximum of 100% of the PERA paid to full-time lecturers and professors. The new provision is an improvement over the current provision for prorating the professional expense allowance for part-timers. As the Association understands it, the current provision works as follows: Instructors with appointments between 50% and 74% (i.e. teaching between 2.5 and 3.5 full-course equivalents a year) now receive an allowance of \$620 per year, 80% of the full-time amount, and those with appointments between 25% and 49% (i.e. teaching between 1.25 and 2.5 full-course equivalents a year) receive an allowance of \$387.50 a year, 50% of the full-time amount.

(d) Pensions

(i) Pension Augmentation for Retirees

UTFA proposal:

All retirees shall receive augmentation to their pensions in an amount equal to full inflation catch-up as of July 1, 2005. This applies to all pensions from RPP, OISE and SRA.

Background:

Pensions are not fully indexed for inflation in the pension formula. According to the formula, the purchasing power of pensions will decrease by about¹⁸ 25% of the annual inflation percentage, up to a maximum loss of 4% in any one year. (This means that should inflation exceed 13%, the inflation loss is capped at 4%).

Over the course of many prior settlements between the Administration and the Association, there has been repeated agreement to “augment” the existing pensions by an amount exactly equal to the lost 25%.

The Association’s proposal now is that this past practice should become the expected norm.

The Cost Issue:

The Administration (Vice-President Angela Hildyard) has stated in the July 25, 2005 issue of the University of Toronto Bulletin newspaper that:

Previously, augmentation to 100 per cent of CPI for pensioners has generally occurred when there has been a surplus in the pension plan which has resulted in pension contribution holidays for employees. In other words, augmentation has been a form of surplus sharing. Now, far from a situation of any surplus to share, market constraints and interest rates have created a deficit in the pension plan. There are no longer contribution holidays and the university is required to

¹⁸ The precise cost-of-living adjustment is the greater of (a) and (b), where (a) is the increase in the Consumer Price Index for Canada (CPI) for the previous year minus 4.0% and where (b) is 75% of the increase in the CPI for the previous year to a maximum CPI increase of 8%, plus 60% of the increase in CPI in excess of 8%.

make significant special payments into the plan for 15 years. Agreeing to augmentation for the faculty and librarians would increase the deficit in the plan by \$4.6 million, which would result in an increase to the special payments of \$475,000 annually for 15 years. Under the circumstances, the university believes it would be fiscally irresponsible to agree to UTFA's demands for continued pension augmentation in this round of bargaining, particularly in light of the fact that pension augmentation for UTFA members already goes beyond that for all other employee groups at the university.

See Book of Documents, Volume III, Tab 3-A.

We beg to differ.

(a) Contribution holidays. One need only look at the many pension contribution holidays taken by the Administration since 1987, to realize that for years the monies designated for the pension plan were used as a cash cow to fund other University expenses. The cumulative total of all these "holidays" over the past 18 years, in today's dollars, now exceeds one billion dollars. Column [9] in the following table shows how this cumulative sum, as of July 1, 2005, has compounded to \$1,121 million¹⁹.

It is true that, for some of those years, employees were also able to negotiate a contribution holiday (at the expense of other benefits). Column [7] shows that the corresponding cumulative value of the employee (faculty and all support staff) holidays is \$166 million or about 15% of the value for the employer.

¹⁹ Please note that this sum includes ALL members of the pension plan, not just faculty and librarians. There is no separate data for only faculty and librarians.

November 22, 2005										
The U of T Pension Plan - Update of Data Summary (for UTFA SB&P Report #5)										
(All dollar figures are totals for both faculty and support staff at U of T)										
[1] Academic Year to July 1	[2] Assets Market Value \$ in Mil	[3] Liability Actuarial Value \$ in Mil	[4] Market minus Liability \$ in Mil SURPLUS	[5] Market minus Liability \$ in Mil DEFICIT	[6] [7] Member - Holiday		[8] [9] Uof T - Holiday		[10] Actual Market Return Rate	[11] RPP Cost (Fees) \$ in Mil
					Yearly \$ in Mil	Cumulative \$ in Mil	Yearly \$ in Mil	Cumulative \$ in Mil		
1987	805	614	192		2	2	14	14	13.2%	1.3
1988	801	689	112		1	3	27	40	0.3%	1.5
1989	890	766	125		2	5	29	78	12.8%	1.9
1990	888	845	43		6	12	31	111	1.9%	1.7
1991	944	870	75		0	13	29	151	8.2%	1.8
1992	1,061	1,032	30		4	19	10	179	11.2%	1.9
1993	1,209	1,110	98		0	21	22	229	14.0%	1.9
1994	1,260	1,202	58		0	22	37	276	3.5%	2.2
1995	1,408	1,244	164		-1	24	36	355	14.0%	1.6
1996	1,549	1,249	300		-1	26	31	434	12.6%	2.3
1997	1,848	1,437	412		0	32	31	564	21.3%	2.6
1998	2,039	1,503	535		15	54	31	682	14.6%	4.8
1999	2,009	1,594	415		18	73	32	728	2.0%	4.4
2000	2,259	1,680	579		19	108	33	890	16.9%	4.9
2001	2,063	1,771	292		21	122	35	878	-5.1%	8.6
2002*	1,940	1,906	34		10	130	35	894	-2.4%	11.8
2003	1,863	2,067		-204	0	130	2	894	-0.3%	12.6
2004*	2,112	2,225		-113	0	150	-7	1,023	15.4%	13.1
2005*	2,321	2,407		-86	0	166	-12	1,121	10.9%	14.4

* => with plan changes

This raw data in the above table comes from the official annual actuarial reports for the University of Toronto Registered Pension Plan (RPP), prepared by Hewitt Associates.

See Book of Documents Volume III, Tab 6.

It should be noted that very recently the Administration decided that in the future, rather than take contribution holidays due to a temporary surplus, the monies should be set aside in a separate account. In a January 12, 2004 memo to Business Board of Governing Council, Ms. Sheila Brown made a number of recommendations, one of which was:

Continue to set these funds aside, regardless of Income Tax Act restrictions. If not permitted to make contributions to the RPP, reserves should be set aside outside the RPP.

See Book of Documents, Volume III, Tab 3-B.

We can now only wish they had done that years ago.

(b) Changing Assumptions. It is well known that pension surpluses or pension deficits in a defined benefit pension plan can be made to increase or decrease by simply

changing the actuarial assumptions. Recently the investment return rate assumption was *decreased* from 7.0% to 6.5% (while at the same time reducing the inflation assumption from 3.0% to 2.5%, thereby keeping the *real return* at the same 4%). This reduction in the future value of today's assets results in an increased liability. This in turn results in increased deficit (or reduced surplus) in the RPP. Similarly, the recent 0.5% increase in the assumed merit and promotion portion of future salaries would also tend to increase the plan liability and so take away from any apparent surplus.

During the last two years the pension plan return (see column [10] in the above table), at 15.4% and 10.9%, have been well in excess of the assumed 7% or 6.5%.

(c) Increasing Expenses. Pension plan expenses have increased dramatically in the past four years. This past year they stood at \$14.4 million. Prior to 1998 they never exceeded \$3 Million. The expenses from year to year are shown in the above table in column [11].

A substantial part of this increase in expenses, but not all, was for the newly created UTAM (University of Toronto Asset Management Corporation) created in 2000-2001 to actively manage university assets (pension assets, endowment assets and cash assets). The Association was not consulted in this matter although the deferred compensation monies (the pension assets) of its members were involved.

There is no statistically compelling evidence that UTAM has added value in excess of its own costs. Many academic studies prove that on average such active management costs will exceed any added investment gain. In the words of Nobel Prize recipient for financial economics, Merton Miller:

Most pension fund managers cannot even reasonably hope to do any better than a passive fund. And, on a risk adjusted basis, they don't! I believe that data are quite strong on this.

