

March 7 2025

In the Matter of a Dispute Resolution Proceeding before Arbitrator Eli Gedalof regarding Unresolved Salary, Benefits and Workload Matters under Article 6 of the Memorandum of Agreement

B E T W E E N:

THE GOVERNING COUNCIL OF THE UNIVERSITY OF TORONTO

(the “University Administration”)

- and -

THE UNIVERSITY OF TORONTO FACULTY ASSOCIATION

(“UTFA”)

UNIVERSITY ADMINISTRATION’S
ARBITRATION BRIEF

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PART I - INTRODUCTION AND OVERVIEW

A SUMMARY OF THE ARTICLE 6 NEGOTIATION AND MEDIATION PROCESS

1. The University Administration and UTFA are parties to a Memorandum of Agreement (the “MOA”).¹

2. Article 6 of the MOA prescribes the negotiation, mediation, and dispute resolution processes for unresolved salary, benefits and workload matters. In a Memorandum of Agreement dated February 20, 2025², the University Administration and UTFA agreed to appoint Eli Gedalof as an interest arbitrator in place of a three-person Dispute Resolution Panel with respect to unresolved salary, benefits and workload issues for the three-year period July 1, 2023 to June 30, 2026. In this Memorandum of Agreement, the University Administration and UTFA agreed as follows:

2. In respect of any interest arbitration, Eli Gedalof will hear and determine unresolved salary, benefit and workload issues as identified by the parties pursuant to paragraph 5(a) below for the three year period July 1, 2023 to June 30, 2026. Notwithstanding the foregoing, the parties agree that any across the board (ATB) percentage salary increase, including any salary related items that may be subject to an ATB increase, for the year 3 period of July 1, 2025 to June 30, 2026 shall not be rendered in any initial interest arbitration award and instead will be subject to the terms and conditions in paragraph 3 below.

3. Any ATB percentage salary increase, including any salary related items that may be subject to an ATB increase, for the period July 1, 2025 to June 30, 2026 will be subject to without prejudice discussions between the parties in the summer of 2025. If the parties are unable to reach agreement on an ATB percentage salary increase, including any salary related items that may be subject to an ATB increase for the period July 1, 2025 to June 30, 2026, Eli Gedalof will act as interest arbitrator to determine any ATB percentage salary increase and any salary related items that may be subject to an ATB increase, for the period July 1, 2025 to June 30, 2026, with a mutually convenient interest arbitration hearing date to be scheduled in this regard in the fall of 2025.

¹ Memorandum of Agreement between the University Administration and UTFA. **Tab 1**.

² February 21 2025 Memorandum of Agreement regarding Unresolved Salary Benefit and Workload Issues for the period July 1, 2023 to June 30, 2026 [the “2023-2026 MOA”]. **Tab 2**

3. Pursuant to Article 6(13) of the MOA, upon completion of the negotiation and mediation processes, all unresolved salary, benefit and workload matters are referred to a Dispute Resolution Panel for final and binding determination. Article 6, including the dispute resolution process, is a complete code and the Dispute Resolution Panel has no jurisdiction under Article 6 of the MOA to consider or decide anything other than the specific “unresolved salary, benefits and workload matters” that are referred to the dispute resolution process pursuant to and in accordance with Article 6.

4. In the instant case, following a period of bi-lateral mutually agreed without prejudice negotiations and a mutually agreed without prejudice mediation process, the parties agreed on the Progress through the Ranks (“PTR”) model, breakpoints and increments to be used for the July 1, 2023 PTR process.³ The parties also reached a separate agreement regarding the July 1, 2024 PTR process.⁴

5. Without prejudice to its position in any future Article 6 proceeding and without prejudice to its position that there is no basis to award any improvements to benefits that are available to retired faculty members and librarians, the University Administration does not oppose the continuation of the parties’ past practice of extending such benefit improvements to retirees and faculty members (excluding improvements made to the Health Care Spending Account since this benefit is only available to active faculty members and librarians). In doing so, the University Administration emphasizes the significant unfunded liability related to the cost of benefits for retirees and requests that this unfunded liability be considered when addressing UTFA’s monetary proposals.

6. A significant number of salary, benefits and workload matters remain unresolved. These unresolved matters have been referred to Eli Gedalof for final and binding determination pursuant to paragraph 2 of the 2023-2026 MOA. In paragraph 5(a) of the 2023-2026 MOA, the parties agreed to exchange and file their positions and proposals from the without prejudice Article 6 mediation process that would be referred to interest

³ April 5 2023 letter from H. Boon and R. Boyagoda to T. Zorić, April 20 2023, e-mail from T. Zorić to H. Boon and R. Boyagoda and April 20 2023 e-mail from H. Boon to T. Zorić. [2023 PTR Agreement Documents] **Tab 3**

⁴ May 3 2024 Memorandum of Agreement re: July 1 2024 PTR. **Tab 4.**

arbitration. The proposals that the University Administration has referred to interest Arbitration is attached at **Tab 5**. The proposals that UTFA has referred to interest arbitration is attached at **Tab 6**.

7. The University Administration's proposals are summarized below.

THE UNIVERSITY ADMINISTRATION'S SALARY, BENEFITS AND WORKLOAD PROPOSALS

8. The University Administration proposes that salaries for faculty members and librarians increase by 2% retroactive to July 1, 2023 and that a further salary increase of 1.8% be applied retroactive to July 1, 2024.

9. The University Administration's salary proposal is normative and consistent with the economic realities currently facing the University. It reflects increases in salary that were negotiated and agreed to by United Steelworkers, Local 1998 ("USW 1998") in free collective bargaining (which USW 1998 accepted effective July 1, 2023), over and above the seven percent (7%) increase that faculty members and librarians received effective July 1, 2022. The USW 1998 settlement is important because it involves the largest local of the United Steelworkers in Canada and the largest bargaining unit at the University of Toronto. The same salary proposal the University Administration is offering UTFA was voluntarily accepted without resort to any strike activity by USW 1998.

10. The University Administration's settlement with USW 1998 is consistent with a broader bargaining pattern covering other unions that bargain with the University Administration. Each of these unions voluntarily accepted through free collective bargaining the same salary increase arrangements included in the University Administration's settlement with USW 1998, which have been proposed to UTFA in this proceeding. They did so without engaging in any strike activity.

11. The unique difficulties wrought by the COVID-19 pandemic have abated. Increases to the rate of inflation which Arbitrator Gedalof described as “extraordinary” and “corrosive” for the period of time covering the prior Article 6 award have normalized. UTFA’s earlier concerns that inflation would remain at four percent (4%) for the period July 2022 to June 2023⁵ did not materialize.

12. If the University Administration’s salary proposal is awarded, the salaries at the University would remain the highest among all universities in Ontario and Canada by a significant margin. In an environment where the University’s revenue sources remain constrained and subject to unpredictable external forces, and as expenses continue to increase, the University Administration’s salary proposal ought to be awarded.

13. The last completed Article 6 process overlapped with the moderation period prescribed by the *Protecting a Sustainable Public Sector for Future Generations Act, 2019* (“Bill 124”). An unintended consequence for large employers whose negotiations were subject to Bill 124 was that the negotiation of benefit increases within the “residual amount” between the maximum 1% annual increase in total compensation and the maximum 1% annual increase in salary rates yielded disproportionately high increases to benefit entitlements compared to previous agreements. The benefit improvement that were agreed to during the most recent Article 6 process are set out in the table on the following page.

⁵ April 24 2023 UTFA Arbitration Brief Excerpt “Inflation During the Moderation Period”. **Tab 7**

Benefit Improvements under the 2020-2023 Agreement		
Benefit	Improvement	Date
Health Care Spending Account	Increase from \$650 to \$830	July 1, 2020 – June 30, 2021
Health Care Spending Account	Increase from \$650 to \$700	July 1, 2021 – June 30, 2022
Psychologist, Psychotherapist, Master of Social Work	Add marriage and family therapists and addiction counsellors	January 25, 2022
	Increase annual maximum from \$3,000 to \$7,000	January 25, 2022 October 13, 2022
Vision Care	Add laser eye surgery from vision correction	January 25, 2022
	Increase annual maximum from \$450.00 to \$725.00 every 24 months	January 25, 2022 October 13, 2022
Major Restorative Dental	Increase annual maximum from \$2,800 to \$5,000	January 25, 2022
Orthodontics Coverage	Increase coverage to 75% with lifetime coverage increased to \$5,000	January 25, 2022
Paramedical Services	Increase annual maximum from \$1,250 to \$5,000	January 25, 2022 October 13, 2022
Dependant Scholarship Program	Increase coverage from 50% to 65% of amount of academic fees for 5 courses at general arts and sciences program	October 13, 2022

14. With this recent experience in mind, and having regard to the extensive benefit improvements that were agreed to during the 2020-2023 Article 6 process, no additional benefit improvements should be awarded as part of this proceeding. In the alternative, if it is determined that the benefits already provided to faculty members and librarians require further enhancements, a measured and focused approach is required. Any benefit improvements that are awarded should be limited to an increase of \$50.00 to the Health Care Spending Account held by each faculty member and librarian, which can be used for a wide variety of purposes, including as a supplement to existing benefit coverages and the introduction of gender affirmation coverage, which mirrors the language that many other University bargaining units have accepted in recent rounds of bargaining.

15. As benefit costs continue to increase, the University Administration proposes that benefit premiums can be reduced by reducing the stop loss charges imposed by the University Administration's benefits administrator. The University Administration's proposal to make incremental changes to deluxe emergency travel coverage and private duty nursing coverage would achieve this goal by reducing the risk attributable to these two benefits. This would result in a corresponding decrease to the benefit premiums paid by individual plan members and the University Administration.

16. The University Administration has also proposed incremental changes to the Workload Policy and Procedures for Faculty and Librarians (the "WLPP"). Two components of this policy require modifications. First, language simplifying the annual dissemination of written workload assignments under Article 2.17 has been proposed. Second, the University Administration has also proposed moderate changes to the dissemination of annual workload documents under Articles 2.17 and 3.3.

UTFA'S SALARY BENEFITS AND WORKLOAD PROPOSALS

17. UTFA's proposed changes to salary, benefits, and workload are not incremental in nature. UTFA seeks an across-the-board percentage salary increase ("ATB") of 6% retroactive to July 1, 2023. UTFA seeks an additional ATB increase of 4.5% retroactive to July 1, 2024. UTFA's salary proposal is out-of-step with the relevant economic data, including the retrospective calculation of CPI increases for the relevant periods of time, and the relevant internal and external comparator settlements and awards.

18. UTFA has sought to apply these proposed salary increases in new and unprecedented ways. UTFA proposes that its salary increases be applied to the stipends provided to departmental chairs, associate chairs and other department-level administrators. It has also sought to apply these ATB increases to "other components of 'salary at large'". The scope of UTFA's "other components of 'salary at large'" is unclear. UTFA's arbitration proposals state that it includes but is not necessarily limited to "forgivable loans, stipends for non-Academic Admin. chair roles, etc." ATB increases have never been applied to any of these items. This longstanding practice should remain unchanged.

19. In addition to salary increases, UTFA has requested substantial changes to the funding of the University's PTR process, including increasing the funds in the PTR pool to 2.5% of the total salary base. This change would require the expenditure of approximately \$4.451 million or 0.713% of the total salary base. It would also necessitate multiple modifications to the longstanding and well established way in which the funding of the PTR process has been administered.

20. Notwithstanding the sizable increases to the scope and quantum of benefit improvements that were agreed to during the prior Article 6 process, which would not have been agreed to but for the unintended consequences of Bill 124, UTFA has requested additional costly enhancements to existing benefit entitlements.

21. UTFA's workload proposals are anything but gradual and incremental. Similar iterations of these proposals have twice been rejected by interest arbitrators as constituting a "rigid workload formula" and unsupportable "limitations on the teaching of teaching stream members"⁶. Most recently, workload proposals very similar to those that UTFA is currently advancing were described as "major structural changes to the parties' agreement" that would create "significant disruption to the status quo."⁷ In the intervening 18 months, there have been no events that would support the awarding of any of UTFA's repurposed proposals. The parties' established approach to workload need not and should not be reconfigured in the ways that UTFA has once again requested.

⁶ *Governing Council of the University of Toronto and UTFA*, unreported June 29, 2020, Kaplan at p. 8 ["2020 Kaplan Article 6 Award"]. **Tab 8**

⁷ *Governing Council of the University of Toronto and UTFA*, 2023 CanLII 85410 at para. 133 (Gedalof) ["2023 Gedalof Article 6 Award"]. **Tab 9**

PART II – APPLICABLE ARBITRATION PRINCIPLES

22. This proceeding is subject to and governed by Article 6 of the MOA and the established principles of interest arbitration in related awards between these parties. These principles are replication, total compensation, comparability, gradualism, and demonstrated need. They are the same principles that govern interest arbitration proceedings across the broader public sector.

THE JURISDICTIONAL BOUNDARIES SET BY ARTICLE 6

23. A dispute resolution proceeding under Article 6 of the MOA is subject to clear and specific jurisdictional restrictions. Article 6(19) of the MOA states that:

The jurisdiction of the Dispute Resolution Panel shall encompass only those unresolved matters relating to the salaries, benefits and workload that have been referred to it by the parties.

24. There may be a wide range of unresolved matters between the parties other than “matters relating to the salaries, benefits and workload.” They cannot be determined in this proceeding. Article 6 of the MOA contains separate processes for addressing them.

25. Three of UTFA’s proposals are not “matters relating to salaries, benefits and workload”. They fall outside the jurisdictional boundaries set by Article 6 of the MOA. An interest arbitrator appointed in place of a Dispute Resolution Panel under Article 6 of the MOA lacks jurisdiction to award any of the following proposals, in whole or in part:

(a) UTFA’s late-filed request to modify how the University’s *Guide to Financial Management, Travel and Other Reimbursable Expenses* is referenced in an HR Service Centre article regarding the Professional Expense Reimbursement Allowance;

(b) UTFA’s Proposal to Compel the Preparation and Disclosure of Information regarding the construction and availability of housing; and

(c) UTFA’s new and late-filed proposal requesting the development of an online archive housing all of the parties’ current and prior agreements.

26. The University Administration has particularized its jurisdictional objections to each of these proposals in its submissions. It requests that each of these proposals be dismissed on a preliminary basis, having regard to the clear parameters on arbitrability established by Article 6 of the MOA.

THE PRINCIPLE OF REPLICATION

27. The replication principle has been described as “the overarching guiding principle in interest arbitration.”⁸ It is embedded within Article 6 of the MOA, which requires that any award issued thereunder:

shall attempt to reflect the agreement the parties would have reached if they had been able to agree.⁹

28. Arbitrator Kaplan has emphasized that when fashioning an interest award under Article 6, the greatest weight must be given the replication principle, because of the parties’ agreement to incorporate it within Article 6. He equated the application of the replication principle under Article 6 of the MOA with the way that this principle is addressed in other interest arbitration proceedings, where interest arbitration is substituted for a full collective bargaining process, complete with the right to impose economic sanctions through the commencement and continuation of a strike or lockout.¹⁰

29. Arbitrator Kaplan’s observations regarding the centrality and appropriate application of the replication principle to the Article 6 interest arbitration process is consistent with the approach that other arbitrators appointed pursuant to Article 6 have taken for nearly four decades. The first award that followed the inclusion of Article 6(16) into the MOA was issued on December 23, 1986. In that award, Arbitrator Munroe determined that:

⁸ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para 83.

⁹ MOA, *supra* Tab 1 at Article 6(16).

¹⁰ 2020 Kaplan Article 6 Award, *supra* Tab 8 at 3.

Subsequent to the publication of the Burkett award, the parties engaged in protracted negotiations about the content of Article 6. Eventually, in December 1984, the parties agreed to a substantial re-wording. Among other things, the criteria for decision were altered. Indeed, they were deleted. Now, the obligation on the part of the panel is to:

...attempt to reflect the agreement the parties would have reached had they been able to agree (Article 6(16))... taking into account the direct cost or saving of any change or modification of any salary or benefit (Article 6(19))...