See Book of Documents, Volume III, Tab 3-C.

Furthermore, a May 5, 2005 National Post article suggests that UTAM spent over \$1 million in buy-outs for their staff reorganization alone.

See Book of Documents, Volume III, Tab 3-H.

Our point is that the Administration is the author of its own pension deficit situation and that pension benefit improvements should take priority over such unwarranted pension expenses.

(d) Indexation, actual vs. assumed. The July 1, 2005 Hewitt actuarial report, on page 20, has the following text:

Benefit entitlements for retired and terminated vested participants as of July 1, 2005 increased by 1.58%. The increase was lower than the 1.875% increase anticipated under the actuarial assumptions, resulting in an actuarial gain of \$3,422,000.

In other words the plan set aside more funds for inflation than was necessary in 2004-2005. The result was that the pension plan gained a windfall of \$3.4 million.

Surely these funds could be used to help pay for full indexation.

Similar and even larger surpluses were returned to the fund in previous years when the assumed inflation rate was 3% (before it was reduced to 2.5%). The document at Tab 3-1, Book of Documents, Volume III presents data that was exchanged by the two parties on this topic during mediation in May, 2005.

(e) Help from the SRA. The Supplemental Retirement Arrangement (SRA) and Registered Retirement Plan (RPP) dovetail with each other. The SRA picks up from the salary cap in the RPP and extends the salary limit to \$150,000. The RPP limit was frozen for a number of years. But now, as a result of the February 2005 Federal budget announcement, there will be a new schedule such that the maximum per year of service benefit will be increasing from \$2,0000 in 2005 to \$2,444.44 in 2009, with increases of 3.5% per annum thereafter.

This means that benefits previously covered by the SRA will now be shifted into coverage by the RPP coverage. (Note that if the SRA limit is not increased beyond the \$150k cap, in due course the RPP limit could exceed the SRA limit. At that point the SRA is redundant for active faculty.)

It is important to realize that this increased liability (for exiting staff) in the RPP has already been funded via the funding in prior years for the SRA. As of July 1, 2005, this RPP limit change, together with the actuarial assumption changes, resulted in a reduction of about \$21.1 Million in the accrued liability for active (non-retired) participants in the SRA.

In other words what was a prior SRA pension liability has now been transferred to the RPP. Because the funds to cover the SRA liability were left in the SRA account, the SRA now has a market surplus of \$17.7 Million. This \$17.7 surplus does not have any of the restrictions of an RPP. It is not restricted and thus it now becomes free money for the Administration to use as it sees fit. A further annual windfall comes from the fact that the annual service cost for the SRA has decreased from \$1.4 Million (a year ago) to \$0.4 Million now.

Surely some of the current \$17.7 million surplus in the SRA is available to provide the 100% indexation of the pension plan

(f) USWA Pension Improvement. All University of Toronto staff, be it faculty or librarians or support staff, all belong to one common RPP. There are about 7,500 active (non-retirees) participants in the RPP. This means that about two-thirds of the members in the RPP are non-UTFA members.

USWA members are a substantial portion of the non-UTFA participants in the RPP. Information Request #224 (IR-224 – see Book of Documents, Volume III, Tab 3-D) for the recently concluded settlement with USWA (as a result of a real strike threat), indicates that the Administration was willing to increase the RPP Accrued Liability by \$9.7 Million to improve the pension benefits of the USWA members. It also increased the annual service cost for the University by \$354,000.

The Administration must not be allowed to increase the pension plan benefits for one group of participants in the plan and then at the same time claim it cannot afford improvement for another group because the plan is now in deficit.

Most of the pension plan asset base resides with the faculty and librarians. We believe the Association's members are entitled to an equivalent pension improvement.

Conclusion. Surely the Administration should be willing to provide significant pension improvements for its retired pensioners, many of whom never saw a contribution holiday and whose dutiful participation in the RPP made the immense surpluses available to the Administration.

(d) Pensions

(ii) Benefits for pre-1981 Retirees

UTFA proposal:

Faculty and librarians who retired before 1981 shall have the same benefits as those who retired during and after 1981, effective January 1, 2006.

Until very recently faculty and librarians who retired prior to 1981 (the “pre-1981 class”) had no health or dental benefits. Those that retired after the 1981 cohort were given full parity with active staff with respect to extended health and dental benefits go.

The pre-1981 class now made up of very elderly retirees. These retirees are in their late eighties or older by now, and their numbers are also rapidly diminishing. In May of 2005 there were 158 individuals in this group plus another 25 with spouses, giving a grand total of 208 beneficiaries in the group.

In the last round of negotiations a Health Care Expense Account was established for the first time for each subscriber providing an annual allowance of \$1,000 per survivor or single pensioner or \$1,500 per pensioner with spouse or partner.

The usage of this account has been very minimal. In 2004, 1,045 claims made against these accounts for a total cost to the University of \$62,443.

The Association believe that this elderly group, who for more than two decades were treated as second class retirees, should be given full parity with all the other retired faculty and librarians.

(d) Pensions

(iii) Commuted Pension Choice

UTFA proposal:

At the time of retirement, individual faculty and librarians shall have the option of receiving a monthly pension or a lump-sum payment equal to the commuted value of the individual's pension. Those who opt to receive the lump-sum payment shall be eligible to receive benefits on the same basis as those receiving a monthly pension.

The present policy discourages individual faculty and librarians from using the commuted value option at the time of normal retirement. Only as a result of negotiations was this option available under VEARP (the Voluntary Early Academic Retirement Program) and more recently it will be available for pre age-65 retirees under the new "Agreement to End Mandatory Retirement".

At present, if an age-65 or older retirees wish to receive the commuted value of their pension account, they must resign from the University. At that point the plan document provides for four pension options, one of which is the commuted value.

However, by resigning one severs ones other relationships with the University and so one must walk away the regular retiree benefits. This is the penalty that the current system extracts if you wish to exercise the commuted value option. The Association believes this should be corrected.

Why should extended health and dental benefits be tied to a particular form of receiving your pension benefit? The Association submits that the current practice is discriminatory and should be terminated.

In the future all retirees (early, phased, regular or late) should be given the commuted value option on the same basis as those taking the monthly-pension option.

(d) Pensions

(iv) Commuted Pension Information

UTFA proposal:

The commuted value of the pension for individual faculty members and librarians shall be included in the annual Benefits Statement along with an explanation of what commuted value means and how interest rate changes and other relevant factors may change the amount.

Administration proposal:

The University agrees to provide in the annual Pension and Benefits Statements for faculty members and librarians an estimate of the lump sum termination value of the pension as of the end of the Plan year, beginning with the Statement as of June 30, 2006. The University and UTFA agree to work towards ensuring that plan members understand that this estimated value is not a guarantee of the amount the member would receive if they terminated from the University.

The Association believes the Administration has already agreed to this information request on behalf of our membership.

(d) Pensions

(v) Joint Working Group re: Pension

UTFA proposal:

The parties agree to establish a Joint Working Group to investigate and report with respect to alternative pension arrangements, including design, eligibility, transition, and a framework for its introduction. Each party will include its respective actuary or pension consultant as a member of the Working Group.

The parties appear to be in agreement on this matter - See below – item 4(v).

B - 3 BENEFITS

Benefits

Similar Benefit Coverage for Retired and Active Employees

UTFA proposal:

Retired and active faculty and librarians shall have the same benefit coverage (excluding only those benefits (e.g., long-term disability) that might be of no value to one party) and the same premium charge and co-pay policy.

This is the existing practice and the purpose of this proposal is simply to have this existing practice formally acknowledged.

Benefits

(i) Massage Therapy, Physiotherapy, Chiropractic Care and Optometrist Benefit

UTFA proposal:

The current benefit for massage therapy, physiotherapy, and chiropractic care shall be increased to \$1,000 maximum annually and shall be extended to include the services of a licensed optometrist.