By that formulation, the parties moved away from the adjudicative model of interest arbitration, agreeing instead to the adoption of the so-called “replication model”: where the decision maker is to try to replicate the agreement that the parties themselves would have reached if they had been left to the ordinary devices of collective bargaining – including economic sanctions. **Put simply, at what point would the Association and its membership have settled rather than commence or continue a strike (if the strike option had been available)? At what point would the University have settled rather than commence or continue a lockout (if the lockout option had been available)?** In theory, the answers to those two questions are the same. And, the task of the decision-maker, upon a review of the evidence and the submissions of the parties is to determine the likely point of common ground.

While that may be a difficult task, and one for which an objective measurement of success may be impossible to construct, the modern arbitral consensus is that the replication model does represent the ideal. That is because, of any of the models for third party intervention, it is the least inimical to the accepted norm of free collective bargaining. Accordingly, it helps to maintain the acceptability – to employers and employees alike – of interest arbitration as an alternative to strikes and lockouts in public or essential industries.

It is perhaps important to observe that the shift from the adjudicative model to the replication model does not mean that the process of decision-making has become undisciplined. What it does mean is that the decision-maker is no longer simply to identify the criteria – either contractual or jurisprudential – around which to pivot a detached and dispassionate award. Rather, **the essential function of the decision-maker becomes the identification of factors which likely would have influenced the negotiating behaviour of the particular parties in the**

actual circumstances at hand. It is the dynamic mix of those factors which produces the end result.¹¹

[Emphases added]

30. In 1993, Arbitrator Munroe drew an important connection between the replication principle and the jurisdictional limits imposed by Article 6 of the MOA. He emphasized that while the jurisdictional parameters of this process have been limited by the parties' agreed-upon language, within these agreed-upon jurisdictional parameters, the replication principle must be applied.¹²

31. A subsequent Dispute Resolution Panel chaired by former Chief Justice Warren Winkler also emphasized the importance of applying the replication principle to dispute resolution proceedings under Article 6 of the MOA. After reviewing the relevant authorities concerning this principle, including those of Arbitrator Munroe referred to above, Chief Justice Winkler held that:

There is a single coherent approach suggested by these authorities which may be stated as follows. The replication principle requires the panel to fashion an adjudicative replication of the bargain that the parties would have struck had free collective bargaining continued. The positions of the parties are relevant to frame the issues and to provide the bargaining matrix. However, it must be remembered that it is the parties' refusal to yield from their respective positions that necessitates third party intervention. Accordingly, the panel must resort to objective criteria, in preference to the subjective self-imposed limitations of the parties, in formulating an award. In other words, to adjudicatively replicate a likely "bargained" result, the panel must have regard to the market forces and economic realities that would have ultimately driven the parties to a bargain.¹³

¹¹ *Governing Council of the University of Toronto and UTFA*, unreported, December 23, 1986 at 5-7 (Munroe). **Tab 10**

¹² *Governing Council of the University of Toronto and UTFA*, June 18, 1993 at 6 (Munroe) ["1993 Munroe Article 6 Award"] **Tab 11**

¹³ *Governing Council of the University of Toronto and UTFA*, 2006 CarswellOnt 11578 at para. 7 (Winkler) ["2006 Winkler Article 6 Award"] **Tab 12**

32. In the present case, the University Administration's proposals regarding salary and benefit increases are aligned with the freely-bargained results amongst the University's numerous other employee groups and amongst the other major research-focused universities that negotiated salaries and benefits through and following Bill 124. The University Administration has offered faculty members and librarians reasonable salary and benefit increases that are properly aligned with the relevant fiscal context.

33. In contrast, UTFA's proposed salary increases and substantial alterations to the PTR process are not supported by the replication principle. These proposals are well in excess of the relevant increases to CPI and are not objectively supported by any relevant comparator, including the voluntary settlements that the University Administration has reached with numerous sophisticated and well-resourced unions without having to experience any strike activity. Similarly, the replication principle does not support the further enhancement of benefit entitlements that were already increased significantly in the most recent Article 6 proceeding.

34. UTFA's workload proposals are entirely inconsistent with the replication principle. These proposals would upend the established processes and procedures that these parties have used to address workload issues in such a way that only a very small number of individual workload complaints under Article 10 of the WLPP have proceeded to formal adjudication. Many workload concerns and complaints are resolved at the unit level through the collegial process in the WLPP. This near-absence of adjudicated workload complaints by faculty members and librarians demonstrates the WLPP is functioning well and that the significant changes proposed by UTFA would not be used to ignite or fuel any strike activity.

35. On two separate occasions, earlier iterations of UTFA's core workload proposals have been advanced to interest arbitration, and have been rejected. With this history in mind, the University Administration would not now voluntarily agree to the wholesale reconstruction of its workload policies and procedures.

THE PRINCIPLE OF TOTAL COMPENSATION

36. The total compensation principle is used to measure the real cost of all monetary proposals, when these proposals are considered together. The total compensation principle encompasses all proposals that accrue to the financial benefit of faculty members and librarians, and which generate increased financial costs to the University Administration. Like the replication principle, the principle of total compensation is also embedded in Article 6(19) of the MOA:

The jurisdiction of the Dispute Resolution Panel shall encompass only those unresolved matters relating to salaries, benefits and workload 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.**

[Emphasis added]

37. The principle of total compensation requires interest arbitrators to focus on the overall monetary consequences of a party's proposals instead of examining such monetary consequences of each proposal on an isolated item-by-item basis. The cost of a proposal will not necessarily be limited to the specific dollar value increase that is directly attributable to the proposal itself. Rather, it is not unusual for a particular proposal to increase other costs that are indirectly related to that proposal. The total compensation principle requires a full examination of all of the monetary consequences associated with a party's proposals.

38. The total compensation principle is inextricably linked to the replication principle. This link arises because during any collective bargaining process, experienced negotiators focus only on the total cost of all monetary proposals at issue when setting a mandate before negotiations begin, while assessing all settlement positions as negotiations continue, and when negotiations ultimately conclude.

39. In *65 Participating Hospitals*¹⁴, Arbitrator Weiler explained how the total compensation principle connects with the replication principle. He observed that:

I have always thought it essential not to look at any such item in isolation. With rare exceptions any such proposed improvement looks plausible on its face. The Union can point to some number of bargaining relationships where this point has already been conceded. It may even be true that, taken one by one, no single revision will actually cost that much. But, cumulatively, these changes can mount up substantially. Thus, sophisticated parties in free collective bargaining look upon their settlement as a total compensation package, in which all of the improvements are costed out and fitted within the global percentage increase which is deemed to be fair to the employees and sound for their employer that year. In fact, the general wage hike itself generates corresponding increases in the vast bulk of the compensation package represented by the wages, since it increases the regular hourly rate upon which holidays, vacation, overtime and other premiums depend. This means that in any one negotiating round only limited room is left available for improvements in the scope and number of these contract revisions, and the Union must establish its own priorities among these various fringe items.

These facts of free collective bargaining must be kept in mind if arbitration is, indeed, to try to replicate the results which would be achieved in the former setting. The reason is that the arbitration model does not inherently require the parties to make these tough choices in their negotiating positions. Inside the bargaining unit, for example, one group of employees may want higher pensions, another segment seeks longer vacations, a third is interested in a new dental plan, while others simply want as much higher take-home pay as possible (depending on their respective positions, ages, family situations, and so on). In the arbitration context, the Union does not have to worry that if it asks for too many things at once, the result will be a painful work stoppage. Indeed, the Union may be tempted — as also the Employer which has its own diverse constituencies which it does not want to alienate — to carry all of these initial demands forward to the arbitration hearing, on the theory that it has nothing to lose by asking. And, indeed, a party may even hope that the more improvements it does ask for, the more will be given. Certainly it is essential to the integrity of arbitration that these latter assumptions not be reinforced.¹⁵

¹⁴ *65 Participating Hospitals and SEIU*, 1981 CarswellOnt 3551 at paras. 46-47 (Weiler). **Tab 13**

¹⁵ *Ibid.*, at 18.

40. Arbitrators appointed under Article 6 of the MOA have endorsed the total compensation principle when evaluating the parties' monetary proposals. Chief Justice Winkler relied on the total compensation principle to constrain the significant salary increases that UTFA proposed for the agreement covering July 1, 2005 to June 30, 2007. In doing so, he noted that:

We accept the University's position that we should have regard to the total compensation package rather than reviewing each of its elements in isolation. We also accept that in collective bargaining it is legitimate for parties to make choices as to how total compensation is to be allocated in respect of salary, benefits and other forms of compensatory remuneration and, equally, that the matter of allocation may be a point of contention between the parties.¹⁶

41. The University Administration has costed UTFA's proposals.¹⁷ The total cost of UTFA's proposals for the period July 1, 2023 to June 30, 2024 is estimated to be in excess of \$65.58 million. This is equivalent to approximately 10.5% of the salary base for faculty members and librarians. The estimated cost of UTFA's proposals for the period July 1, 2024 to June 30, 2025 is \$55.96 million, which equates to approximately 8.2% of the salary base for that same year. Although the amount of any ATB increase for the period July 1, 2025 to June 30, 2026 is subject to bi-lateral negotiations and interest arbitration later this year, the cost of UTFA's current proposals for that same year is already estimated to be \$20.41 million.

42. The total compensation principle is engaged because improvements to the health and dental plan provided to active faculty members and librarians are passed along to all retired faculty members and librarians. This has created a large and increasing unfunded liability that is a significant cost to the University. This must be addressed as part of the total compensation analysis. It is addressed in the University's financial reports. These obligations were \$688 million, with an accumulated deficit of \$548

¹⁶ 2006 Winkler Article 6 Award, *supra* Tab 12 at para. 21.

¹⁷ University Administration's Costing of UTFA's Proposals. **Tab 14**

million as of April 30, 2022.¹⁸ These obligations have since increased to \$699 million as of April 30, 2024, with the accompanying deficit increasing to \$564 million.¹⁹

43. When the total compensation principle is applied to this proceeding, it is readily apparent that the University Administration's salary and benefit proposals reflect an approach that provides faculty members and librarians with improvements to their salaries that are objectively fair and economically sound. In contrast, UTFA's proposals typify the approach that arbitrators have directed parties to avoid when proceeding to interest arbitration. UTFA has not prioritized or streamlined its requests. It has instead carried numerous proposals forward to interest arbitration, on the premise that it has nothing to lose by doing so and in furtherance of its strategy that if a high number of proposals are advanced to interest arbitration, a higher number of those proposals might be awarded. The University Administration submits that this approach cannot be countenanced. Any endorsement of UTFA's strategy would contradict the total compensation principle.

THE PRINCIPLE OF COMPARABILITY

44. There is also a close connection between the replication principle and the principle of comparability. In *Bridgepoint Hospital*, Arbitrator Goodfellow noted that "comparability puts flesh on the bones of replication, providing the surest guide as to what the parties would likely have done, in all the circumstances, had the collective agreement been freely bargained."²⁰ More recently, in *Trafalgar Lodge (Revera)*, Arbitrator Stout confirmed that "the comparability principle focuses on objective data of relevant collective bargaining outcomes, as well as confirming "what the market can bear." Arbitrator Stout expressly noted that "the most relevant comparators are those collective bargaining relationships that most closely mirror the situation before the interest arbitration board."²¹

¹⁸ University of Toronto Financial Report 2022 at pages 15, 37 and 52. **Tab 15**

¹⁹ University of Toronto Financial Report 2024 at pages 15 and 51. **Tab 16**

²⁰ *Bridgepoint Hospital*, 2011 CanLII 76737 at 4 (Goodfellow) **Tab 17**

²¹ *Trafalgar Lodge*, 2022 CanLII 85717 at para. 13 (Stout) **Tab 18**

45. In the present case, the application of the comparability principle requires a focus on two groups of comparators. The first group includes other employees employed at the University, most notably those represented by unions with whom the University Administration bargains pursuant to the process in the *Labour Relations Act, 1995*, which includes resort to legal strikes and lockouts. The University Administration has longstanding collective bargaining relationships with many established unions. On occasion, several of these unions have engaged in strike activity when they have felt that their members are entitled to better terms and conditions of employment than the University Administration has offered in any given round of bargaining.

46. It is important to emphasize that the period of time to which this Article 6 proceeding applies has been marked by relative labour stability at the University. The University Administration and several unions have negotiated collective agreements that cover this same period of time without resort to strikes or lockouts. They have achieved outcomes that are closely aligned with the proposals that the University Administration has advanced to interest arbitration. The terms of the voluntary settlements that the University Administration has negotiated with these unions must therefore be closely examined as relevant comparators.

47. The second group of relevant comparators are faculty and librarians employed by other research-intensive universities in Ontario. These universities are McMaster University, the University of Ottawa, Queen's University, the University of Waterloo and Western University. These universities have collective bargaining relationships that are very similar to the negotiating relationship between the University Administration and UTFA. This is because these Universities are all subject to the policy decisions of the same provincial government, including its sector-wide funding decisions and its ongoing cap on undergraduate tuition fees.

48. More specifically, all but one of these universities²² contended with the impacts of Bill 124 on the negotiation of salary and benefit increases. Thereafter, they confronted new collective bargaining challenges regarding these same issues when this legislation was declared unconstitutional and eventually repealed. Universities outside of Ontario were not subject to these same circumstances. Their collective bargaining outcomes are not as relevant to this proceeding, especially on matters involving faculty and librarian salaries. As noted above, an unintended impact of Bill 124 on these Ontario universities was that it allowed for faculty members and librarians to obtain significant gains in their benefit entitlements that would not otherwise have been available.

49. An application of the comparability principle to these parties requires an examination of what Chief Justice Winkler described as the University's position at the "top of the market". Chief Justice Winkler first made this observation in his 2006 Article 6 award, where he wrote that:

In essence, the University has staked out a position at the top of the relevant market or "industry segment". It implicitly admits that maintaining this position depends to a large degree on maintaining the quality of its faculty and librarians. That in turn requires, leaving aside the intangibles, ensuring that the total compensation package available to those faculty members and librarians is sufficient to place them at the top of the market as well. That will be the starting point for our analysis of the specific proposals.²³

50. There are three important contextual components related to Chief Justice Winkler's observation that the University occupies a position at the "top of the market". First, this observation does not mean that faculty members and librarians at the University must maintain a *relative position* at the "top of the market." Four years after Chief Justice Winkler's award, Arbitrator Teplitsky considered and rejected that approach. He reasoned that:

²² The collective bargaining relationship between Queen's University and the Queen's University Faculty Association did not require the negotiation of a collective agreement that included the moderation period mandated by Bill 124.

²³ 2006 Winkler Article 6 Award, *supra* Tab 12 at para. 6.

UTFA is driven to argue that its relative position at the top of the market must continue with no change. There is no arbitral authority for this position of which I am aware. Moreover, such a principle would stultify bargaining. Indeed, UTFA would be hostage to the bargains of its colleagues at other institutions. As opposed to being an important factor in wage determination, these results would be controlling. Moreover, in the context of the U of T which “at the top of the market” being chased by the rest of the sector, the inevitable result would be “whipsawing”.²⁴

51. Second, the observation that the University is at the “top of the market” does not require that faculty members and librarians at the University must occupy the top position amongst the relevant comparators for each and every component of compensation. Chief Justice Winkler’s “top of the market” comment did not reference or require an item-by-item comparison between the compensation provided to the University’s faculty members and librarians, and the compensation provided to faculty members and librarians employed by the relevant comparators. Any such approach would undermine the total compensation principle, which Chief Justice Winkler expressly referenced in the relevant part of his award.

52. Third, Chief Justice Winkler’s “top of the market” comment does not apply to non-monetary terms and conditions of employment, including workload. The terminology used by Chief Justice Winkler and Arbitrator Teplitsky in their respective awards was limited to matters of compensation generally and salaries specifically. In no way did their observations extend to workload matters or any other non-monetary aspect of employment. Caution must be exercised to ensure that these “top of the market” comments are not given an overly broad interpretation or application.

53. Even if these “top of the market” comments extended to cover workload matters, which is not admitted and expressly denied, a “top of the market” workload policy has been in place at the University for over two decades. The current workload policy, freely negotiated and agreed to by the parties, offers extensive flexibility at the academic unit level. This workload policy allows for important determinations to be

²⁴ *Governing Council of the University of Toronto and UTFA*, unreported, October 5, 2010, Teplitsky [“2010 Teplitsky Article 6 Award”] **Tab 19**

made collegially. The outcomes generated by this policy are communicated transparently, and a robust but rarely used dispute resolution process is available to those who object to these outcomes.

THE PRINCIPLE OF GRADUALISM

54. Interest arbitration is regularly and accurately described as an inherently conservative process. Interest arbitrators, including those appointed to adjudicate unresolved salary, benefit and workload matters under Article 6 of the MOA, are hesitant to award any breakthrough proposals that could not likely have been secured through the negotiation process.²⁵ Arbitrator Kaplan articulated the important role that the gradualism principle plays in Article 6 proceedings as follows:

Gradualism is also relevant. In general, absent exceptional circumstances, interest arbitrators do not award breakthrough proposals, particularly in mature bargaining relationships. Breakthroughs are best left for the parties to reach on their own, without arbitral intervention absent exceptional circumstances justifying a deviation from this well-established principle.²⁶

55. The University Administration and UTFA have a mature negotiating relationship that extends over more than four decades. In this context, an interest arbitrator appointed under Article 6 of the MOA should award only incremental changes, if any, to existing salary, benefit and workload arrangements. The Article 6 process affords these parties many opportunities to discuss and agree upon such changes, and an inability on their part to reach such agreements should not be followed by extensive arbitral intervention. The interest arbitration process under Article 6 of the MOA should not be used by either party as a forum to secure changes that are drastic in scope and/or aspirational in nature.

56. The gradualism principle is inward-looking. When determining if a party's proposal is the type of breakthrough proposal that should be attained only through free collective bargaining, interest arbitrators contrast the nature of the proposal with the

²⁵ *Via Rail* (2009), 101 C.L.A.S. 146 at para. 28 (M. Picher). **Tab 20**

²⁶ 2020 Kaplan Award, *supra* Tab 8 at 3.

terms and conditions of employment already enjoyed by the affected employees. The assessment of whether or not a proposal is properly characterized as a breakthrough item is not determined by examining whether one or more external agreements at other institutions include similar entitlements or language.²⁷

57. The more that a proposal can objectively be characterized as an extraordinary improvement to existing terms and conditions of employment, the more likely that the proposal will offend the principle of gradualism and will not be awarded at interest arbitration, regardless of whether the proposing party can point to other collective agreements that might include similar language.²⁸

58. In the most recently-completed Article 6 interest arbitration, Arbitrator Gedalof applied this approach in declining to award UTFA's workload proposals. He recognized that UTFA's workload proposals were modeled on concepts and approaches to workload in place at other universities. He correctly observed that although these concepts may have been used to determine workload matters at other institutions, imposing them on the workload policies and procedures in place at the University would have wrought "major structural changes to the parties' agreement" and a "significant disruption to the status quo."²⁹ Proposals of this nature are clearly antithetical to the gradualism principle. These are precisely the workload proposals that UTFA has advanced in this proceeding.

59. The gradualism principle should also be used to assess UTFA's benefits proposals. Rather than suggesting that the scope of certain benefit coverages increase in a modest, incremental manner, UTFA has requested the wholesale removal of standard exclusion provisions and co-pay arrangements. At the same time, it seeks increases to existing benefit entitlements that are disproportionate to any objective measure. Several of UTFA's benefit proposals seek to increase existing benefit entitlements by double-digit or even triple-digit percentages.

²⁷ *McMaster University*, 2015 CarswellOnt 571 at para. 8 (Anderson). **Tab 21**

²⁸ *New Horizon Systems Solutions*, 2005 CarswellOnt 10776 at paras. 18-19 (M. Picher) **Tab 22**

²⁹ 2023 Gedalof Article 6 Award, *supra* Tab 9 at paras. 132-133.

THE PRINCIPLE OF DEMONSTRATED NEED

60. The demonstrated need principle is closely connected to the principle of gradualism. Arbitrator Kaplan recognized the connection between these two principles by emphasizing that:

Amendments to a collective agreement, especially to provisions that were bargained and have been in place for a very long time, absent compelling evidence-based need, are made on a gradual basis, if at all, and almost always reflect give and take. In general, however, long-standing and freely-negotiated provisions should not be tampered with absent the strongest evidence of demonstrated need.³⁰

61. If a party seeks to use an interest arbitration under Article 6 of the MOA to secure substantial changes to salary, benefits or workload matters instead of attaining these changes through the regular give-and-take of the negotiation process, that party must present compelling evidence that there is a demonstrated need for an arbitrator to impose any such changes. Not only must the party show that a demonstrated need for their significant change exists, but they must also prove that their proposal meets the identified need.³¹

62. The more that a party's proposal represents a material change from the status quo, the more difficult it will be for the proposing party to meet this rigorous two-part test. As Arbitrator Kaplan observed in his 2020 award between these parties:

Demonstrated need establishes that sought-after changes are required to meet real and pressing problems, particularly where one party seeks to change the long-standing status quo – representing, after all, decades of free collective bargaining.³²

³⁰ *Toronto Transit Commission*, 2022 CanLII 9 at 8-9 (Kaplan) **Tab 23**

³¹ *Dufferin County Board of Education*, unreported, March 19, 1979 at 10 (Kennedy) **Tab 24**

³² 2020 Kaplan Article 6 Award, *supra* Tab 8 at 4.

63. In the two most recent Article 6 interest arbitration proceedings, UTFA was unable to demonstrate that its workload proposals were supported by a demonstrated need.³³ Arbitrators Kaplan and Gedalof both referenced that the University's current workload policies and procedures had generated only a miniscule number of workload complaints relative to the many workload assignments that had been made annually. Consequently, both arbitrators concluded that UTFA failed to show that there was a demonstrated need for their paradigm-shifting workload proposals that sought to impose new and novel strictures and requirements on the assignment and management of workload. Given the strong similarities between UTFA's current workload proposals to those which have been rejected on two occasions, the same result should now follow.

64. In the final analysis, determining whether the principles of replication, total compensation, gradualism and demonstrated need support the awarding of the parties' respective proposals, it is important to begin this analysis by recognizing the existing salary, PTR and benefit entitlements that are already provided to faculty members and librarians, alongside the fact that the WLPP has remained an effective process, anchored in unit-level autonomy, flexibility, collegiality, transparency and accountability, which is not in need of any type of overhaul.

³³ 2020 Kaplan Article 6 Award, *supra* Tab 8 at 6, Gedalof 2023 Article 6 Award, *supra* Tab 9 at paras. 134-136.

PART III - FACTUAL BACKGROUND

THE PARTIES

65. The University is the largest and most distinguished university in Canada. It is consistently ranked as the top university in Canada and among the top universities worldwide. The University regularly attracts top-tier students, faculty and librarians both nationally and internationally.

66. The University is also Canada's largest university. It is spread across three campuses: the St. George Campus located in downtown Toronto, the University of Toronto Mississauga ("UTM") and the University of Toronto Scarborough ("UTSC"). In total, over 99,000 students enrolled at the University for the 2023-2024 academic year. This enrolment is comprised of over 78,000 undergraduate students and over 21,000 graduate students.

67. The University's academic programming at both the graduate and undergraduate levels is rich and diverse. The University offers academic programs in 18 divisions. For graduate students, there are over 175 research and professional masters and doctoral programs that reside in more than 80 departments. Interdisciplinary research opportunities at the graduate level are available in more than 40 collaborative programs. The University has 14 professional faculties and schools. At the undergraduate level, the University's Faculty of Arts & Science offers nearly 400 academic programs over 27 academic departments, 49 interdisciplinary centres, schools and institutes, and seven colleges. It encompasses a greater range of disciplines than any other university in Canada.

68. The University of Toronto Libraries ("UTL") is the largest academic library system in Canada. It includes 17 Central UTL libraries and works with 25 other libraries that operate independently across the University's three campuses. UTL is consistently ranked among the top 10 research libraries in North America. Its holdings include over 12 million volumes, 2 million digital books, journals and other electronic resources, and the capacity to manage over 5 petabytes of digital data.

69. The University's pre-eminence was recently acknowledged by Alan Harrison, Chair of the Blue-Ribbon Panel on Postsecondary Education Financial Sustainability³⁴, who noted in his remarks:

Many institutions can justifiably claim pre-eminence in specific areas of excellence. This is clear from many strategic plans, metrics used by institutions to demonstrate progress in those plans, and in the branding efforts and the strengths the institutions bring to the regions they serve. There is however only one publicly assisted postsecondary institution in Ontario, the University of Toronto, that could be described as covering all the bases in its pre-eminence.

The University of Toronto, which is by far the largest university in Ontario with close to 100,000 students enrolled, plays a pre-eminent role in Ontario and in Canada. For example, Toronto's student population accounts for 20% of all the doctoral students in Canada's U15 universities and 44% within the six U15 universities in Ontario. Among the U15 universities, Toronto's share of doctoral students is as large as the combined total for two other large Canadian universities – the University of British Columbia and the Université de Montréal – each with a 10% share.

The University of Toronto is also very highly ranked internationally – 18th in the world in the Times Higher Education (THE) World University Rankings, and second only to the University of California, Berkeley among North America's public universities. The University of Toronto is also one of only seven universities to rank among the top 30 institutions worldwide in all 11 subject areas in the THE rankings, and ranks first in Canada. It also places eleventh in the world in the THE's graduate employability ranking.

The University of Toronto's rankings are reflective of the institution's research strength across the board, as befits a university with so many doctoral students. We note too that in June 2023, Nature ranked the University of Toronto third in the world for health sciences research output, behind only Harvard and the National Institutes of Health.

³⁴ Blue Ribbon Panel on Postsecondary Education Financial Sustainability "Ensuring Financial Sustainability for Ontario's Postsecondary Sector", at pp. 54-5. <https://files.ontario.ca/mcu-ensuring-financial-sustainability-for-ontarios-postsecondary-sector-en-2023-%2011-14.pdf%20pages%2054-55>

70. UTFA represents full-time and part-time Tenured/Tenure Stream faculty members, full-time and part-time pre-continuing status and continuing status Teaching Stream faculty members, faculty members holding full-time Contractually Limited Term Appointments (“CLTAs”) and part-time appointments, and Permanent Status/Permanent Status Stream librarians, part-time librarians, and non-permanent status contractually limited term appointed librarians employed by the University.

THE APPOINTMENT OF FACULTY MEMBERS AT THE UNIVERSITY

71. The appointment of full-time faculty members at the University is subject to and governed by the *Policy and Procedures on Academic Appointments* (the “PPAA”)³⁵. The PPAA sets out the procedures that apply to faculty appointed to each of the Tenure Stream and the continuing stream Teaching Stream. These two streams have distinctly different focuses and responsibilities, which are addressed in more detail below.

72. As set out in section 6 of the PPAA, an applicant for a pre-tenure appointment in the Tenure Stream must “show evidence of her or his ability to undertake independent scholarly activity, such as the successful completion of a doctoral programme or other scholarly or professional work regarded by the division or department as equivalent.” A candidate for a Tenure Stream appointment must also be prepared to present evidence of their teaching ability or potential, as well as evidence of their promise of future intellectual and professional development.

73. The PPAA’s references to consideration of a candidate’s research, teaching and promise of future intellectual and professional development when considering applicants for a Tenure Stream position reflect the criteria listed in subsection 13(d) of the PPAA, that the University uses when determining whether tenure will be awarded. Subsection 13(d) of the PPAA provides that:

³⁵ *Policy and Procedures on Academic Appointments*, **Tab 25**

Clear promise of future intellectual and professional development must be affirmed for tenure to be awarded. Demonstrated excellence in one of research (including equivalent and creative or professional work) and teaching, and clearly established competence in the other, form the second essential requirement for a positive judgment by the tenure committee. Only outstanding performance with respect to University service should be given any significant weight and, even then, only if there are no substantial reservations relating to the research, teaching and future promise criteria.

74. The appointment of continuing stream Teaching Stream faculty is also covered by the PPAA. Faculty appointed to the continuing stream Teaching Stream play an important role in the delivery of the University's academic program, with their specific focus on providing students with excellent teaching. The PPAA prescribes different criteria for the appointment of candidates to continuing stream Teaching Stream positions, having regard to the teaching-focused objectives of appointments in this stream. In this respect, section 30(i)(a) of the PPAA provides that:

The ranks of Assistant Professor, Teaching Stream (Conditional); Assistant Professor, Teaching Stream; Associate Professor, Teaching Stream; and Professor, Teaching Stream **are to be held by faculty members whose duties normally consist of teaching students who are in degree programs or the Transitional Year Program, and other professional and administrative activities related to teaching.** Faculty members in the teaching stream may have direct responsibility for the administration of one or more large undergraduate courses or for the co-ordination of undergraduate programs at both the departmental level and in College-based programs. The expectation of faculty members in the teaching stream is that they bring a dimension of teaching excellence and educational innovation that enhances undergraduate or graduate education and adds significantly to the quality of the student experience. Where the position requires graduate teaching, an appointment to a University graduate department will also be made. Other cross-appointments to departments on other campuses may also be made, with or without salary, where appropriate.

[Emphasis added]

75. The performance of continuing stream Teaching Stream faculty is necessarily focused on the teaching component of their work, in a manner consistent with the nature and purpose of their appointments. Article 30(vi) of the PPAA confirms that:

Performance will be assessed on teaching effectiveness and pedagogical/professional development related to teaching duties, in accordance with approved divisional guidelines on the assessment of teaching. Administrative service will be considered, where such service is related to teaching duties or to curricular and professional development.

76. Teaching Stream faculty members are not eligible for an award of tenure under the PPAA. Rather, if a faculty member in the continuing stream Teaching Stream can demonstrate that they have met the standard of excellence in teaching and have shown evidence of continued and demonstrated future pedagogical/professional development, they will receive a continuing status appointment at the University.

77. The focus on teaching excellence and pedagogical/professional development referenced in the appointment requirements for faculty in the continuing stream Teaching Stream are reflected in the criteria that a continuing stream Teaching Stream faculty member must meet in order to be granted a continuing status appointment at the University. Subsection 30(xii) of the PPAA describes a continuing status appointment as follows:

A continuing appointment provides a safeguard for free enquiry and discussion, the exercise of critical capacities, honest judgment and independent criticism of matters both outside and within the University. It entails acceptance by the University of the obligation to perform his or her functions as a member of the faculty. The performance of a teaching stream member with continuing status shall be reviewed annually in accordance with the normal divisional practice for all faculty.

78. The majority of faculty at the University hold tenured appointments at the ranks of Professor or Associate Professor, or continuing status appointments at the ranks of Professor, Teaching Stream, or Associate Professor, Teaching Stream, or an appointment at the rank of Assistant Professor or Assistant Professor, Teaching Stream that will include a review for tenure or continuing status, having regard to the applicable stream-specific criteria referenced above. The table below provides further information on the number of faculty members who hold these appointments.

Faculty Members Holding Continuing Appointments by Rank – Fall 2023			
Professor	1,173	Professor, Teaching Stream	46
Associate Professor	696	Associate Professor, Teaching Stream	252
Assistant Professor	517	Assistant Professor, Teaching Stream	180
Assistant Professor (Conditional)	15	Assistant Professor, Teaching Stream, Conditional	11
Total Appointments	2,401		489

Note: Excludes Faculty on LTD or other unpaid leave. Includes faculty members with tenure or continuing status and faculty with senior administrative duties.