The benefits system currently applicable to faculty and librarians at the University of Toronto provides coverage for named services: massage therapy; physiotherapy; and chiropractic treatment. Coverage is limited to a maximum (for all three services combined) of \$500 per person per plan year.

The Association's proposal is to add optometrist services to the list of additional services provided under this envelope and to increase the annual maximum to \$1,000.

This proposal is driven by two key factors:

- Reductions over recent years in the services covered by the Ontario Health Insurance Plan (OHIP) and/or in the amounts covered under those services that continue to be covered; and
- The existence of a substantial gap between the coverage offered by the benefit plan at the University of Toronto and the coverage offered at other universities in the Province of Ontario.

In its May 18, 2004 Budget, the Provincial Government removed chiropractic services, physiotherapy and optometry examinations from the list of services covered under OHIP. (See Book of Documents, Volume III, Tab 1.)

The delisting of these services has had a negative impact on the coverage enjoyed by faculty and librarians at the University of Toronto in two respects. First, the delisting of chiropractic services and physiotherapy which had formerly been partially funded through OHIP increased the financial load on the benefit provided through the University of Toronto plan. Second, the delisting of optometry created a medical services funding and coverage issue that did not exist prior to these delisting decisions.

Because these delisting decisions were announced in May 2004, during the life of the previous agreement between the faculty and librarians and the Administration, this round of negotiations and in particular this arbitration is the Association's first opportunity to address the coverage gap that has emerged.

Despite the fact that many faculty associations and unions are in the same position as UTFa in that they have not yet had the opportunity to respond to these specific funding cuts, it is clear that both the limits and the services covered under the University of Toronto plans fall far short of the norm for the university sector in Ontario and unacceptably short of what would be expected from a university that prides itself as the leading academic institution in Canada.

Paraprofessional coverage limits

First, with respect to coverage limits for paraprofessional services, Table No. 1 presents the results of a survey of the benefits provisions of the 16 leading universities in Ontario.

Table No. 1

Institution	In EH Plan	EH Limits	Specified additional	Additional limits	Premiums
Carleton	Physiotherapists, psychologists, osteopaths, chiropodists, naturopaths, Christian Science practitioners	80%; \$25 deductible per person, maximum \$50 per family	Speech pathologists, masseurs, chiropractors	\$200 per service per covered person	Employer pays 100% of costs as of 1 May 98; 50% of increases from that base

Ottawa	Psychologist	\$50 max per visit, annual maximum \$1,000 per covered person	Chiropractor, naturopath, osteopath, podiatrist, physiotherapy, speech therapy, massage, therapy	\$300 per service per covered person	100% paid by employer
Queen's	Speech therapy, maximum \$1,000 / year / person; physiotherapy, \$55 initial visit; \$35 subsequent (private) \$40 / \$20 OHIP approved		Chiropractor, chiropodist, osteopath, podiatrist, naturopath	50% of expense to maximum of \$300 per service per year	70% employer / 30% employee
Ryerson	Physiotherapist; Massage 20 treatments per year; psychologist maximum \$200 / year; Speech therapy maximum \$200 / year	\$25 deductible	Chiropractor, osteopath, acupuncturist, naturopath, podiatrist for non-OHIP, 20 treatments per year per practitioner		100% paid by employer
York	Psychologist, 100% to \$10,000 annual maximum; Speech therapy, 100% to \$1,500 annual maximum; Athletic therapy, 100% to \$300 annual maximum; Physiotherapy, 100% no specific maximum	\$25 / \$50 deductible individual / family	Chiropractor, massage, podiatrist, osteopath, naturopath, 100% of expense maximum \$500 per service per covered person		100% paid by employer
Toronto			Chiropractor, massage therapist and physiotherapy, maximum \$500 per person per year.		75% employer paid

Guelph	Physiotherapy Massage max \$30 / visit; 15 treatments / year		Speech language pathologist, psychologist, acupuncture, \$300 / year maximum per service Chiropractor, osteopath, naturopath, podiatrist, chiropracist max \$20 per visit, max \$300 / year per service		100% employer paid
McMaster	Speech therapy \$200 / year		Psychologist, physiotherapist, massage, osteopath, podiatrist, chiropractor, chiropracist, naturopath, Christian Science Practitioner max \$15 per visit, max \$225 per service per year		100% employer paid
Brock	Physiotherapist Psychologist \$20 co-pay (by plan member) maximum benefit \$1,000 per year.		Chiropractor, osteopath, podiatrist, chiropracist, naturopath, massage, acupuncture, \$20 co-pay (by plan member) per visit, maximum benefit \$500 / discipline / year	\$10 / \$20 deductible individual / family	100% employer paid

Trent	Physiotherapist		Speech therapist, psychologist, massage therapist, maximum \$200 / person / service; Osteopath, chiropractor, chiropodist, naturopath, podiatrist, maximum \$300 / discipline / year	\$25 / \$50 deductible individual / family	100% employer paid
Western	Psychologist: group therapy \$6 / hour; family therapy \$18 / half-hour, individual, \$15 / half-hour; others \$15 / visit		Chiropractor, osteopath, naturopath, chiropodist / podiatrist, acupuncturist, speech therapist, physiotherapist, massage therapist; up to \$15 per visit.		100% employer paid
Windsor	Chiropractor, maximum \$450 / year; Massage maximum \$600 / year; Physiotherapist; Psychologist 15 visits / year; \$50% co-payment Speech therapist \$800 / year				100% employer paid
Laurentian	Speech therapist, podiatrist, osteopath, naturopath, masseur, chiropractor, maximum \$225 per discipline per year		Psychologist max \$500 per year Physiotherapist (no maximum)		100% employer paid

Lakehead	Speech therapists, chiropractors, podiatrists, chiropodists, osteopaths, naturopaths, massage, \$8 per visit maximum \$200 / year		Psychologists \$10 / ½ hour initial assessment; \$10 per visit; maximum \$200		100% employer paid
Laurier	Speech therapist, massage therapist, physiotherapist, chiropractor, osteopath, podiatrist, naturopath, Christian Science Practitioner maximum \$400 / year / service		Psychologist / social worker \$500 maximum	\$25 / \$50 deductible individual / family	100% employer paid
Waterloo	Chiropractor, podiatrist, counselor, massage therapist, nutritionist, osteopath, physiotherapist, speech therapist, maximum \$555 per discipline per year				100% employer paid

A comparison of the benefit packages is complicated by differences in design. For example, some services that are included in the University of Toronto's paraprofessional package are covered in the basic extended health plans at some institutions. Other institutions have per-service limits rather than an overall limit for a group of services.

Having said that, however, it is unquestionably true that coverage is narrower, limits lower and the percentage of the premium paid by the employer is lower, by a substantial margin, at the University of Toronto than at any other university in the province.

Even without the need to broaden the range of services covered to include optometrists, it is clear that the \$500 per person limit at the University of Toronto is far below the norm in the sector and, indeed, that the Association's proposal for a limit of \$1,000 per

person would still leave the University's coverage below the norm and significantly below that offered at Ryerson and York, the other two universities in the City of Toronto.

Optometrist and vision care coverage

All universities in the province – including the University of Toronto -- had coverage for services like massage therapy, chiropractic treatment and physiotherapy prior to the delisting of the services despite the fact that these services were covered under OHIP. The overlapping coverage was attributable to the fact that OHIP offered only partial coverage of the costs of these services.

With respect to coverage for optometrists, OHIP had previously covered the fee schedule cost of refractions, subject only to restrictions – tied to the age of the patient – on the frequency with which the service could be claimed. Because these services were only completely delisted in May 2004, many plans have only recently addressed the issue of coverage for refractions and others have not yet had the opportunity to do so in negotiations.

Despite that fact, our benefits survey reveals a significant gap between the University of Toronto and other institutions with respect to eye examinations and the related benefit of vision care.