79. A smaller number of appointed faculty hold Contractually Limited Term Appointments (“CLTAs”) or part-time appointments in either the non-Tenure Stream or Teaching Stream. CLTAs are full-time appointments that are not to exceed five years in total, unless they are grant-funded. CLTAs and part-time faculty members hold appointments at one of the faculty ranks enumerated above, depending on their stream. Information concerning the appointment of CLTAs at the University is set out in the table below.

Faculty Holding CLTA Appointments by Rank – Fall 2023			
Professor	107	Professor, Teaching Stream	0
Associate Professor	29	Associate Professor, Teaching Stream	3
Assistant Professor	61	Assistant Professor, Teaching Stream	71
Assistant Professor (Conditional)	3	Assistant Professor, Teaching Stream, Conditional	2
Total Appointments	200		76

80. CLTA Appointments at the ranks of Associate Professor, Teaching Stream and Professor, Teaching Stream are made only in exceptional circumstances.

81. The University also employs approximately 443 part-time faculty members. These part-time faculty members are not eligible for tenure or continuing status under the PPAA. The terms and conditions of their employment are subject to and governed by the *Policy and Procedures on Employment Conditions of Part-Time Faculty*.³⁶ These faculty members are normally appointed for terms of up to one year, but may be appointed for a term that is as long as two years. The University may choose to renew a faculty member's appointment for one or two years on an ongoing basis. If a part-time faculty member's appointment is renewed for six successive years, they may be considered for a continuing part-time appointment, which entitles a part-time faculty member to notice and additional compensation in the event that their continuing appointment is terminated without cause.³⁷

82. Like the PPAA, section 7(b) of the *Policy and Procedures on Employment Conditions of Part-Time Faculty* establishes different continuing appointment assessment processes and standards for faculty who are appointed in the Teaching Stream in comparison with faculty whose appointments are outside of the Teaching Stream.

THE APPOINTMENT OF LIBRARIANS AT THE UNIVERSITY

83. The University's full-time Librarians are appointed pursuant to the *Policies for Librarians*.³⁸ The current version of the *Policies for Librarians* took effect on January 1, 2024, following bi-lateral and mediated negotiations between the University Administration and UTFA, resulting in a voluntary agreement. Each full-time librarian is appointed to one of four ranks: Librarian I, II, III, or IV. A librarian hired at the rank of Librarian I receives a probationary appointment of one to two years. A Librarian I who establishes a record of successful performance during their probationary period will be

³⁶ *Policy and Procedures on Employment Conditions of Part-Time Faculty*. **Tab 26**

³⁷ Section 13(b) of the *Policy and Procedures on Employment Conditions of Part-Time Faculty* requires the University Administration to provide two months' working notice of termination and severance pay of one month's pay per completed year of service to any part-time faculty member with a continuing appointment who is terminated without cause.

³⁸ *Policies for Librarians*. **Tab 27**

eligible for promotion to the rank of Librarian II and normally an extended appointment of three years.

84. Following a librarian's promotion to the rank of Librarian II, they are considered for permanent status in the third year of their appointment. Librarians appointed at the rank of Librarian III or IV who are not granted permanent status at the time of their appointment will be considered for permanent status in the first year of their appointment. A librarian who is granted permanent status receives a continuing full-time appointment which the University cannot terminate except for reasons of the librarian's inability to carry out their duties, or for cause. For promotions to the ranks of Librarian II, III and IV, the *Policies on Librarians* set out the specific criteria that apply at each of these stages.

85. As set out in section 70 of the *Policies on Librarians*, librarians who hold Contractually Limited-Term Appointments will have the length of their appointment, rank and salary stated in their letter of appointment. Contractually Limited-Term Appointments are normally used in circumstances where a librarian is hired for a limited-duration special project or to temporarily replace a librarian during their leave. Normally, a Contractually Limited-Term Appointment will not exceed three years. Any such extension requires the Provost's approval. Information concerning the appointment of full-time librarians at the University is in the table below.

Librarian Appointments – Fall 2023			
Rank	Permanent Status/ Permanent Status Stream	Non-Permanent Status Stream	Total
Librarian I	3	10	13
Librarian II	21	7	28
Librarian III	101	10	111
Librarian IV	18		18
Total	143	27	170

86. The terms and conditions of employment that apply to part-time librarians are set out in the *Policy on Part-Time Librarians*³⁹. There are currently two part-time librarians, both of whom have permanent status and who are in a phased retirement arrangement. The ranks of Librarian I, II, III and IV and the criteria that apply for promotion to each of these ranks are the same as those set out in the *Policies for Librarians*. However, part-time librarians are not eligible for permanent status, except for full-time librarians who have been approved for a part-time appointment.

THE UNIVERSITY’S OPERATING EXPENSES AND COMPENSATION

87. For the 2023-2024 fiscal year, the University’s budgeted operating expenses totalled approximately \$3.358 billion. Over \$2 billion of these budgeted operating expenses are allocated to faculty and staff compensation. This accounts for just under 60% of the University’s budgeted operating expenses. The percentage of the University’s budgeted operating expenses allocated to faculty and staff compensation has increased over time, as set out in the table below.

Faculty & Staff Compensation as a Percentage of Budgeted Operating Expenses			
Fiscal Year	Total Operating Expenses	Faculty & Staff Compensation	Percentage of Total Operating Expenses
2020-21	\$2.991 billion	\$1.720 billion	57.51%
2021-22	\$3.123 billion	\$1.768 billion	56.61%
2022-23	\$3.233 billion	\$1.883 billion	58.24%
2023-24	\$3.358 billion	\$2.001 billion	59.59%
2024-25	\$3.522 billion	\$2.19 billion	61.87%

Source: University of Toronto Budget Reports: <https://planningandbudget.utoronto.ca/reports/>

³⁹ *Policy on Part-Time Librarians*. **Tab 28**

88. The largest proportion of faculty members at the University hold appointments in the Tenure Stream or the continuing stream Teaching Stream. Save and except for the ranks of Professor, Teaching Stream and Associate Professor, Teaching Stream, each rank in each stream is associated with a nominal minimum salary which is not reflected in actual hiring rates. The salary floors for the academic ranks in each stream are set out in the following table:

Faculty Salary Structure		
ACADEMIC RANK	As of July 1, 2022	
	MIN	MAX
Professor	\$117,007	
Associate Professor	\$87,154	
Assistant Professor	\$71,027	\$122,330
Assistant Professor (Conditional)	\$59,704	\$99,595
Teaching Stream	\$96,305	

89. Appointments at the ranks of Associate Professor, Teaching Stream and Professor, Teaching Stream are made only in exceptional circumstances. Teaching Stream faculty and librarians who commence employment on or after July 1, 2017 are entitled to receive an annualized starting salary no lower than the minimum salary for their rank plus \$620.00 as set out in the 2014-2017 Memorandum of Settlement between the University Administration and UTFA.⁴⁰

⁴⁰ 2014-2017 Article 6 Memorandum of Settlement between the University Administration and UTFA. **Tab 29.**

90. Based on salary data from Fall 2022, the average salaries paid to faculty members and librarians were as follows:

Employee Subgroup	Rank	Average Annualized Salary	# of Employees
Tenured/Tenure Stream	Professor	\$242,378	1,127
	Associate Prof	\$187,844	688
	Assistant Prof	\$153,561	525
	All Ranks Combined	\$206,417	2,340
Continuing Stream, Teaching Stream	Professor, Teaching Strm	\$187,125	36
	Associate Prof, Teaching Strm	\$166,539	244
	Assistant Prof, Teaching Strm	\$137,908	190
	All Ranks Combined	\$156,542	470
Permanent Status and Permanent Status Stream	Librarians	\$134,131	140

Note: Excludes faculty on LTD or unpaid leave. Includes faculty members with tenure or continuing status and librarians with permanent status who are part-time, based on annualized salary. Also includes faculty and librarians with senior administrative duties.

91. The University’s librarians are appointed at the ranks of Librarian I through Librarian IV. Most librarians hold appointments at the rank of Librarian III or Librarian IV. The salary structure for the University’s librarians is set out in the table below

Librarian Salary Structure		
ACADEMIC RANK	As of July 1, 2022	
	MIN	MAX
Librarian I	\$76,403	
Librarian II	\$79,720	
Librarian III	\$102,023	
Librarian IV	\$120,209	

92. The University’s compensation budget must cover both salary costs and the costs of negotiated benefits, which have been increasing as a percentage of the salary base over time. In 2023-24 and 2024-25, benefit programs for appointed faculty and staff are funded through an envelope based on a standard benefit rate of 24.5% of

the salary costs. This is a significant increase over the 23.5% rate in place in 2021-22, driven by the escalating costs of benefit programs.

93. More detailed information that sets out the University Administration's total compensation costs, including benefit costs across the institution and specific to faculty members and librarians are attached at **Tab 30**.

94. The non-compensation portion of the University's operating budget funds all other costs associated with running the University including maintaining spaces and library collections, renewing equipment, high priority student financial aid programs, and many others. As the portion of the University's operating budget directed towards compensation increases, it reduces funding available for these other operating costs and priorities.

THE CURRENT FISCAL ENVIRONMENT AT THE UNIVERSITY

95. The impact of government policies imposed federally and provincially, combined with continually challenging economic circumstances have given rise to immediate and significant fiscal challenges for the University. This is primarily because eighty-seven percent (87%) of the University's operating revenue comes from student fees and provincial operating grants, all of which are now constrained by government policies and market forces. Significant constraints on the University's ability to grow these revenue streams over the past several years have led to an escalating need to manage and contain operating expenses, which have continued to increase.

96. At the federal level, the recently-imposed cap on international study permits limits future growth at the University, including its ability to grow its revenue. Over the past six years, the growth in international student tuition revenue has provided all of the incremental dollars required to fund the compensation increases provided to faculty, librarians, and staff. Continuing to use the growth of this revenue stream to fund these compensation increases is no longer tenable. In fact, the revenue derived from international student enrolment may actually decline in 2025-2026.

97. The cap on international study permits has been accompanied by other changes to Canada's immigration policies. Canada's strained relationships with other countries have created a chilling effect in international markets, where Canada's prior reputation as a welcoming destination for international students specifically and immigrants more generally has weakened.

98. The impact of these policies on the University has been profound. The University experienced a 6% decrease in the size of the University's incoming international undergraduate cohort in 2024. This decrease translated to a loss of revenue of approximately \$50 million.⁴¹ This decrease in revenue caused by this decline in international student enrolment will have an ongoing impact in subsequent years, as the members of this smaller cohort complete their academic programs.

99. The University is also facing increased pressure from peer institutions who are also seeking to attract international students. The University's undergraduate international student fees are already the highest in Canada. Top students are choosing to attend other Canadian universities based at least in part on the lower fees they offer. The University cannot realistically impose significant increases to international student fees without risking further reductions in enrolment. Even before the recent cap on international student permits was imposed, the University responded to this increased level of recruitment competition by limiting annual increases to the majority of international student fees to 2% in recent years. An increase of 3% is planned for 2025-2026.

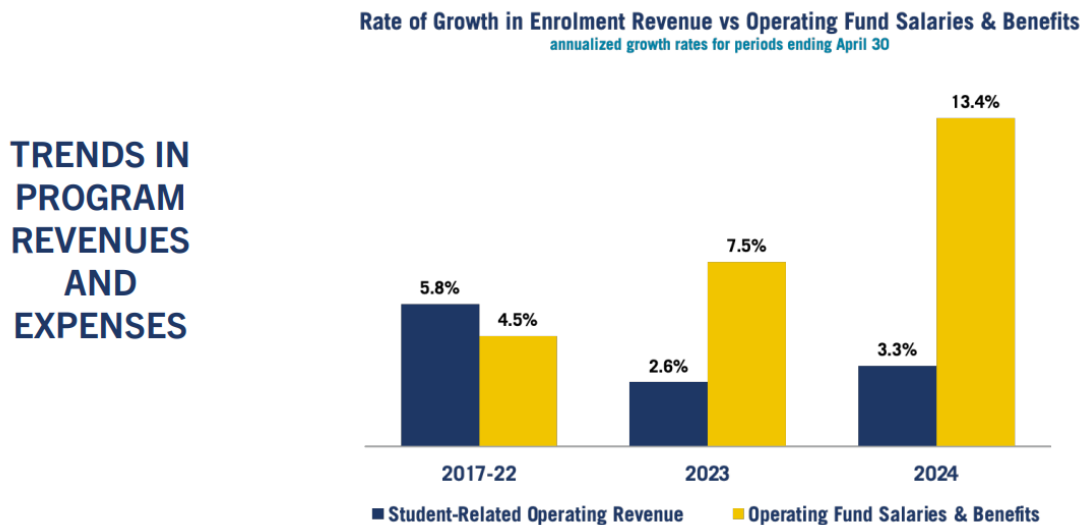
100. At the provincial level, the University's domestic tuition fees were subject to a mandatory ten percent (10%) reduction in 2019-2020. A freeze on domestic tuition fees has remained in place ever since. It is expected to remain in place until at least 2026-2027. While universities may increase the domestic tuition fees charged to out-of-province students by five percent (5%), this measure will have limited impact on the University because the vast majority of its domestic students are from Ontario.

⁴¹ https://governingcouncil.utoronto.ca/system/files/agenda-items/20241219_GC_06.pdf

101. In addition, provincial base operating grant funding has also remained frozen for decades. This means that for 2024-2025, the University is expected to generate less total revenue from domestic enrolment (tuition and operating grants combined) than it did in 2018-2019 in nominal dollars, not adjusted for inflation.

102. The constraints on the University's ability to grow its revenue come at a time when its expenses have continued to increase. The significant compensation increases that followed the repeal of Bill 124 generated an additional \$125 million cost to the University. Budget flexibility across the University has decreased. Divisions have revisited their spending plans and have drawn on one-time-only reserves to manage the cost of these compensation increases. This has limited the University's ability to implement new initiatives and to hire additional employees, including faculty members and librarians.

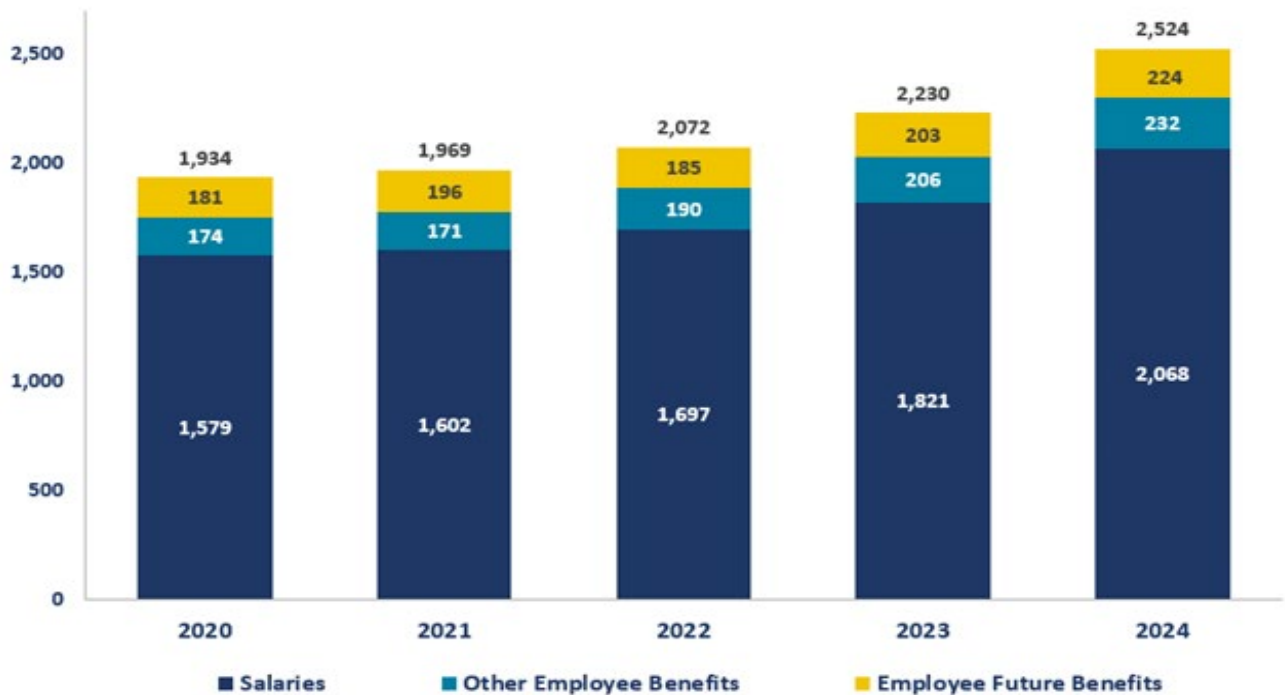
103. The impact of post Bill 124 compensation increases can be seen in the following chart, which compares student-related operating revenue growth against the growth in salary and benefit expenses within the University's operating fund.



Source: Presentation of 2023-24 Financial Statements to University of Toronto Business Board.
https://governingcouncil.utoronto.ca/system/files/agenda-items/20240619_BB_03P.pdf

104. This impact of these compensation increases is also seen in the following chart, which tracks increases in total compensation expenses over the last five years. The pace of increases to total compensation has accelerated dramatically in recent years, while the rate of growth in enrolment revenue has not kept pace and has essentially stagnated.

Figure 7: Salaries and Benefits
(\$ millions) for the year ended April 30



Source: University of Toronto Financial Report April 30, 2024, p. 14

105. Looking beyond the time referenced in the charts above, the University is forecasting annual revenue growth of less than 3% in 2025-2026. This projection may need to be adjusted downward if planned growth in international student enrolment rates does not occur. This will likely cause the gap between slow revenue growth and increasing expenses to continue, if not further widen. Working within a balanced budget framework in these circumstances would become especially difficult, especially when capital contributions are taken into account.

106. The University plans for a balanced operating budget each year, with revenues equal to total operating expenditures and capital contributions, including funds that will be set aside for capital projects that will be spent in future years. This is an important distinction between the University's budget process and the information included in the University's annual Financial Report, which is prepared on an accrual basis following Canadian not-for-profit accounting standards. The presentation of expenditures on capital projects are reflected as current year funding allocations in the operating budget, but are expensed over multiple years in the accrual-based Financial Report. Given the scale of the University's capital program, this difference in reporting is significant.

107. In 2023-2024, the University reported an overall net income of \$508 million, which includes \$369 million related to the differences in reporting of cash flow for capital projects. A better indicator of operating flexibility is Cash Flows Net of capital Asset Purchases which was \$115 million in 2023-2024.⁴² This contribution to reserves has been set aside in accordance with multi-year divisional academic plans that call for the deliberate use of reserves for operating contingencies, future capital investment in academic facilities, and other amenities, along with the hiring of additional faculty including start-up funding for new research programs.

108. The University's capital infrastructure needs are immense, with continued pressures for new and renewed spaces for its academic programs, research initiatives, co-curricular spaces, libraries and housing for faculty, librarians, staff and students. More than \$4 billion in capital projects are in various stages of planning and development over the next five years.⁴³ While the University benefits from generous donations, such donations typically cover only a portion of capital project expenses. Government funding for these capital projects has become increasingly rare. As a result, the University is left to cover a majority of its capital project costs from its operating funds. Given the scale of the University's capital projects, funds must be reserved over a number of years before these projects can start, which leads to a

⁴² University of Toronto, Financial Report 2024, *supra* Tab 16 Schedule 4

⁴³ https://governingcouncil.utoronto.ca/system/files/agenda-items/20250212_PB_03.pdf at p. 32

temporary increase in operating reserves. The University Administration submits that these reserves are not intended to cover the ever-increasing cost of operating expenses, and that its ongoing need to manage capital infrastructure expenses must be borne in mind when considering any increases to compensation that might be awarded through this proceeding.

109. Overall, limits on the University's ability to grow its revenue that have been imposed through longstanding freezes to its base operating grant funding and the domestic tuition fees charged to Ontario students have now been accompanied by a curtailment of the revenue growth that was previously based on international student enrolment. These restrictions on the University's revenue streams have occurred at a time when expenses, including total compensation expenses, have increased dramatically. There is a clear need for the University to redress this imbalance. These factors can and must be considered in the course of fashioning an award in this proceeding. The proper consideration of these factors necessitates a measured and restrained approach to any and all increases to compensation that may be awarded.

PART IV – SALARY MATTERS

SALARIES PAID TO FACULTY MEMBERS AND LIBRARIANS

110. In the 2023 Public Sector Salary Disclosure Report, 3,119 faculty members and librarians employed by the University are reported as earning more than \$100,000.00. Tables from the Statistics Canada University and College Support Staff System (“UCASS”) survey of university academic staff for 2022-2023 are referenced on the following pages, along with graphs that compare the average salary of full-time Professors, Associate Professors, Assistant Professors and all three of these ranks combined at Ontario universities and non-Ontario U15 universities. These data show the following:

- (a) The average salary of faculty members employed by the University at the rank of Professor exceeds the mean salary of faculty members at this same rank by 28.9%.
- (b) The average salary of faculty members employed by the University at the rank of Associate Professor exceeds the mean salary of faculty members at this same rank by 22.9%.
- (c) The average salary of faculty members employed by the University at the rank of Assistant Professor exceeds the mean salary of faculty members at this same rank by 23.8%.
- (d) When the average salaries of the ranks of Professor, Associate Professor and Assistant Professor are combined together, faculty members employed by the University earn 9.5% higher salaries than the comparators at the next highest paid university in Canada.

Age/Salary Comparison of Full-Time Faculty, Fall2022: Professors

University (sorted alphabetically)	LT 30			30 to 34			35 to 39			40 to 44			45 to 49			50 to 54			55 to 59			60+			Total					
	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank			
Toronto							39	\$214,200	1	114	\$224,850	1	159	\$231,100	1	168	\$241,850	1	378	\$260,550	1	861	\$244,525	1						
Alberta				3			42	\$151,850	12	84	\$164,050	16	111	\$173,975	17	162	\$193,375	9	240	\$204,775	11	642	\$187,425	14						
Brock							6			9	\$156,775	18	60	\$180,400	12	42	\$185,200	14	78	\$204,500	12	192	\$189,825	12						
Calgary							12	\$149,025	15	36	\$146,825	22	60	\$160,600	22	84	\$172,750	20	168	\$190,150	18	363	\$175,300	19						
Carleton							9	\$145,725	16	45	\$159,800	17	51	\$169,200	18	54	\$178,375	18	114	\$187,800	21	273	\$176,525	18						
Dalhousie							12	\$141,475	17	30	\$151,575	21	51	\$160,725	21	33	\$173,825	19	93	\$187,850	20	222	\$171,750	21						
Guelph							9	\$157,625	11	36	\$169,425	12	63	\$178,525	13	66	\$186,700	13	105	\$203,075	14	282	\$188,000	13						
Lakehead										6			12	\$163,375	20	18	\$160,800	23	39	\$188,950	19	78	\$174,500	20						
Laval				6			45	\$134,100	18	81	\$142,650	23	72	\$152,225	24	81	\$155,050	25	183	\$155,550	25	468	\$150,350	25						
Manitoba							6	\$150,825	14	42	\$152,425	20	51	\$157,050	23	57	\$166,900	22	138	\$171,700	23	294	\$164,900	23						
McGill							6	\$169,275	10	48	\$176,775	9	51	\$177,925	14	54	\$186,925	12	171	\$192,100	15	333	\$186,425	15						
McMaster							9	\$189,300	4	24	\$203,300	3	51	\$204,625	3	60	\$209,800	5	120	\$222,750	4	264	\$213,075	4						
Montreal							27	\$151,300	13	72	\$154,350	19	123	\$163,700	19	102	\$169,625	21	282	\$174,100	22	609	\$167,850	22						
Nipissing							6			6			12	\$151,000	25	9	\$159,125	24	21	\$166,000	24	54	\$157,350	24						
OCAD																3			15	\$145,225	26	18	\$144,400	26						
Ontario Tech										9	\$175,450	11	12	\$181,325	11	12	\$189,300	11	24	\$208,575	7	54	\$193,725	10						
Ottawa							21	\$174,550	7	78	\$180,475	8	105	\$193,625	6	111	\$197,375	7	171	\$204,450	13	486	\$195,200	9						
Queen's							6	\$172,600	8	30	\$183,650	7	42	\$182,600	9	72	\$191,550	10	123	\$210,125	6	276	\$197,200	7						
Saskatchewan							9	\$193,650	3	39	\$202,725	4	45	\$199,750	4	60	\$201,325	6	144	\$206,025	9	300	\$203,000	6						
Trent										6	\$167,550	13	15	\$176,825	16	15	\$183,950	16	27	\$191,950	16	60	\$183,875	16						
UBC							24	\$207,250	2	87	\$221,850	2	150	\$219,875	2	147	\$222,700	2	315	\$230,600	2	726	\$224,825	2						
Waterloo							21	\$184,075	6	66	\$192,675	6	72	\$196,725	5	87	\$212,400	3	189	\$219,700	5	438	\$208,375	5						
Western										36	\$176,450	10	84	\$189,550	8	75	\$196,675	8	138	\$208,050	8	342	\$196,875	8						
Wilfrid Laurier							6	\$169,625	9	18	\$167,025	14	24	\$181,775	10	42	\$181,800	17	42	\$190,700	17	132	\$181,575	17						
Windsor										18	\$164,975	15	24	\$177,625	15	54	\$184,425	15	84	\$205,875	10	183	\$190,525	11						
York							6	\$185,725	5	27	\$193,350	5	48	\$189,625	7	66	\$211,250	4	192	\$228,200	3	342	\$216,275	3						
UofT Rank							n/a			1			1			1			1			1			1					
Count							27			336			1,041			1,554			1,740			3,591			8,295					
Mean excl UofT							\$161,675			\$161,700			\$173,975			\$181,975			\$190,525			\$200,150			\$189,750					
% Diff Between:																														
UofT & Mean							n/a			32.5%			29.2%			27.0%			26.9%			30.2%			28.9%					
UofT & Highest							n/a			n/a			n/a			n/a			n/a			n/a			n/a					
UofT & Second							n/a			3.4%			1.4%			5.1%			8.6%			13.0%			8.8%					

Age/Salary Comparison of Full-Time Faculty, Fall2022: Assistant Professors

University (sorted alphabetically)	LT 30			30 to 34			35 to 39			40 to 44			45 to 49			50 to 54			55 to 59			60+			Total			
	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	
Toronto	9	\$137,075	1	135	\$154,275	1	222	\$152,925	2	117	\$149,300	2	45	\$148,475	2	21	\$148,000	2	3	\$150,550	4	6	\$152,700	4	558	\$151,675	2	
Alberta				45	\$118,525	12	63	\$112,850	17	51	\$119,875	13	15	\$120,250	14	12	\$105,775	19				6	\$152,700	4	189	\$116,050	16	
Brock				21	\$109,375	17	36	\$116,725	15	21	\$116,000	16	15	\$120,200	15	6	\$113,150	16	9	\$118,525	11	6	\$127,600	9	117	\$116,025	17	
Calgary	6			42	\$107,425	18	75	\$106,975	21	69	\$103,675	23	36	\$104,325	24	21	\$103,425	20	15	\$101,300	14	9	\$99,625	13	273	\$105,025	24	
Carleton				30	\$118,375	13	72	\$121,200	12	33	\$120,050	12	18	\$122,700	13	9	\$131,525	8	6						171	\$121,625	13	
Dalhousie				24	\$104,100	20	51	\$104,425	22	36	\$109,650	21	9	\$110,550	22	18	\$123,900	10	9	\$119,875	10	9	\$128,900	8	159	\$110,275	20	
Guelph				39	\$124,025	7	51	\$121,125	13	36	\$118,175	14	15	\$129,400	8	12	\$120,750	12	6	\$124,050	9	6			165	\$123,200	12	
Lakehead				9	\$101,400	22	27	\$109,300	19	12	\$110,475	20	6	\$117,100	17	3									63	\$110,250	21	
Laval				45	\$92,600	23	60	\$98,625	24	54	\$106,075	22	15	\$113,000	19	9	\$115,325	14	6						186	\$101,550	25	
Manitoba	3			33	\$109,625	16	63	\$102,700	23	57	\$103,225	24	27	\$110,100	23	18	\$109,375	17	12	\$108,075	13	6	\$107,600	12	219	\$105,900	23	
McGill	3			39	\$151,425	3	87	\$119,975	14	60	\$116,200	15	15	\$126,775	11	6	\$108,750	18							216	\$124,700	11	
McMaster				39	\$120,675	9	87	\$124,250	8	57	\$131,375	7	24	\$137,950	3	12	\$142,875	4	6	\$161,200	2	6	\$166,400	1	237	\$129,725	7	
Montreal				72	\$106,175	19	105	\$111,650	18	60	\$110,875	19	24	\$116,175	18	9	\$118,950	13	3						282	\$110,725	18	
Nipissing							6						6									9	\$114,575	10	30	\$108,225	22	
OCAD				3			6			12	\$94,350	25	6	\$92,750	25				6						33	\$95,975	26	
Ontario Tech				6			9	\$124,000	9	9	\$126,375	9	9	\$131,500	6										30	\$127,775	9	
Ottawa				21	\$120,525	10	39	\$126,125	7	48	\$134,800	4	24	\$136,250	4	21	\$147,850	3	9	\$148,875	5	12	\$155,125	3	174	\$134,700	4	
Queen's				45	\$154,250	2	69	\$155,725	1	57	\$151,775	1	6	\$152,425	1	9	\$152,225	1	9	\$151,075	3					198	\$153,775	1
Saskatchewan				12	\$112,500	14	30	\$122,625	10	33	\$125,775	10	30	\$128,675	10	12	\$137,650	6	6	\$129,175	8	15	\$136,575	5	141	\$127,000	10	
Trent				24	\$103,775	21	24	\$108,450	20	27	\$115,450	17	12	\$112,250	20	12	\$114,725	15	3			9	\$110,250	11	111	\$110,375	19	
UBC	9	\$121,125	2	96	\$142,700	4	186	\$136,500	3	108	\$135,400	3	36	\$134,100	5	12	\$128,400	9	6	\$117,975	12	6	\$132,900	7	462	\$136,475	3	
Waterloo	6			57	\$129,075	5	78	\$134,125	4	36	\$133,375	5	12	\$124,850	12											186	\$131,900	6
Western	3			39	\$128,325	6	102	\$132,450	5	42	\$132,650	6	39	\$129,500	7	21	\$137,975	5	12	\$163,500	1	18	\$135,225	6	273	\$133,725	5	
Wilfrid Laurier				15	\$119,450	11	39	\$122,100	11	21	\$114,425	18	18	\$112,150	21	6									3	105	\$116,500	15
Windsor				12	\$110,025	15	27	\$116,225	16	30	\$124,200	11	21	\$119,025	16	9	\$123,425	11	6	\$131,000	7	3				111	\$120,750	14
York	3			45	\$123,650	8	84	\$127,625	6	48	\$129,400	8	36	\$128,875	9	12	\$135,475	7	6	\$138,475	6	9	\$156,675	2	240	\$129,100	8	
UofT Rank	1			1			2			2			2			2			4			4			2			
Count	63			951			1,698			1,134			516			282			144			141			4,932			
Mean excl UofT	\$117,575			\$121,800			\$122,075			\$121,725			\$122,625			\$124,800			\$126,650			\$131,675			\$122,550			
% Diff Between:																												
UofT & Mean	16.6%			26.7%			25.3%			22.7%			21.1%			18.6%			18.9%			16.0%			23.8%			
UofT & Highest	n/a			n/a			-1.8%			-1.6%			-2.6%			-2.8%			-7.9%			-8.2%			-1.4%			
UofT & Second	13.2%			0.0%			n/a			n/a			n/a			n/a			-6.6%			-2.5%			n/a			

Age/Salary Comparison of Full-Time Faculty, Fall2022: All Ranks Combined
(Professors, Associate Professors, Assistant Professors)