Table No. 2

Institution	Vision care	Coverage	Limits	Premiums
Carleton	Family or individual	\$120 / 24 months	Eye examinations not covered	Employer pays 100% of costs as of 1 May 98; 50% of increases from that base
Ottawa	n/a	n/a	n/a	n/a
Queen's	Family or individual	\$65 / 24 months for examinations; \$200 / 24 months for glasses, contacts or laser surgery; lifetime max of \$150 for visual training		70% employer / 30% employee
Ryerson	Family or individual	\$350 glasses per two years; \$350 contact lenses per two years; one eye examination / 24 months		100% paid by employer

York	Individual or family (optional)	\$375 per covered person	Eye examinations not covered	100% employer paid individual; optional family \$8.74 / month employee paid
Toronto	n/a	n/a	n/a	n/a
Guelph	Family or individual	\$350 per person / 24 months (12 or over) ; / 12 months under 12; one eye examination / 24 months		
McMaster	Individual only	\$150 / 24 months or \$200 / 36 months	Eye examinations not covered	100% employer paid
Brock	Family or individual	\$300 / 24 months; contact lenses if medically necessary	Preferred providers; Eye examinations not covered	100% employer paid
Trent		\$200 / 23 months; \$25 / person / year for eye examination		100% employer paid
Western	Family or individual	\$150 / year cumulating to \$300 / 2 years	Eye examinations covered to \$25 per visit	100% employer paid
Windsor	Family or individual	\$350 / 24 months	Eye examinations max \$75 / 24 months	100% employer paid
Laurentian	Family or individual	\$200 / 24 months	Eye examinations not covered	100% employer paidch
Lakehead	Family or individual	\$120 / 12 months under 18; \$120 / 24 months 18 and over	Eye examinations not covered	100% employer paid
Laurier	Family or individual	\$350 / 24 months	Eye examinations fully covered	100% paid by employer
Waterloo	Family or individual	Discounts at School of Optometry	Discounts at faculty for eye examinations	n/a

The University of Toronto is one of only two major universities in the province that offers no coverage whatsoever for vision care and/or eye examinations. The other is the University of Ottawa.

Of the fourteen universities that offer vision care coverage, eight offer coverage for eye examinations.

It should be noted as well that the University of Toronto provides a vision care plan – one that includes eye examinations – for its administrative, technical and support staff who are represented by the United Steelworkers of America. As of January 1, 2006, that plan will provide coverage to a maximum of \$250 per covered person in any 24-month period. The premium cost is split 50/50 between the university and the employee. (See Book of Documents Volume III, Tab 2-J.)

In this arbitration, the Association is not asking for a vision care plan, a proposal that would reduce to one the number of major universities in the province without a plan. The Association is asking only that optometrist services be included as one of a basket of services subject to an overall annual expenditure limit.

Even with the coverage requested by the Association in this arbitration, vision care coverage at the University of Toronto would be behind what is typically available at Ontario universities and well behind what is provided at York and Ryerson, the other two universities in the City of Toronto.

Benefits

(ii) Claim Criteria Information

UTFA proposal:

UTFA shall receive full and complete access to the rules, regulations, and guidelines that Green Shield follows in determining whether or not to pay claims made through the medical and dental insurance plans.

The Association is seeking full and complete access to the rules, regulations, algorithms and guidelines that Green Shield follows in determining whether or not to pay claims made through the medical and dental insurance plans. Currently, the Association has access only to the general provisions of the benefits policies.

Frequently, when individuals have failed to obtain a satisfactory explanation from Green Shield, members contact the Association wanting to know why a particular claim was denied or only allowed to a limited extent. As an example, when a physician prescribes an expensive drug to treat a condition for which less expensive drugs are available, Green Shield often accepts the claim but sometimes agrees to pay for the drug for a brief period, after which the person is required to submit a statement and/or test results from the physician to establish that the new, expensive drug is working better than would a less expensive alternative. The Association would like to know what criteria Green Shield follows in determining whether or not to require these additional submissions from the physician.

Members of the Administration have indicated that Green Shield's criteria and algorithms are proprietary and that even the Administration does not have access to them. The Association believes that this situation is unsatisfactory and needs to be changed.

Benefits

(iii) LTD Flexibility

UTFA proposal:

The long-term disability plan shall be modified to enable disability pension recipients to return to work on a part-time basis for indefinite periods of time without financial penalty.

The University's long-term disability insurance seeks to rehabilitate people to the point that they are able to return to work full-time and perform all their duties (teaching, research, service).

However, in a some cases, although rehabilitation occurs to the extent that a person could return to work part-time or fulfill some of his or her responsibilities, full rehabilitation will never be attainable.

The Association submits that the long-term disability policy should be modified so as to permit these individuals to return to work on a part-time basis and receive both a pro-rated salary and a pro-rated disability benefit.

Because the University self-insures and thus does not rely on a third party except to administer the programme, the Association believes that the Administration ought to be able to change the policy to accommodate people who are partially rehabilitated in the way requested by the Association.

The Association submits that this proposal is more consistent with the Administration's (and the Association's) duty to accommodate disabled workers, than is the current all-or-nothing work arrangement. In many cases, by enhancing the physical and psychological well-being of the worker involved, it will contribute to the faculty member's rehabilitation, and thus will serve the interests of both the faculty member and the University. At the very least, it would permit the University to benefit from the involvement of the faculty member as he or she is able as opposed to the current all-or-nothing approach.

Benefits

(iv) Orthodontics Benefit

UTFA proposal:

Expenses shall be covered with the employer paying 50% of orthodontic expense costs up to \$3,000 per person per lifetime for active and retired faculty and librarians and their dependent children.

In the past 20 years, it has become common for dental coverage to be expanded to include limited coverage for orthodontic treatments. Indeed, such plans are a standard component of benefit packages for professional and white collar workers.

Because of the largely elective nature of orthodontic treatments, the coverage offered tends to be limited both in the percentage of the cost covered and in the overall amount that will be paid for such treatments for each covered person. These plans will typically pay no more than 50% to 60% of the cost of the treatment and are typically subject to maxima ranging from \$1,500 to \$4,000 or more.

Our survey of the sixteen major universities in the province reveals that the University of Toronto is an outlier in having no orthodontic coverage in its benefits system.

Table No. 3

Institution	Coverage	% covered	Lifetime max. benefit / insured	Premiums
Carleton	Family or individual	50%	\$1,000	Employer pays 100% of costs as of 1 May 98; 50% of increases from that base
Ottawa	Family or individual	50%	\$2,500	Employer pays full cost of basic plan; employee pays full cost of optional plan: \$10.22 / month single; \$34.62 / month family
Queen's	Family or individual	50%	\$2,000	75% employer / 25% employee
Ryerson	Family or individual	50%	[no maximum specified in summary]	100% paid by employer
York	Family or individual	75%	\$5,000	100% employer paid
Toronto	n/a	n/a	n/a	n/a

Guelph	Family or individual	67%	2,500	100% employer paid
McMaster	Family or individual	50%	\$2,000	100% employer paid
Brock	Family or individual	50%	\$3,000	100% employer paid
Trent	Family or individual	50%	\$2,000	100% employer paid
Western	n/a	n/a	n/a	n/a
Windsor	Family or individual	50%	\$3,000	100% employer paid
Laurentian	Family or individual	50%	\$1,500	50% employer paid
Lakehead	n/a	n/a	n/a	n/a
Laurier	Family or individual	50%	\$2,000	100% employer paid
Waterloo	Family or individual	50%	\$2,630	100% employer paid

Only three of the sixteen Ontario universities surveyed – Western, Toronto and Lakehead -- offer no orthodontic coverage whatsoever. A fourth – Ottawa -- offers orthodontic coverage only as an employee-paid option. However, the University of Ottawa pays 100% of the premium cost for the rest of its dental plan.