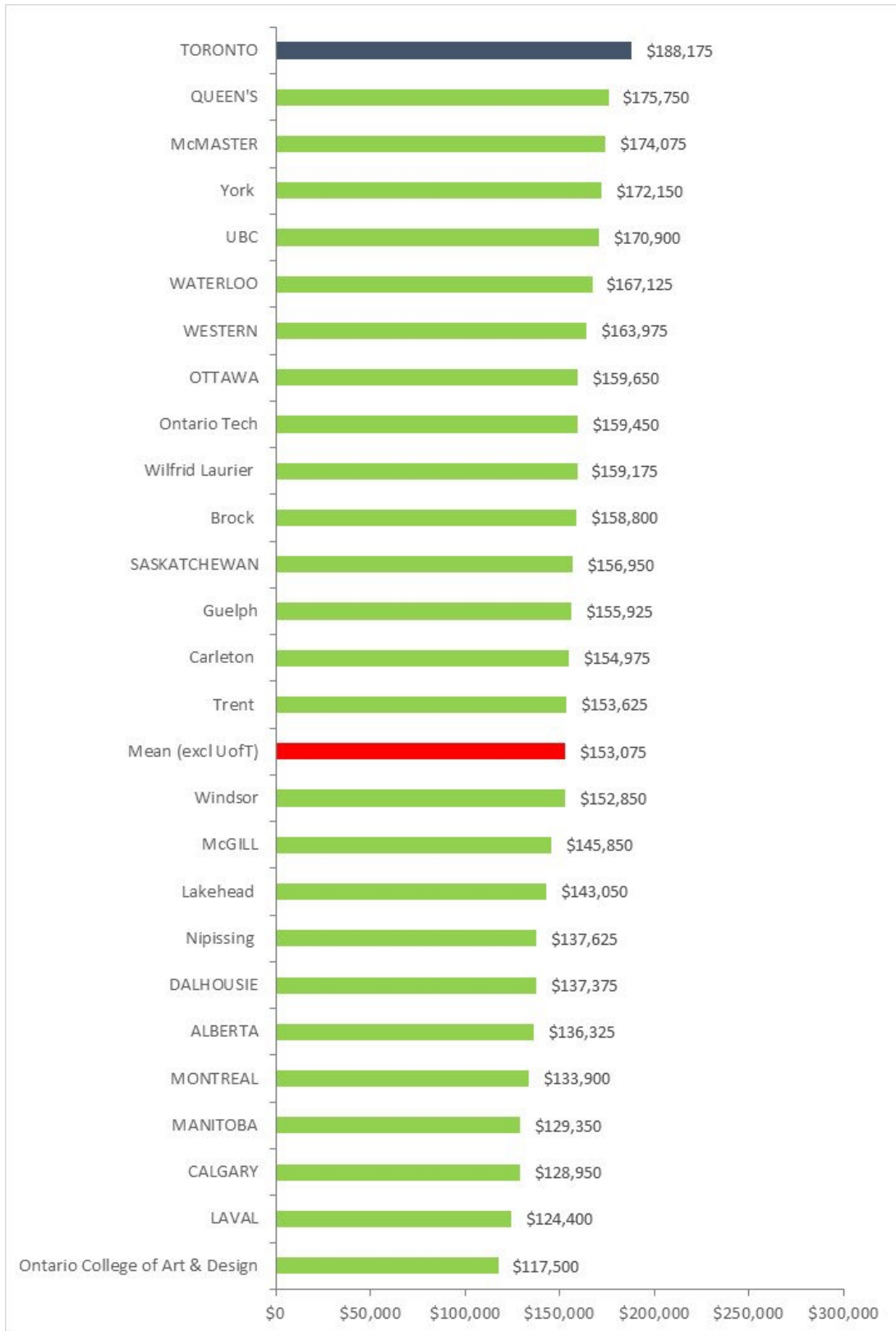
University (sorted alphabetically)	LT 30			30 to 34			35 to 39			40 to 44			45 to 49			50 to 54			55 to 59			60+			Total		
	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank	N	Avg Sal	Rank
Toronto	9	\$137,075	1	138	\$155,600	1	285	\$160,075	1	318	\$171,100	1	291	\$195,325	1	288	\$209,225	1	240	\$228,750	1	450	\$251,650	1	2,022	\$202,100	1
Alberta				45	\$119,575	11	102	\$119,550	17	183	\$131,250	16	186	\$147,800	15	174	\$159,850	15	207	\$183,750	10	276	\$196,225	8	1,173	\$161,000	11
Brock				24	\$109,675	16	51	\$121,275	16	57	\$133,325	12	69	\$147,100	16	102	\$169,500	10	78	\$169,675	16	126	\$193,800	11	507	\$160,675	13
Calgary	6			48	\$107,575	19	117	\$112,975	19	162	\$116,300	24	159	\$127,975	25	150	\$138,175	25	156	\$151,975	22	240	\$172,600	20	1,038	\$138,875	23
Carleton				30	\$118,375	13	99	\$124,050	14	105	\$132,925	13	159	\$150,075	13	114	\$160,800	14	96	\$172,875	13	183	\$183,350	15	786	\$155,250	16
Dalhousie				27	\$103,625	21	72	\$108,975	23	87	\$123,650	20	78	\$137,725	19	102	\$148,900	20	66	\$159,175	20	129	\$176,350	18	564	\$143,300	20
Guelph				39	\$125,325	7	78	\$125,125	13	108	\$131,850	15	105	\$153,050	11	141	\$165,900	12	120	\$177,950	12	150	\$196,050	10	744	\$160,750	12
Lakehead				9	\$101,400	22	33	\$110,625	21	33	\$122,675	21	45	\$132,725	22	39	\$144,000	22	45	\$155,650	21	78	\$172,800	19	282	\$144,075	19
Laval				45	\$92,900	23	93	\$104,200	25	159	\$118,700	22	132	\$134,950	20	102	\$145,800	21	102	\$150,400	23	201	\$153,900	24	834	\$133,925	25
Manitoba	3			33	\$109,600	17	75	\$105,725	24	102	\$114,150	25	123	\$130,425	23	120	\$139,000	24	99	\$149,825	25	183	\$162,800	23	738	\$136,475	24
McGill	3			39	\$151,425	3	123	\$130,175	9	174	\$132,475	9	144	\$151,025	12	120	\$158,775	16	117	\$167,850	17	249	\$178,175	17	972	\$155,000	17
McMaster				39	\$120,675	10	105	\$129,250	10	99	\$144,625	9	87	\$167,100	5	96	\$191,925	3	93	\$199,725	4	156	\$214,100	3	684	\$173,950	6
Montreal				75	\$107,625	18	153	\$116,825	18	177	\$126,700	19	195	\$138,875	18	189	\$152,825	19	150	\$159,800	19	327	\$169,875	21	1,272	\$145,050	18
Nipissing							9	\$110,350	22	9	\$129,450	18	24	\$128,900	24	24	\$141,425	23	21	\$150,400	23	45	\$146,550	25	135	\$139,100	22
OCAD				3			6	\$99,300	26	18	\$99,425	26	21	\$105,075	26	12	\$109,000	26	18	\$117,600	26	42	\$133,475	26	120	\$115,700	26
Ontario Tech				6			15	\$129,150	11	30	\$143,450	10	33	\$155,550	9	24	\$168,900	11	27	\$179,575	11	39	\$197,800	7	168	\$165,525	10
Ottawa				21	\$121,050	9	84	\$135,425	6	150	\$150,600	5	201	\$165,425	7	198	\$178,500	5	165	\$186,500	6	219	\$196,075	9	1,044	\$172,100	7
Queen's				45	\$154,250	2	87	\$157,775	2	96	\$160,525	3	81	\$176,600	3	90	\$176,975	7	99	\$184,850	8	162	\$203,875	6	663	\$178,125	4
Saskatchewan				15	\$116,400	14	51	\$131,800	8	90	\$144,950	8	111	\$166,125	6	87	\$178,000	6	99	\$184,975	7	195	\$193,100	14	648	\$171,975	8
Trent				24	\$103,775	20	30	\$111,500	20	30	\$117,600	23	36	\$134,925	21	42	\$154,675	18	36	\$164,800	18	57	\$168,600	22	252	\$141,775	21
UBC	9	\$121,125	2	96	\$142,700	4	228	\$144,125	3	252	\$160,925	2	237	\$185,100	2	237	\$201,125	2	213	\$204,250	2	429	\$211,850	4	1,704	\$184,575	2
Waterloo	6			60	\$129,550	5	120	\$140,000	4	156	\$154,100	4	174	\$173,675	4	126	\$187,225	4	126	\$202,325	3	234	\$214,650	2	999	\$178,500	3
Western	3			39	\$128,325	6	120	\$137,450	5	102	\$149,000	6	138	\$154,100	10	171	\$171,625	9	141	\$184,075	9	213	\$193,775	12	933	\$167,150	9
Wilfrid Laurier				15	\$119,450	12	48	\$127,050	12	66	\$138,425	11	93	\$149,050	14	84	\$163,150	13	87	\$172,500	14	75	\$178,600	16	468	\$155,925	15
Windsor				15	\$111,800	15	39	\$123,600	15	48	\$130,625	17	69	\$143,625	17	66	\$157,925	17	93	\$171,750	15	111	\$193,725	13	441	\$160,375	14
York	3			48	\$125,225	8	114	\$133,325	7	120	\$145,450	7	150	\$160,625	8	156	\$172,100	8	150	\$190,100	5	354	\$210,550	5	1,098	\$176,375	5
UofT Rank	1			1			1			1			1			1			1			1			1		
Count	63			984			2,346			2,928			3,144			3,054			2,841			4,923			20,286		
Mean excl UofT	\$117,575			\$121,925			\$127,300			\$137,125			\$153,200			\$166,175			\$176,950			\$189,650			\$160,700		
% Diff Between:																											
UofT & Mean	16.6%			27.6%			25.7%			24.8%			27.5%			25.9%			29.3%			32.7%			25.8%		
UofT & Highest	n/a			n/a			n/a			n/a			n/a			n/a			n/a			n/a			n/a		
UofT & Second	13.2%			0.9%			1.5%			6.3%			5.5%			4.0%			12.0%			17.2%			9.5%		

Source: Statistics Canada Full-Time University and College Academic Staff System (FT-UCASS). Excludes Medicine and Dentistry and those with Sr Administrative Duties. Includes faculty with tenure, in the tenure stream, and in the non-tenure stream/non-teaching stream. The following confidentiality rules have been applied by Statistics Canada: counts are randomly rounded to a multiple of 3; salaries are rounded to the nearest \$25; if the unrounded count is less than six, the associated average salary figures are suppressed; all counts with less than four cases are suppressed. Cases where the average salary has been suppressed have been excluded from the tables above as they cannot be used to calculate % differences between UofT and other institutions - however, those cases were included in Statistics Canada's calculation of the total average salary at each age group and rank, excluding UofT. Data on the University of Montreal includes Ecole Polytechnique & HEC. Data not available from Laurentian and TMU. UofT data is not yet included in the UCASS master data so calculations were run separately and inserted into the Statistics Canada tables (Statistics Canada's confidentiality rules have been applied to the summaries of UofT's data).

Faculty Full-Time Salaries – Professor Fall 2022



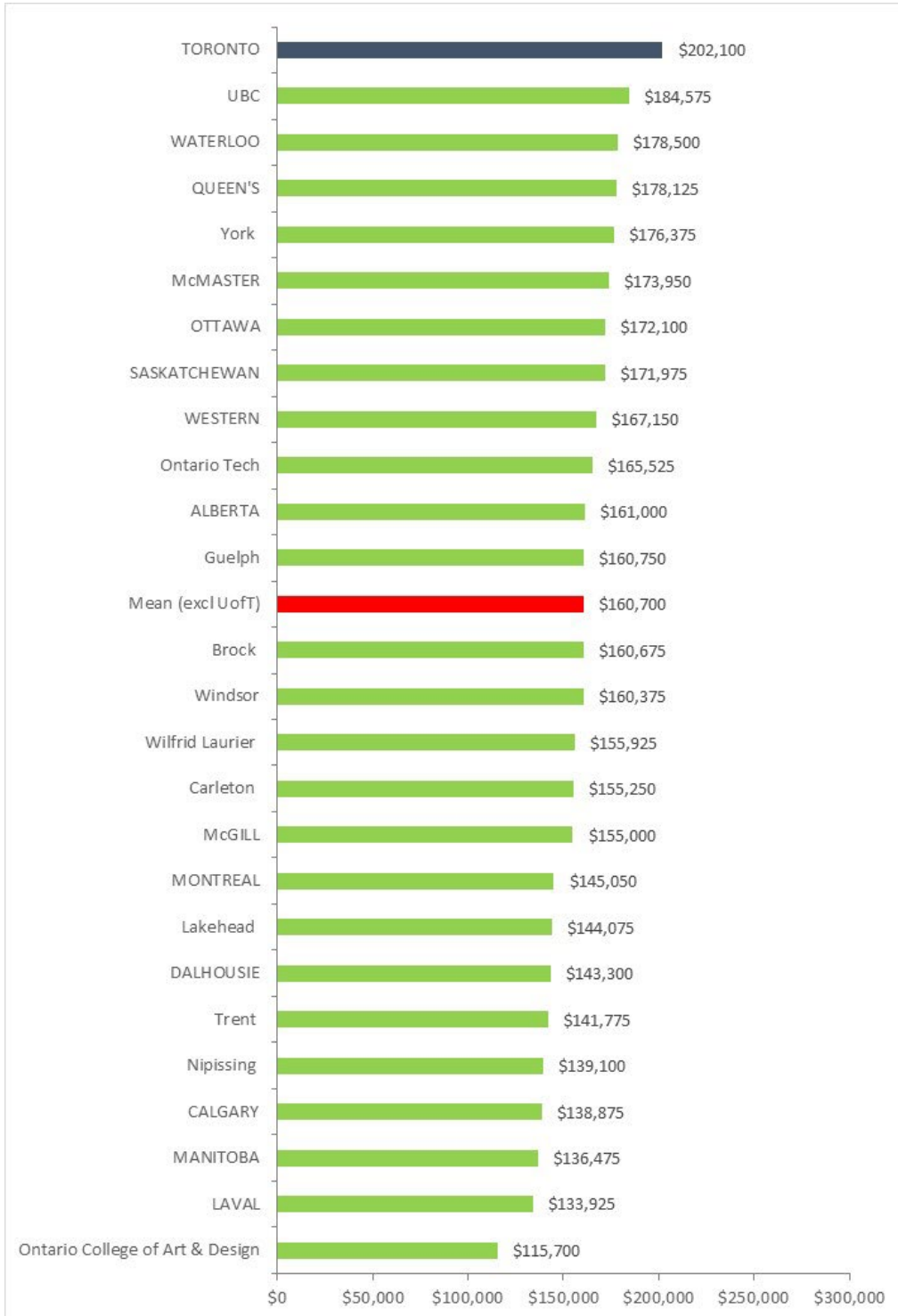
Faculty Full-Time Salaries – Associate Professor – Fall 2022



Faculty Full-Time Salaries – Assistant Professor – Fall 2022



Faculty Full-Time Salaries – All Ranks Combined – Fall 2022



THE MOST RECENTLY COMPLETED ARTICLE 6 PROCESS INCREASED SALARIES BY 10% (NON-COMPOUNDED) OVER 3 YEARS

111. The most recently completed Article 6 process was uniquely lengthy and complex. It occurred during a global pandemic. It featured the enactment of wage restraint legislation that was later declared unconstitutional, a multi-step settlement of the parties' benefits issues, a dispute resolution proceeding regarding workload issues, and a subsequent interest arbitration process that resulted in faculty members and librarians receiving a total salary increase of 8% retroactive to July 1, 2022.⁴⁴

112. The University Administration and UTFA finalized an Article 6 Memorandum of Settlement on January 25, 2022 (the January 25 2022 MOS")⁴⁵. It covered the Bill 124 moderation period between July 1, 2020 and June 30, 2023. In this moderation period, the University Administration and UTFA agreed to a 1% ATB increase effective July 1, 2020 and a second 1% ATB increase effective July 1, 2021. An additional 1% ATB increase retroactive to July 1, 2022 was awarded by Arbitrator Gedalof.⁴⁶

113. After Bill 124 was declared unconstitutional, the parties returned to Arbitrator Gedalof to address the extent to which additional salary increases ought to be awarded for the period July 1, 2020 to June 30, 2023. In awarding UTFA an additional ATB increase of 7% retroactive to July 1, 2022, Arbitrator Gedalof found that the University Administration and UTFA "have a history of arbitrated and negotiated outcomes that are heavily influenced by inflation."⁴⁷ He held that the large increases in inflation during the year immediately prior to July 1, 2022 to June 30, 2023, coupled with the sub-normative salary increases mandated by unconstitutional wage restraint legislation supported his decision to award a salary increase of 7% in addition his earlier 1% salary increase.⁴⁸

⁴⁴ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 117.

⁴⁵ January 25 2022 Article 6 Memorandum of Settlement between the University Administration and UTFA, **Tab 31**

⁴⁶ 2023 Gedalof Article 6 Award, *supra* Tab 9 at paras 109-116. *Governing Council of the University of Toronto and UTFA*, unreported, September 15, 2022, Gedalof. **Tab 32**.

⁴⁷ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 108.

⁴⁸ *Ibid.*, at paras 109-116.

114. Against this factual backdrop, the University Administration and UTFA have submitted salary proposals as part of this proceeding. UTFA seeks a 6% ATB increase retroactive to July 1, 2023. It seeks an additional ATB increase of 4.5% retroactive to July 1, 2024. The University Administration proposes an ATB increase of 2% retroactive to July 1, 2023 and an ATB increase of 1.8% retroactive to July 1, 2024. The parties' respective proposals are set out in full below.

SALARY PROPOSALS – ATB INCREASES

UTFA'S PROPOSAL

July 1, 2023 – 6.0% ATB

July 1, 2024 – 4.5% ATB

ATB increases applied to:

- Base Salary
- Salary Floors
- Progress Through the Ranks (“PTR”) Breakpoints
- Amount in PTR fund per Full-Time Equivalent (“FTE”) below Breakpoint
- Amount in PTR fund per FTE above Breakpoint
- Overload Stipends
- Stipends for UTFA Academic Admin roles (ex. Chairs, Associate Chairs, etc.)
- Other components of salary “at large” (ex. forgivable loans, stipends for non-Academic Admin chair roles, etc.)

UNIVERSITY ADMINISTRATION'S PROPOSAL

2% ATB retroactive to July 1, 2023.

A lump sum payment to all faculty members and librarians who have retired on or after July 1, 2023 reflecting a 2% increase in their salaries for any portion of the time that they remained employed with the University on or after July 1, 2023.

An increase to the minimum per course/overload stipend by 2% retroactive to July 1, 2023 and to provide a lump sum payment to all faculty members and librarians who have retired on or after July 1, 2023 reflecting the 2% increase to these rates for any portion of time that they remained employed and received the minimum per course /overload stipend rate on or after July 1, 2023, if any.

1.8% ATB retroactive to July 1, 2024.

A lump sum payment to all faculty members and librarians who have retired on or after July 1, 2024 reflecting a 1.8% increase in their salaries for any portion of the time that they remained employed with the University on or after July 1, 2024.

An increase to the minimum per course/overload stipend by 1.8% retroactive to July 1, 2024 and to provide a lump sum payment to all faculty members and librarians who have retired on or after July 1, 2024 reflecting the 1.8% increase to these rates for any portion of time that they remained employed and received the minimum per course /overload stipend rate on or after July 1, 2024, if any.

ADDRESSING UTFA'S PROPOSAL TO SUBJECT STIPENDS AND "OTHER COMPONENTS OF SALARY 'AT LARGE'" TO ATB INCREASES

115. UTFA's proposes to apply its ATB increases to many different compensation components. Several of them are uncontroversial. For example, ATB increases are often applied to the base salaries and salary floors of faculty members and librarians. The University Administration and UTFA have agreed on how any ATB increase awarded for the period July 1, 2023 to June 2024 will be applied to the July 1, 2024 PTR payment.⁴⁹ Both parties' proposals confirm the application of their respective proposed ATB increases to the minimum per course/overload stipend.

⁴⁹ May 3 2024 Memorandum of Agreement between the University Administration and UTFA re: July 1 2024 PTR, *supra* Tab 4.

116. The final two bullet points in UTFA's proposal stand in sharp contrast to the way that ATB increases have been applied to other compensation components. They constitute an attempt by UTFA to significantly broaden the way that ATB increases are applied at the University. These parts of UTFA's salary proposal are a marked departure from the status quo that offends the principles of replication, gradualism and demonstrated need.

117. In the four decades that the MOA has governed the negotiation, mediation and arbitration of the salaries of faculty members and librarians at the University, the University Administration and UTFA have never used the Article 6 process to negotiate, mediate or arbitrate the quantum of stipends provided to individuals who hold "UTFA Academic Admin. Roles." Doing so as part of an interest arbitration award would be an unprecedented expansion of how the Article 6 process has been used and how ATB increases have been applied.

118. The stipends provided to faculty members who perform unit-level academic administrative roles are negotiated between the holders of these appointments and the University Administration. The amounts of these stipends have never been linked in any way to the determination of ATB increases in the Article 6 process. There is no need to disrupt the longstanding process that has applied to the negotiation and payment of these stipends.

119. Similarly, the University Administration and UTFA have not ever negotiated what UTFA has described as the "other components of 'salary at large'" as part of the Article 6 process, nor has any Dispute Resolution Panel ever awarded any language that connects these matters to ATB increases. Decisions to provide faculty members or librarians with "forgivable loans" or stipends for "non-academic administrative chair roles" are made on a case-by-case basis. They are not and have never been connected to any negotiated or arbitrated ATB increase.

120. The “forgivable loans” referenced in UTFA’s proposal are typically addressed when an individual is determining whether to accept an appointment at the University and is negotiating the terms of their potential appointment. These individual pre-employment negotiations are not subject to the Article 6 process. There has never been any connection between the terms of loans that have been provided and the annual ATB increases that have been agreed to or awarded by an interest arbitrator. UTFA’s proposal that these loans must now automatically increase by the same percentage as each annual ATB increase would be a substantial departure from past practice, for which there is no demonstrated need.

121. When the replication principle is applied to these parts of UTFA’s salary proposal, it is important to underscore that the University Administration would not, in free collective bargaining, agree to this unprecedented expansion of matters that would thereafter be subject to the Article 6 process generally or ATB increases specifically. Nor would these matters be taken to impasse in a free collective bargaining process.

122. UTFA’s proposal to tie stipends, forgivable loans and any other matter that it may seek to characterize as “other components of salary ‘at large’” to annual ATB increases is neither a gradual change, nor one that is supported by demonstrated need. The work performed by unit-level academic administrators differs considerably depending on a many factors including the size of the unit and the academic programming offered within the unit, including graduate programs. Stipends for non-academic roles also vary, depending on the scope of duties and responsibilities that accompany these roles. Requiring that all such stipends must increase in lockstep with each subsequent ATB increase does not constitute the type of gradual change from the *status quo* that interest arbitrators can or should award. Forgivable loans provided to faculty members are based on a case-by-case analysis. Requiring all such loans to an annual adjustment based on the ATB increase, if any, would undermine the ways in which these loans have historically been negotiated and administered.

123. UTFA has identified no demonstrated need to extend the impact of ATB increases to the stipends, forgivable loans and “other components of ‘salary at large’” referenced in its proposal. There has been no overlap between any of these matters and salaries or accompanying ATB increases. There is no demonstrated need to disrupt this well-established practice at interest arbitration.

THE UNIVERSITY ADMINISTRATION’S SALARY PROPOSAL IS CONSISTENT WITH THE RELEVANT INTERNAL UNIVERSITY COMPARATORS

124. The principle of replication requires “an adjudicative replication of the bargain that the parties would have struck had free collective bargaining continued.”⁵⁰ In determining the agreement that the parties would have reached, had free collective bargaining continued, which would have included resort to the imposition of a strike or lockout, close and careful regard must be paid to the other freely-bargained settlements that the University Administration has negotiated with other unions representing University employees.

125. The University Administration is a party to 25 collective agreements. The compensation provided to the thousands of employees who are subject to and governed by these agreements is relevant to determining the appropriate salary increase for this 26th employee group – the University’s faculty members and librarians.

126. The University Administration does not engage in any set of negotiations regarding the terms and conditions of employment with any one employee group in isolation. The salary and wage increases that were voluntarily agreed to by various unions that included “catch up” wage increases responsive to Bill 124’s wage restraints and accompanying increases in inflation are included in the table below.

⁵⁰ 2010 Winkler Article 6 Award, *supra* Tab 12 at para. 17.

University of Toronto – Collective Agreements During and Post Bill 124

	USW 1998 Staff Appt.	CUPE 3261	OPSEU 519	CUPE 1230	CUPE 2484	CUPE 3902 Unit 1	CUPE 3902 Unit 5	OPSEU 578	Unifor 2003	UTFA	UTFA Proposal	Admin. Proposal
Employees	6,300	700	60	130	40	6,500	800	5	100	3,340	N/S	N/A
2020	1%	1%	1%	1%	1%		1%	1%		1%	1%	1%
2021	1%	1%	1%	2.6%	2.6%	1%	1%	2.6%	1%	1%	1%	1%
2022	1%	1%	1%	2.7% + \$400 OTO	2.7% + \$400 OTO	1%	1%	2.7% + \$400 OTO	2.6%	1% + 7%	1% +7%	1% +7%
2023	9%	9%	9%	5.7%	5.7%	1%	9%	5.7%	2.7% + \$400 OTO		6%	2%
2024	2%	2%	2%	2%	2%	9%	2%	2%	5.7%		4.5%	1.8%
2025	1.8%	1.8%	1.8%	1.8%	1.8%	2%	1.8%	1.8%	2%		TBD	TBD
2026						1.8%			1.8%			
Total Non- Compounded Increases 2020-2025	15.8	15.8	15.8	15.8	15.8	15.8	15.8	15.8	15.8	10	20.5%	13.8%

127. In negotiating these collective agreements, the University Administration has maintained collective bargaining relationships with established and sophisticated unions. Notably, Local 1998 of the United Steelworkers represents over 5,200 administrative and technical staff across the University. It is the largest union local of the United Steelworkers in Canada. Its recent collective agreement for the period July 1, 2023 to June 30, 2026 was achieved without the imposition of a strike or lockout.

128. The University also has collective bargaining relationships with CUPE Local 3902 Units 1 and 5 which represent the University's teaching assistants and post-doctoral fellows. The University Administration's collective bargaining relationships with these two CUPE units, USW Local 1998, CUPE Local 3261, and OPSEU 519 each featured a full three-year moderation period. The moderation periods in each of these collective agreements overlapped with the increases to inflation that were described in the 2023 Gedalof Article 6 award as "extraordinary" and "corrosive".

129. The University Administration did not negotiate any salary or wage reopener agreement with any union. The 1% annual wage increases provided in each year of each Bill 124 moderation period was undisturbed. Rather than agreeing to any reopener language, the University Administration and these unions negotiated renewal collective agreements after each of these Bill 124 moderation periods that included a 9% wage increase in the first year. The unions that accepted these renewal collective agreements acknowledged that the 9% wage increase addressed the suppressive impact of Bill 124 on their members' wages, as well as the impact that inflation had exerted on their members' purchasing power during that same time.

130. The University Administration and these same unions then agreed to the following wage increases in the second and third years of each of their post-Bill 124 renewal collective agreements:

- (a) Year 2 – 2024 – 2%; and
- (b) Year 3 – 2025 – 1.8%.

131. These unions accepted these settlements without engaging in any strike activity.

132. The University Administration's collective bargaining relationships with CUPE Local 1230, CUPE Local 2484 and Unifor Local 2003 each featured a one-year moderation period under Bill 124 before the legislation was declared unconstitutional on November 29, 2022. Thereafter, in what would otherwise have been Years 2 and 3 of the Bill 124 moderation period, the University Administration agreed to two-year renewal collective agreements with the following wage increases:

(a) 2.6% in the first year of the renewal collective agreement (which would have been Year 2 of the Bill 124 moderation period);

(b) 2.7% in the second year of the renewal collective agreement, which was accompanied by a one-time-only payment of \$400.00 upon ratification (which would have been Year 3 of the Bill 124 moderation period).

133. The wage increases and one-time only payments that the University Administration and these unions freely negotiated not only made up for any wage suppression that occurred in the one year in which Bill 124 had impacted these collective agreements, they also ameliorated the impact of inflation, which had begun to increase during this same period of time.

134. Following these two-year renewal agreements with CUPE Local 1230, CUPE Local 2484 and Unifor Local 2003, the University Administration entered into three-year renewal collective agreements with each union. The first year of each of these three-year agreements featured a 5.7% wage increase, which constituted a "catch-up" payment to address the earlier high-inflation years and to address any residual impact that could have been connected to the consequences of Bill 124. The quantum and staging of this "catch up" payment were different, because of the shorter Bill 124 moderation periods that applied to these bargaining units. However, the total wage increases provided during this same period of time (i.e. the three-year period that overlapped with what would have been the Bill 124 moderation period, plus the subsequent year in which a "catch-up" increase was provided) was also 12% - as it was in each of the bargaining units that had served a full three-year Bill 124 moderation period and received a 9% wage increase in the following year.

135. Thereafter, the University Administration and each of these same unions agreed to the annual wage increases of 2% and 1.8% in the second and third years of their respective renewal collective agreements. Here again, these results were achieved through free collective bargaining. None of these unions chose to engage in strike activity as an alternative to accepting these proposed agreements. The University Administration was not required to resort to any lockouts to achieve these results.

136. In comparison, faculty members and librarians have already received a 10% wage increase over the three-year Bill 124 moderation period between July 1, 2020 and June 30, 2022. This included the 7% “catch-up” increase awarded at the end of the most recently-completed Article 6 arbitration process, in Year 3 of the Bill 124 moderation period. Awarding a 2% ATB increase retroactive to July 1, 2023 would provide UTFA with the same 12% wage increase that each of the aforementioned unions received over the same 4-year period. Maintaining consistency with the composition of these earlier freely-negotiated settlements requires that an annual salary increase for the third year at 1.8%, as the University Administration has proposed.

137. Focusing on the collectively-bargained outcomes within the University is not a novel interest arbitration concept. It is a fundamental part of the replication principle. In *Ontario Power Generation*,⁵¹ Arbitrator Kaplan determined the appropriate wage increases in a collective agreement between Ontario Power Generation (“OPG”) and the Society of United Professionals (the “Society”) with a term of January 1, 2022 to December 31, 2024 as a salary re-opener after Bill 124 was declared unconstitutional.

138. Shortly before Arbitrator Kaplan began this mediation-arbitration process, OPG reached a freely-bargained renewal collective agreement with the Power Workers’ Union. Unlike the collective bargaining relationship between OPG and the Society, which is governed by a voluntary interest arbitration process, the collective bargaining relationship between OPG and the PWU was subject to the traditional strike/lockout regime.

⁵¹ Unreported, May 8, 2023, Kaplan. **Tab 33** [“OPG”]

139. In deciding on the appropriate wage increases that OPG was to pay to the Society, Arbitrator Kaplan placed significant weight on the earlier negotiated outcome between OPG and the PWU. He found that:

it is generally understood that for the purposes of applying the replication principle, negotiated outcomes, especially those with the same employer, are the very best evidence of free collective bargaining. There is no reason to depart from this long-established principle.⁵²

140. In prior Article 6 proceedings, the preeminent role that must be assigned to the negotiated outcomes achieved by the University with major trade unions has been recognized by UTFA. In the 2006 Winkler Article 6 Award, the issue of pension augmentation was in dispute. UTFA sought pension augmentation to 100% of CPI, which the University Administration opposed. The University Administration stated that such augmentations should occur only when the pension plan was in a surplus position.