The coverage rate is typically 50%, although York University leads in offering 75% coverage.

Lifetime coverage maxima typically range from \$2,000 to \$3,000. York's plan offers a maximum of \$5,000 per covered individual. Ryerson's plan has no specified limit, subject to the charges being reasonable.

Nine of the thirteen universities with orthodontic coverage pay 100% of the premium cost. One pays 75%. One pays 50%. One pays the full cost as of May 1, 1998 and 50% of the increase over that amount. And as noted above, the University of Ottawa offers orthodontic coverage only as an employee-paid option.

The Association's proposal for 50% coverage to a lifetime maximum of \$3,000 with premium cost sharing on the same basis as other University of Toronto plans (75% employer paid) is well within the norms of the Ontario university sector and indeed would still provide a plan which is significantly less generous than the plans offered by the other two universities in Toronto, Ryerson and York.

Benefits

(v) New Benefits Membership Group

UTFA proposal:

A new premium rate structure shall be introduced to provide the following options:

- Member
- Member plus 1
- Member plus 2 or more

At present, premiums for benefits are determined for two groups of faculty and retirees: those who have only single coverage; and those who have family coverage.

The Association believes that its proposal to divide the family coverage group into two subgroups for premium setting purposes would improve the fairness of the premium structure for faculty and librarians.

Faculty and librarians break down naturally into three categories: those who are single; those who are in couples with no children; and those who are in couples with children. Creating separate premium-setting groups would create a more reasonable relationship between premium costs and the costs of the services provided on behalf of a faculty member or librarian.

Because the University of Toronto is committed to pay 75% of the costs of the plans, regardless of the group to which the faculty member belongs, introducing this change will not alter the costs to the University of providing the coverage. It will merely alter the distribution of the employee's share of the costs.

Benefits

(vi) Professional Expense Reimbursement Allowance (PERA)

UTFA proposal:

The PERA shall be increased from \$775 to \$1,000 per year effective July 1, 2005.

The Association is seeking to have this benefit increased from \$775 per year to \$1,000 per year. First awarded during the Teplitsky round in 1999, this benefit is fundamental to members carrying out their duties at the University. As Canada's premier research university, the University of Toronto's PERA benefit should be the best in the country. Yet, it is currently the worst in the province (see Table No. 4 below). The Association's proposal, if granted, would still leave the University of Toronto tied with the bottom of Ontario universities.

Under the *Income Tax Act*, employees are not allowed to deduct expenses from their employment income because it is assumed – rightly – that an employee ought to be provided with the tools and training needed to do his or her work. But for faculty members, this tax policy does not work. The Administration does not provide them with new scholarly books, publications or computer related items; and travel/conference budgets have been steadily shrinking while the costs of travel and attending conferences have steadily increased. In addition, departmental budgets are typically insufficient to cover expenses for out of town conferences. Thus, faculty must often pay for these expenses in after tax dollars. The PERA, used at the discretion of each faculty member and librarian, provides non-taxable funding for travel, books, and other work-related expenses which are critical to the Association's members maintaining the excellent results for which they are known internationally but which the Administration does not pay in any other way.

Most Canadian universities currently provide much more generous PERAs. Concordia provides \$2,000, the University of Saskatchewan provides \$1,850, the University of Calgary provides \$1,500 per member, and the University of Alberta provides \$1,200 per member. Ontario comparators are provided in the table below.

**Professional Expense Reimbursements for
Full-Time Faculty at Ontario Universities**

University	Agreement Expiry Date	Annual Reimbursement Amount
Brock	June 30, 2006	\$1300, July 1, 2003:
Carleton	April 30, 2006	\$800
Guelph	June 30, 2007	\$1,400, 2005-06: \$1,475, 2006-07
Lakehead	June 30, 2006	\$1,100, 2003-04: \$1,200, 2004-05: \$1,300, 2005-06:
Laurentian	June 30, 2005	\$1,650, 2004-05:
McMaster	June 30, 2006	\$1,600, May 1, 2005:
Nipissing	April 30, 2006	\$1,600, 2003-04: (travel allowance) \$1,650, 2004-05: \$1,650, 2005-06:
Ottawa	April 30, 2004	\$1,000, 2002-03: \$1,000, 2003-04:
Queen's	April 30, 2008	\$1300, 2005-06 \$1400, 2006-07 \$1500, 2007-08
Ryerson	June 30, 2008	\$1000, 2002-03: \$1000, 2003-04: \$1100, 2004-05:
Toronto	June 30, 2003	\$775
Trent	June 30, 2005	\$900
Waterloo	April 30, 2006	\$1,425, May 1, 2003: \$1,425 May 1 st each year–indexed to CPI
Western	June 30, 2006	\$900
Wilfrid Laurier	June 30, 2006	\$1000 plus an annual travel expense fund of a minimum \$600 multiplied by number of full-time members
Windsor	June 30, 2008	Fund of a minimum \$1400 multiplied by number of full-time faculty members
York	April 30, 2006	\$1025 September 1, 2005: \$1250 plus extra \$200 one time only

Benefits

(vii) Librarian Research – Study Days

UTFA proposal:

The annual number of Research and Study Days for librarians shall be increased from 5 to 20.

The Association has proposed that the annual number of Research and Study Days for librarians ... be increased from 5 to 20.

- At no time during protracted negotiations with the Administration has this proposal been addressed.
- The Librarians' Annual Activity Report (the basis of annual PTR Awards) includes the following components:
 - **Professional achievements – Activities**
Contributions to conferences, (presentation of papers....)
 - **Academic Activities**
Teaching, research, publications, scholarly work in progress....
- No distinction, whatsoever, exists between faculty and librarians with respect to Research Sabbaticals, i.e. the same policies apply to each profession. A distinction exists, however, with respect to non-sabbatical research. Generally, faculty are free from teaching assignments between May – September, or an

equivalent term, and they use this time for non-sabbatical research. In addition, faculty workloads are specifically calculated to include research. Librarians, on the other hand, are not freed from performing any aspect of their every day jobs. Librarians have only five days to conduct non-sabbatical research.

- The proposal for 20 Research and Study Days for librarians begins to address the disparity between faculty and librarians with respect to non-sabbatical research, while recognizing the difference in magnitude of faculty research by proposing only 20 days, rather than the underestimated time of approximately 120 days available to faculty for similar purposes, not including faculty members' daily time off from teaching.
- Librarians at the University of Toronto have the same research interests as their peers at other universities, yet are granted less time for research than their peers. For example, York University and Brock University have recognized the need for librarians to have the necessary time to conduct research by granting librarians 20 and 22.5 days for Research and Study leave respectively. Additionally, at the recent CAUT Conference held October 20-22, 2005, St. Mary's University announced their recent contract provides librarians with 12 research days.
- The silence of the Administration with respect to this proposal can only be speculated upon. Assuming the Administration values research, regardless of its source, and that it values its professional librarians for making a significant contribution to the University (the Library ranks No.1 in Canada in MacLean's Rankings and No. 3 in North America in ARL Rankings), it can only be assumed that the concern the Administration has with respect to this proposal is that of costs. The latter are minimal:
 - In a survey conducted on November 14, 2005, 20 of 166 librarians (12%) reported taking Research and Study Leave days during the past 2 years. Leaving aside whether 5 days was sufficient to do research, thus discouraging many librarians from taking advantage of this leave, the data indicate that a 100% take up cost is not in evidence for this item.
 - In the same survey it was noted that no replacement staff were hired to replace any librarian who took Research and Study Leave days. Again, a significant cost for this item is not evident.
 - The survey also revealed that there was no impact on services since the 12% take up rate was spread across four libraries, three campuses, and eight departments within the Central Library, with the result that no particular unit was negatively impacted. Extrapolating from this data, it is safe to say that "spread" will continue to provide an ameliorating effect on

any deterioration of services which, *de facto*, is not evident based on data from the present survey.

- Lastly, we have a deposition from a York University librarian that Research and Study Leave days for librarians are a “no-cost-item” at York University. This is due to an ethos favouring research among librarians at York University which culminates in flexible arrangements and workload redistribution to make this possible.
- Workload redistribution is normative to librarianship. For example, while faculty do not teach their courses or hold office hours when they take research sabbaticals, when librarians take research sabbaticals, or vacations, they do not close the library, or stop providing assistance with research whether in person, by telephone, email, or online chat. Their work is redistributed among colleagues, without any economic cost or diminution of services. Indeed, if there is a cost associated with the absence of a librarian from his or her normal duties, it is the cost of an increased workload for colleagues. This is not a psychological burden for the latter, however, since these arrangements are based on reciprocity. The dynamic of workload redistribution would prevail, indeed, it has prevailed, and will continue to prevail, with respect to Research and Study days – without economic cost or diminution of services – as outlined above.
- The Survey of Librarians conducted November 14, 2005 indicates that much of the research undertaken by librarians is comparable to faculty research. A small sample of the research undertaken by librarians follows:
 - research, and editing, for the following journals: *DA: A Journal of the Printing Arts, Canadian Notes and Queries*;
 - continuing research into pre-Confederation periodicals [librarian is co-author with a faculty member of: *Early Canadian printing : a supplement to Marie Tremaine's A bibliography of Canadian imprints, 1751-1800*, among other publications];
 - preparation of a paper which will be presented at an international conference to be held in Sydney, Australia;
 - participation in original research, with 2 faculty members, in a longitudinal research study; and
 - preparation of entries for the new edition of the *Encyclopedia of Islam*, as well as a long-term translation project of stories about Arabic women musicians from the 10th-century Arabic source, *Kitab al-Aghani* (Book of Songs).

- In two of the above examples librarians have conducted research *with faculty*, while others are engaged in activities similar to faculty, yet librarians receive only five days to accomplish similar research.
- The crux of the problem with respect to Librarians' Research Days is captured by this quotation from the aforementioned survey. Put simply, there are not enough days.

"All my Research Days were used for attending conferences. No days were left over to do actual research, or expand on things I picked up from the conferences."

- In sum, the number of Research and Study days awarded to librarians is insufficient for the purposes of conducting meaningful research. The number is inferior in comparison to peer institutions. The number is insignificant for librarians' professional development.

In conclusion, this proposal merits the question: *Cui bono* (who benefits)? The Association submits that its proposal will enhance the professional development of librarians at the University of Toronto, which will in turn accrue to the betterment of the University of Toronto, which will in turn accrue to the betterment of society. *Everyone benefits*. The Association urges, therefore, that librarians at the University of Toronto be given 20 days for Research and Study leave.

Benefits

(viii) Joint Working Group – Dependant Scholarship Program

UTFA proposal:

The parties agree to establish a Joint Working Group effective July 1, 2005 to review and report on the dependant scholarship program.

In March 1994, the University of Toronto's Governing Council enacted the "Scholarship Program for Dependants of Faculty Members and Librarians," which policy replaced, for full-time students, who are dependants of faculty members or librarians, the "tuition waiver program" previously in place.

According to the Governing Council document, located in the Book of Documents, Volume II at Tab 1-F, the Scholarship Program provides for each eligible dependant an amount "equal to one-half of the amount of the tuition for Arts and Science at the University of Toronto in that same year, excepting that, where the eligible faculty member or librarian holds an appointment of less than 76% FTE, but greater than 24% FTE, the ordinary amount shall be pro-rated to the actual FTE."

As a general matter, scholarship monies are taxed as part of the student's income. However, recent Revenue Canada rulings dealing with faculty at various universities across Canada, have concluded that, in the case of scholarships awarded as a result of being the dependant of a faculty member or librarian, this benefit should be taxed as part of the faculty member's or librarian's income.

The Association notes that, because the necessary academic eligibility requirements for the scholarship program for dependants is more stringent than the minimum requirement for admission to the University, it is arguable that this scholarship benefit should be taxed as part of the dependant's income, not the faculty member's or librarian's income.

The Association believes that a Joint Working Group should be formed to review and report on the dependant scholarship program, including a discussion of options with respect to the tax consequences of this program.

B - 4 SALARY- AND BENEFIT-RELATED ISSUES

Salary- and Benefit-Related Issues

(i) Information to New Faculty

UTFA proposal:

The University agrees to include a brochure provided by UTFA in its information package sent to individuals on short lists for faculty and librarian appointments. The University also agrees to provide contact information about the Faculty Association and its website address to individuals who are being offered appointments as faculty members or librarians. The University will provide UTFA with the names and contact information for those who have accepted offers of employment as faculty members or librarians.

Administration proposal:

The University agrees to include a brochure provided by UTFA in its information package sent to individuals on the short-list for faculty appointments. The University also agrees to provide contact information about the Faculty Association and its website address to individuals who are being offered appointments as faculty members or librarians.

The parties appear to be in agreement on this matter.

Salary- and Benefit-Related Issues

(ii) Information to be Provided Annually to UTFA

UTFA proposal:

UTFA shall be informed annually on a non-nominal basis of the salaries for all faculty and librarians, set out by department and identifying the date of hire, gender, age and date of Ph.D. or qualifying degree.

The Association is the official representative of the faculty and librarians on University employment matters which include salary, pension and benefit negotiations and workplace grievances. The Memorandum of Agreement between the University of Toronto Administration and the Association is a formal recognition of the Association as official representative of the faculty and librarians.

It is submitted that, in order for the Association to properly represent its constituency, the Association requires greater access to salary information. This information is necessary both for purposes of negotiating the annual salary, pension and benefit arrangements for the faculty and librarians as a whole, and to allow the Association to assist members who seek advice from the Association with respect to individual negotiations with the Administration.

The Association seeks to receive annually on a non-nominal basis information about the salary of every faculty member and librarian whom the Association represents. The information required would include each individual's department, rank, gender, year of hire, and year of Ph.D. or other qualifying degree.

At the present time, the Administration is unwilling to provide this information broken down to the level of department; and the Association experiences difficulties in each round of negotiations in acquiring this information. It should be noted that, by way of reason for its refusal, the Administration states that to provide salary information by department might allow the Association to identify the salaries of particular individuals, even if the names were not provided, and that such identification would be a violation of the privacy interests of the

individuals in issue. The Association notes, however, that in most circumstances identification issues would not arise due to the size and structure of various departments, and, moreover, that the province of Ontario annually publishes salary information for every faculty member and librarian earning more than \$100,000 per year, such that many individuals are already identified.

The requested salary information should be provided to the Association on a timely basis and in a machine-readable format. Salaries are finalized early in the academic year, and the Association seeks the provision of salary information on an annual date to be fixed by the Dispute Resolution Panel, for example September 15th of each year.

Salary- and Benefit-Related Issues

(iii) Information re: Employees Who Have Given Notice to Retire

UTFA proposal:

UTFA shall be informed annually of the names and contact information of faculty members and librarians who have given notice of their intention to retire.

The Association seeks to be informed annually of the names and contact information of faculty members and librarians who have given notice of their intention to retire.

The Association is the official representative of the faculty and librarians, both active and retired, on University employment matters which include salary, pension and benefit negotiations and workplace grievances. As outlined more fully in the Association's proposal with respect to the application of improvements to salary, benefit and pension to all active and retired employees (at B-6(ii)), the Association takes seriously its obligation to represent retirees. This responsibility is reflected in the recent "Statement of Commitment to Retired Faculty and Librarians," issued by the University of Toronto's Governing Council on June 29, 2005, which resulted from the negotiations between the Association and the Administration on the issue of mandatory retirement. (See the "Statement of Commitment," Book of Documents Volume I at Tab 17, as well as the "Agreement Ending Mandatory Retirement," Book of Documents Volume I at Tab 18.)

The Association submits that it requires both the names and contact information of upcoming retirees in order to offer information on retirement options and on options for maintaining their participation in the intellectual and social life of the University. The Association further requires this information in order to maintain contact with and seek input from these individuals once they have started retirement, as part of the Association's continuing responsibility to negotiate pensions and benefits improvements on their behalf.

We would note that, under the terms of the memorandum, the Association is recognized as the representative of both active and retired faculty and librarians. It is odd, to say the least, that the Administration refused to provide the Association with information concerning members who move from one status to the other.

Salary- and Benefit-Related Issues

(iv) Information Officer and Dispute Resolution Mechanism

UTFA proposal:

Add the following as a provision of the Salary and Benefits Agreement for July 1, 2005 to June 30, 2006:

“The University shall designate an Information Officer who shall conduct the exchange of information with an Information Officer designated by the Association.

If any dispute arises with respect to the implementation of this Article, the matter shall be referred by either party, as expeditiously as possible, to a mutually agreed upon arbitrator who shall, within 48 hours from the referral, confer with the parties and issue a final and binding decision including appropriate directions. If the parties cannot agree upon an arbitrator, or in the event that he or she is unable or unwilling to act, the President of the Ontario Labour-Management Arbitrators’ Association shall select the arbitrator.”

As noted above, with respect to the Association's need for information about salaries by department and information about members who are planning to retire (B-4(ii) and (iii)), there are significant problems with both the nature of the information provided to the Association, and the process for obtaining that information. As the situation currently stands, the Association submits that it does not have meaningful access to information as was envisaged in the original Memorandum between the parties.

In recent years, the Association has experienced frustration as a result of the denial of its information requests or unreasonable delays in the provision of information which has been requested.

Without a proper mechanism for dispute resolution with respect to these requests, the Association has no available recourse and is unable to obtain information to which it is entitled, and which it requires to properly represent its members.

The Association is therefore proposing a dispute resolution mechanism, to be added as a provision of the Salary and Benefits Agreement for the 2005-2006 academic year, and also as a part of the Memorandum between the parties (see item B-5(iii) below).

The Association's proposed dispute resolution mechanism is designed to provide for expeditious resolution of information request issues. The mechanism provides for an agreed upon third party arbitrator, and deals with situations in which the parties are unable to agree on the referral of particular arbitrator. The arbitrator would issue a final and binding decision with appropriate directions.

The Association submits that the language proposed by the Administration (see B-5(iii)) is nothing more than an empty shell. Without time limits, the process of deciding on an information request, even with the language "as expeditiously as possible," could drag on indefinitely. Moreover, the Association submits that the "Chair of the Grievance Review Panel or his or her designate" is not an appropriate substitute for an independent third party arbitrator.

Salary- and Benefit-Related Issues

(v) Joint Working Groups

UTFA proposal:

Joint Working Groups shall be established effective July 1, 2005 to deal with the following matters:

- a. Pensions
- b. PTR
- c. Salary adjustment fund
- d. Dependent scholarship program

The membership of each of these Joint Working Groups shall include three representatives of each party.

The parties agree that each Joint Working Group will be provided with the data it needs. The groups will determine the analysis and presentation methods for data to be used so that both parties work from a common set of data.

The groups will gather facts, identify issues and consult with the University community and will report to their respective principals no later than April 30, 2006.

The deliberations and reports of the working groups shall be confidential, and no public disclosure will be made without the agreement of both parties.

The parties agree that any incremental costs arising from the activities of these working groups will be the subject of future negotiations.

Administration proposal:

The membership of each of these Joint Working Groups shall include three representatives of each party. The parties agree that each Joint Working Group will be provided with data in accordance with the provisions of Article 11. The groups will determine the analysis and presentation methods for summary statistical data to be used so that both parties work from a common set of data.

The groups will gather facts, identify issues and consult with the University community and will report to their respective principals no later than April 30, 2006.

The deliberations and reports of the working groups shall be confidential, and no public disclosure will be made without the agreement of both parties. The parties agree that any incremental costs arising from the activities of these working groups will be the subject of future negotiations.

9.a. Pensions

The parties agree to establish a Joint Working Group to investigate and make recommendations with respect to alternative pension arrangements, including design, eligibility, transition, and a framework for its introduction.

Each party will include its respective actuary or pension consultant as a member of the Working Group.

9.b. PTR Model

The parties agree to establish a Joint Working Group to review and make recommendations with respect to the PTR model.

9.c. Benefits

The parties agree to establish a Joint Working Group to investigate and make recommendations with respect to achieving efficiencies and alternative plan designs, including Health Care Expense Accounts, for benefit programs for active and retired faculty and librarians. The working group will also consider the extent to which information concerning the current benefit plans may be shared.

The parties appear to be in agreement on some of the proposals with respect to Joint Working Groups.

The exit positions of both parties each include that: the Joint Working Groups will include three representatives of each party, the deliberations and reports of these groups will be confidential and there will be no public disclosure without agreement of both parties, and the incremental costs arising from topics discussed in these groups will be the subject of future negotiations.

Both parties agree that there should be Joint Working Groups on the subject of pensions (see the Association's submissions at 2(d)(v)), and on issues surrounding PTR (see the Association's submissions at 2(b)(ii)).

However, the Administration's exit position did not include a Joint Working Group on the issue of dependant scholarships. For the reasons outlined in the Association's submission at 3(viii), it is the Association's position that a Joint Working Group on this issue is necessary.

Likewise, the Administration's exit position did not include a Joint Working Group on the issue of salary inversions and anomalies. For the reasons outlined in the Association's submission at 2(iv), it is the Association's position that a Joint Working Group on this issue is necessary.

The Administration is proposing a Joint Working Group on benefit issues, in particular to explore the idea of a Health Care Spending Account. The Association has no interest in exploring this idea, for the reasons outlined in the following section.

The Association notes also that there is some difference between the parties as to the information which should be available to the Joint Working Groups. The Association proposes that the information provided should be in accordance with its proposals at 5(iii), with respect to amendments to Article 11 of the Memorandum, whereas the Administration indicates that information would be provided in accordance with Article 11 as it is currently written. The Association urges simply that the Joint Working Groups be provided with all information which necessary to make the most informed and efficient decisions.

In addition, the Association takes the position that both parties should have the option of technical advisors along with their representatives on all of the Working Groups, as required, and not simply the Joint Working Group on Pensions.

The Association submits that the date originally proposed, April 30, 2006, is no longer feasible, and instead proposes that the Joint Working Groups report by December 31, 2006.

B - 5 MEMORANDUM ISSUES

In accordance with Article 17 of the Memorandum of Agreement, (which states: "Changes or amendments to this Agreement may be made by mutual consent of the parties at any time,") the Association proposes the following changes to the Memorandum:

Memorandum Issues

(i) Task Force re: Changes to Memorandum of Agreement

UTFA proposal:

The parties agree to appoint a Task Force to report to the parties with respect to any proposed changes to the Memorandum of Agreement. Each party will name a Co-chair and up to four representatives. It is understood that the representatives of either party may consult broadly. The Task Force will report by April 30, 2006.

Administration proposal:

9.d. Memorandum Article XVII

The parties agree to appoint a Task Force to make recommendations to the parties with respect to any proposed changes to the Memorandum of Agreement. Each party will name a Co-Chair and up to four representatives. It is understood that the representatives of either party may consult broadly. The Task Force will report by April 30, 2006.

The parties appear to be substantially in agreement on this issue.

The Association submits that the date originally proposed, April 30, 2006, is no longer feasible, and instead proposes that the Task Force report by December 31, 2006.

Memorandum Issues

(ii) Agreement to Discuss Removal of Reference to "Retirement" in Article 4(c)

UTFA proposal:

In the light of the abolition of mandatory retirement, parties have agreed outside of negotiations to discuss removal of the following phrase from Article 4(c) of the Memorandum: *"...provided the requested leave does not fall within seven years of the normal age of retirement."*

Article 4 of the Memorandum of Agreement between the Association and the Administration outlines the principles governing research leave, intended for academic study, research and writing. Article 4(c) states:

... each faculty member on a 50 percent or greater appointment shall be entitled to apply for research or study leave for a six month period (from July 1 to December 31 or January 1 to June 30) after every three years of service at 82.5 percent salary provided the requested leave does not fall within seven years of the normal age of retirement. Such leave shall not be unreasonably denied.

The Agreement to End Mandatory Retirement (Book of Documents, Volume II, Tabs 17 and 18) between the Association and the Administration, allows faculty members and librarians to choose between a number of retirement options, including early retirement, postponed retirement and phased retirement.

In negotiating the end of mandatory retirement, and subsequent to that agreement, the Association and the Administration have agreed in principle that the abolition of mandatory retirement makes it unfeasible to determine eligibility for research leave by way of reference to retirement date.

The Association seeks confirmation that the parties will meet outside of the salary, pension, and benefits negotiations to discuss a formal change to the Memorandum to eliminate the reference to retirement in Article 4(c).

Memorandum Issues

(iii) Amendments to Article 11

UTFA proposal:

Delete the last paragraph of Article 11 and substitute the following:

“It is understood that this Article shall not be construed to require the University (a) to compile information and statistics in particular form if such data are not already compiled in the form requested, or cannot, without unreasonable efforts, be compiled in such form, or (b) to provide any information relating to any named individual.

The University shall designate an Information Officer who shall conduct the exchange of information with an Information Officer designated by the Association.

If any dispute arises with respect to the implementation of this Article, the matter shall be referred by either party, as expeditiously as possible, to a mutually agreed upon arbitrator who shall, within 48 hours from the referral, confer with the parties and issue a final and binding decision including appropriate directions. If the parties cannot agree upon an arbitrator, or in the event that he or she is unable or unwilling to act, the President of the Ontario Labour-Management Arbitrators’ Association shall select the arbitrator.”

Administration proposal:

Article 11 – delete the last paragraph of Article 11 of the Memorandum of Agreement and substitute the following: “It is understood that this article shall not be construed to require the University,

(a) to compile information and statistics in particular form if such data are not already compiled in the form requested; or

(b) to provide any information related to any individual or otherwise prohibited by law.

The University shall designate an information contact person who shall conduct the exchange of information with an information officer designated by the Association.

If any dispute arises with respect to the implementation of this article, the matter shall be referred by either party, as expeditiously as possible, to the Chair of the Grievance Review Panel or his or her designate who shall, as expeditiously as possible, confer with the parties and issue a final and binding decision including appropriate directions.”

Article 11 of the Memorandum of Agreement addresses the Administration's obligations to provide information to the Association. As noted above, with respect to the Association's need for information about salaries by department and information about members who are planning to retire (B4(ii) and (iii)), there are significant problems with both the nature of the information provided to the Association, and the process for obtaining that information. As the situation currently stands, the Association submits that it does not have the meaningful access to information that was envisaged in the original Memorandum between the parties.

The Association has proposed the above changes to Article 11 of the Memorandum in an attempt to improve this situation. The Association's proposed changes reflect changes in technology since the Memorandum was signed in 1977, and changes in the nature of views on access to information and freedom of information more generally.

The key change in the first paragraph of the Association's submission on this point is the insertion of the phrase "or cannot, without unreasonable efforts, be compiled in such form." This change is aimed at requiring the Administration to provide information which could easily be compiled through the use of the Administration's databases and other information management systems.

The Association's submission, in this regard, is based on the obligations placed on the government under Ontario's *Freedom of Information and Protection of Privacy Act*. While the University of Toronto is not subject to this Act, the Association submits that the definition of "record" which is required to be produced is an excellent benchmark for the minimum obligation which should rest on the Administration in respect of the Association.

Under s.1(1), the Act defines a "record," which is required to be produced, as follows:

"record" means any record of information however recorded, whether in printed form, on film, by electronic means or otherwise, and includes,

(a) correspondence, a memorandum, a book, a plan, a map, a drawing, a diagram, a pictorial or graphic work, a photograph, a film, a microfilm, a sound recording, a videotape, a machine readable record, any other documentary material, regardless of physical form or characteristics, and any copy thereof, and

(b) subject to the regulations, any record that is capable of being produced from a machine readable record under the control of an institution by means of computer hardware and software or any other information storage equipment and technical expertise normally used by the institution;

The regulation (*Freedom of Information and Protection of Privacy Act*, Regulation 460) specifies:

2. A record capable of being produced from machine readable records is not included in the definition of "record" for the purposes of the Act if the process of producing it would unreasonably interfere with the operations of an institution.

The Association's proposal simply incorporates this notion into the Memorandum: the Administration would not be required to collect new data in order to create records, but it should be required to produce records where such record could be produced without unreasonable effort based on the Administration's existing data.

The language of other proposed changes to Article 11 is outlined fully above, at section B-4(iv).

B - 6 GENERAL

General

(i) Inclusion of Lecturers and Senior Research Associates

UTFA Proposal:

Faculty, wherever it appears in this document, includes Lecturers and Senior Research Associates.

The Association seeks an acknowledgment from the Administration that the term "faculty," when used in the context of the negotiations and agreements between the Association and the Administration, includes "Lecturers" and "Senior Research Associates."

Under its Constitution, the Association represents these employees:

"The purpose of the Association is to promote the welfare of the current and retired faculty, librarians, and research associates of the University of

Toronto, the University of St. Michael's College, the University of Trinity College, and Victoria University, and generally to advance the interests of teachers, researchers and librarians in Canadian universities."

General

(ii) Application of Improvements to Both Active and Retired Employees

UTFA Proposal:

It is understood that all salary, benefit and pension improvements negotiated in this settlement will be applicable *mutatis mutandis* to both active and retired faculty, librarians and senior research associates.

Historically, all pension and benefit improvements negotiated by the Association have been applied to both active faculty, librarians and senior research associates, as well as to retirees. In the 2002-2003, Arbitrator Teplitsky awarded an increase of \$1,000 (to \$2,500) for the annual Major Restorative Dental Coverage. Due to a supposed ambiguity in the text of this award, the Administration chose to interpret the award as applying to actives only and so excluded the retirees. The Association challenged this unilateral interpretation and at a later date Mr. Teplitsky ruled that retirees were indeed covered by his award. As a result, there has been no interruption in the application of pension and benefit improvements being extended to retirees. The Association seeks confirmation that the benefit and pension improvements for 2005-2006 will be applied, with any changes where necessary, to both active and retired faculty, librarians and senior research associates. To this end, the Association notes its entitlement and obligation to negotiate pension and other benefit improvements on behalf of retirees. In support of this proposition, see for example, *Re Liquor Control Board of Ontario* (1980), 114 D.L.R. (3d) 715 (Ont. Div. Ct.), and *Dayco (Canada) Ltd. v. C.A.W.* (1993), 102 D.L.R. (4th) 609 (S.C.C.).

PART C – APPENDICES

- 1 Members of the UTFA Negotiating Team – 2004-2005
- 2 Memorandum of Agreement
- 3 Burkett Award
- 4 Association Position at the Conclusion of Mediation

University Position at the Conclusion of Mediation

Mediator's Report, June 7, 2005, as published in "*The Bulletin*",
University of Toronto, June 13, 2005, and Administration exit position,
May 29, 2005

- 5 Salary Adjustments for Academic Staff and Determination of Starting Salary for New Faculty, PDAD & C # 28, 2002-2003
- 6 PTR/Merit Assessment and Salary Increase Instructions for 2004-2005 PDAD&C #64, 2004-2005