141. Ultimately, UTFA's pension augmentation proposal was awarded, but only for the two-year term of the renewal agreement and subject to future negotiations. UTFA's nominee supported this result. In doing so, he referred to a freely bargained settlement between the University Administration and a major union in support of his analysis. He observed that making this comparison was essential to advancing the replication principle by emphasizing that:

Finally, and in a collective bargaining sense, most importantly, the plausibility of the Administration's position is undercut by the fact that it agreed, during this very same period, to provide a pension benefit for its unionized administrative staff that is considerably more costly than the pension augmentation requested by the faculty and librarians and that it has done so in the face of a threatened strike by administrative staff who have collective bargaining rights under Ontario's *Labour Relations Act*. **If this Panel's task is to replicate free collective bargaining – an approach that no one disputes – there could be no better evidence of the settlement that these parties should have reached, and of the Award that this panel should make.**⁵³

[Emphasis added]

⁵² OPG, *supra* at 14-15.

⁵³ 2006 Winkler Article 6 Award, *supra* Tab 12 at 10.

142. The same approach should be adopted when assessing the parties' respective salary proposals in the present case. There can be no better evidence of the salary increases that faculty members and librarians should receive than those that have been negotiated through free collective bargaining between the University Administration and several major unions, where strikes and lockouts were possible, but were not initiated.

143. The observations made by UTFA's nominee in 2006 concerning the inextricable link between the replication principle under Article 6 of the MOA and collective bargaining outcomes within the University was not an isolated event. UTFA has since advocated this same approach. In the most recently-completed Article 6 arbitration proceeding, UTFA claimed that the University Administration's voluntary settlement with CUPE Local 3902, Unit 3 merited "particular attention" when it advanced its demand for a salary increase of 12.75% effective July 1, 2022. In its earlier Article 6 submissions, UTFA analyzed this internal settlement in great detail because it felt that doing so was supportive of its own salary proposal.⁵⁴

144. Despite acknowledging the relevance of collective bargaining outcomes within the University, UTFA failed to reference any of the other collective agreements that the University Administration had negotiated with other unions during that same time period. As it has done in this proceeding, the University Administration provided a more comprehensive analysis of these collective agreement outcomes in order to provide a broader and more objective view of the relevant negotiating landscape.

145. The clear trend amongst the relevant comparators within the University supports the University Administration's proposal of a 2% increase for faculty and librarians retroactive to July 1, 2023, and an additional ATB increase of 1.8% retroactive to July 1, 2024. The collective bargaining outcomes that the University Administration has achieved with unions who accepted these outcomes without resorting to strike action constitutes the best evidence of the bargain that these parties would have reached, had the very same process applied to their negotiations.

⁵⁴ April 24 2023 UTFA Article 6 Arbitration Brief, paragraph 160. **Tab 34**

THERE IS NO SUPPORT FOR UTFA'S PROPOSED SALARY INCREASES

UTFA's proposed ATB increases of 6% retroactive to July 1, 2023, and an additional ATB increase of 4.5% retroactive to July 1, 2024 are excessive. From a total compensation perspective, the cost of UTFA's proposed 6% salary increase retroactive to July 1, 2023 is estimated to be over \$37.4 million based on a salary base of approximately \$624.6 million.⁵⁵ UTFA's proposal to further increase salaries by an additional 4.5% retroactive to July 1, 2024 is estimated to cost an additional \$30.6 million. These demands are out-of-step with the salary increases that have been secured by the University's comparators and are not otherwise justified by the application of any "catch up" objective.

146. Overall, ATB increases of this magnitude would not be the outcome of normative negotiations on which the replication principle is based.

UTFA Cannot use Inflation-Based Concerns to Justify its Salary Proposals

147. The 2023 Gedalof Article 6 Award noted that an application of the replication principle to the period July 1, 2020 to June 30, 2023 required an assessment of the extent to which "the impact of extraordinary inflation over the term of the agreement" would have influenced the salary increase that the parties would have reached through an ordinary negotiation process that included resort to strike/lockout consequences.⁵⁶

148. Since the University Administration and UTFA moved to the replication model of dispute resolution under Article 6 of the MOA, they have consistently used the retrospective approach to ascertain the Consumer Price Index ("CPI") increases for the relevant period of time. This was recognized by Arbitrator Teplitsky when he wrote that:

based on the approach in prior rounds of bargaining, the CPI is considered retrospectively. In other words, for 2009-2010 and 2010-2011, the relevant CPI increases are 2008-2009 and 2009-2010.⁵⁷

⁵⁵ University Administration's Costing of UTFA's Proposals, *supra*. **Tab 14.**

⁵⁶ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 84.

⁵⁷ 2010 Teplitsky Article 6 Award, *supra* Tab 19 at 8

149. Arbitrator Teplitsky’s use of the retrospective approach to CPI was endorsed by Arbitrator Gedalof in the most recently completed Article 6 process when he found that “the prior year approach to accounting for CPI best replicates how these parties have bargained historically and best replicates a freely bargained outcome here.”⁵⁸ When this approach is applied to the present case, the CPI increases that occurred in the periods July 2022 to July 2023 and July 2023 to July 2024 are relevant.

150. The CPI increases that occurred between July 2022 and July 2023 and July 2023 and July 2024 respectively demonstrate that the concerns regarding the unusual and almost unprecedented increases in inflation that impacted the prior Article 6 proceeding no longer apply. Inflation has stabilized. Earlier predictions that it would remain unusually high have proven to be inaccurate. The monthly CPI data for the period July 2022 to July 2023 are appended to this brief⁵⁹ and are in the following tables.

CPI Increases – July 2022 – July 2023													
	Jul. 2022	Aug. 2022	Sep. 2022	Oct. 2022	Nov. 2022	Dec. 2022	Jan. 2023	Feb. 2023	Mar. 2023	Apr. 2023	May 2023	Jun 2023	Jul. 2023
Canada	153.1	152.6	152.7	153.8	154.0	153.1	153.9	154.5	155.3	156.4	157.0	157.2	158.1

Note: The increase from 153.1 to 158.1 is 3.27%

CPI Increases – July 2023 – July 2024													
	Jul. 2023	Aug. 2023	Sep. 2023	Oct. 2023	Nov. 2023	Dec. 2023	Jan. 2024	Feb. 2024	Mar. 2024	Apr. 2024	May 2024	Jun 2024	Jul. 2024
Canada	158.1	158.7	158.5	158.6	158.8	158.3	158.3	158.8	159.8	160.6	161.5	161.4	162.1

Note: The increase from 158.1 to 162.1 is 2.53%

151. The CPI data show that for the periods of time relevant to this proceeding, the CPI increased by 3.27% between July 2022 and July 2023, which is far less than UTFA’s proposed salary increase of 6%. The CPI increase between July 2023 and July 2024 was even lower at 2.53%, which is more than 2% lower than UTFA’s proposed 4.5% salary increase retroactive to July 1, 2024.

⁵⁸ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 89.

⁵⁹ Statistics Canada Table 18-10-0004-01. CPI for July 2022 to July 2023 and CPI for July 2023 to July 2024 **Tab 35**

152. Indeed, the total CPI increase for the two-year period between July 1, 2022 to July 2024 inclusive is below the 6% salary increase that UTFA has requested for the one-year period of July 1, 2023 to June 30, 2024, leaving aside any consideration of its proposed salary increase of 4.5% retroactive to July 1, 2024.

153. While CPI increases are relevant to the assessment of the parties' respective salary proposals, they are not to be considered in isolation. These parties' application of the replication model has not resulted in salary increases that are inextricably connected to the CPI increases over the relevant period of time. On this point, Justice Winkler observed that:

it is clear from past settlements and awards that salary increases have never been pegged dollar for dollar to increases in the CPI in a given year or multi-year period. In some instances, increases have been below the corresponding CPI increase and in others, above.⁶⁰

154. Justice Winkler's opposition to a rote application of the applicable CPI increase when determining the appropriate salary increase is consistent with established interest arbitration principles within the university sector. In *McMaster University*, Arbitrator Shime concluded that changes to the CPI were relevant to the determination of salary increases for faculty members and librarians, but were not determinative.⁶¹ The relevant comparators must also be examined.

Comparators do not support successive increases of 6% and 4.5%

155. In applying the principle of comparability in this proceeding, an emphasis must be placed on the collective bargaining outcomes achieved by other employee groups within the University within the same period of time at issue in this proceeding. As noted above, the collective bargaining outcomes that have been achieved within the University support the University Administration's salary proposal.

⁶⁰ 2006 Winkler Article 6 Award, *supra* Tab 12 at para 23.

⁶¹ (1990), 13 L.A.C. (4th) 199 at para. 20 (Shime). **Tab 36**

156. The second comparator group includes universities within the U-15 Group of Canadian Research Universities (the “U-15”). Unlike the circumstances that surrounded the last Article 6 arbitration proceeding, the Ontario universities within the U-15 have moved past the period of time when wage restraint legislation impacted collective bargaining outcomes. The details of how these other institutions grappled with the consequences of Bill 124 and overlapping high inflation rates are now fully known.

157. The prior award between the University Administration and UTFA addressed not only the “erosion of wages” over the first two years of the Bill 124 moderation period, but also the “corrosive impact of inflation over the relevant time frame.”⁶² It did so within the third year of what was the parties’ Bill 124 moderation period. All of the other members of the U-15 within Ontario have addressed these same issues in renewal collective agreements or interest arbitration awards. They have done so in different ways, depending on several factors including the length of the Bill 124 moderation period that they were required to serve, if any, and the increases to inflation that were in place at the time their agreements were negotiated.

158. In the post-Bill 124 period, the reopener agreements and renewal agreements that have been negotiated and the recent salary award at the University of Waterloo have provided similar salary increases in later years and over longer periods of time than the 7% salary increase that the University’s faculty members and librarians received retroactive to July 1, 2022. This trend demonstrates that the University’s faculty members and librarians have not been disadvantaged relative to the bargained and awarded outcomes that have been achieved by their peers at other comparable institutions.

159. Sufficient “catch-up” was already provided to the University’s faculty members and librarians in the 2023 Gedalof Article 6 Award.. Additional “catch-up” is not required. A further 6% salary increase retroactive to July 1, 2023 is unwarranted, nor is a subsequent increase of an additional 4.5% retroactive to July 1, 2024.

⁶² 2023 Gedalof Article 6 Award, *supra* at Tab 9 paras. 114 and 117.

Post-Bill 124 Settlements and Awards within the Ontario U-15 Universities

University	2020-2021	2021-2022	2022-2023	2023-2024	2024-2025	2025-2026	2026-2027
McMaster University March 15 2022			Bill 124 1%	Bill 124 1% +\$1,050 lump sum	Bill 124 1% + \$1,330 lump sum		
Queen's University March 1, 2023			3.5%	3%	3%		
University of Waterloo Reopener May 29, 2023 Burkett Award April 12, 2024		Bill 124 1%	Bill 124 1% + 2% for those employed on May 1/21 – paid on April 30, 2023 - or - + 1% for those employed on May 1/22 paid on April 30, 2023	Bill 124 1% + 2% for those employed on May 1/21 + \$2,500 one-time-only payment not to base - or - + 2% for those employed on May 1/22 + \$1,250 one-time only payment not to base	4.7%	3.6%	2.2% + reopener
Western University June 30 2023			Bill 124 1%	Bill 124 1% + 2% + \$1,750 lump sum*	Bill 124 1% + 1%	2%	
University of Ottawa October 5, 2023		Bill 124 1% + 1.25%	Bill 124 1% + 2%	Bill 124 1% +2.25%	2.5%	2.5%	
University of Toronto	Bill 124 1%	Bill 124 1%	Bill 124 1% + 7%				

160. In March 2022, the year-over-year increase to CPI reached 6.7%.⁶³. In that same month, McMaster University and MUFA reached a remuneration agreement that applied to their three-year Bill 124 moderation period from July 1, 2022 to June 30, 2025. Instead of negotiating an agreement that would have allowed for the renegotiation of salary increases for all or part of the moderation period, the parties agreed that modest annual lump sum increases to base salary would be made in 2023 and 2024.

161. On March 1, 2023, Queen's University and QUFA negotiated a three-year renewal collective agreement for the period July 1, 2022 to June 30, 2025 without ever serving a Bill 124 moderation period. Queen's University and QUFA agreed to salary increases totalling 9.5% (non-compounded) which were staged over a three-year period.

162. The University of Waterloo and the FAUW finalized a Bill 124 reopener agreement which covered the period May 1 2021 to April 30, 2024. Pursuant to their reopener agreement, those who had been employed as of May 1, 2021 received additional salary increases of 2% effective April 30, 2023, along with an additional 2% salary increase effective May 1, 2023 and a one-time-only payment of \$2,500.00 on that same date. Individuals whose appointments did not begin until May 1, 2022 or later did not receive these same increases. They instead received an additional salary increase of 1% effective April 30, 2023 followed by a 2% increase effective May 1, 2023 and a smaller one-time-only payment of \$1,250.00.

163. Thereafter, the University of Waterloo and the FAUW completed a final offer selection process that settled the terms of their compensation for the three-year period of May 1, 2024 to April 30, 2027. The compensation awarded over the course of this period was determined by Arbitrator Kevin Burkett.

⁶³ Year-over-year increases to the Consumer Price Index are tracked at <https://www.bankofcanada.ca/rates/indicators/capacity-and-inflation-pressures/inflation/>

164. Arbitrator Burkett's award in *University of Waterloo*⁶⁴ is another example where the "catch up" that was linked to the ramifications of Bill 124 and the accompanying inflation crisis was spread out over a far longer period of time than the salary enhancement awarded to the University's faculty members and librarians retroactive to July 1, 2022. The additional salary increases obtained through these parties' Bill 124 reopener totalled less than the 7% salary increase that was awarded in the most recently completed Article 6 arbitration between these parties. When the University of Waterloo and FAUW sought to finalize a compensation agreement for May 1, 2024 to April 30, 2027, they did so against that factual backdrop.

165. The University of Waterloo and the FAUW are subject to a unique protocol that governs their compensation negotiation and final offer selection process. In contrast to the present Article 6 proceeding, where the prior year's increase to the CPI is a very relevant but not determinative factor, Article 10.2 of the Memorandum of Agreement between the University of Waterloo and the FAUW requires that:

Each year, the compensation negotiating teams shall use the annual rise in the Consumer Price Index as the starting point for the discussion of scale adjustments.⁶⁵

166. Using this methodology, the University of Waterloo and the FAUW agreed that the CPI had increased by 3.9% during the period used to determine the salary increase for May 1, 2024. Arbitrator Burkett also determined that when the salary increases generated by the University of Waterloo's Bill 124 reopener agreement were compared to the collectively bargained outcomes at Queen's University and the University of Ottawa over the same three-year Bill 124 moderation period, there had been "significant slippage" which warranted further "catch-up" which Arbitrator Burkett calculated to be worth an additional 0.8% in each year of the 2024-2027 compensation agreement. It was these two factors: a strict application of the increase in CPI as the "starting point" for any discussion concerning salary increases, and the determination that a 0.8% "catch-up" payment was warranted for May 1, 2024 that led Arbitrator Burkett to award

⁶⁴ Unreported, April 12, 2024, Burkett. **Tab 37** [*University of Waterloo 2024*].

⁶⁵ *University of Waterloo 2024*, *supra* at page 3.

annual salary increases of 4.7% for May 1, 2024, 3.6% for May 1, 2025 and 2.2% for May 1, 2026 with an automatic reopener in the agreement's third year. Neither the granting of further "catch-up" nor the imposition of a reopener provision have any application to the present proceeding.

167. The salary increases awarded by Arbitrator Burkett must be considered alongside the earlier Bill 124 reopener between the University of Waterloo and FAUW, which had caused the University of Waterloo's salary position to experience significant slippage relative to its comparators. The same observations cannot be made in respect of the salaries provided to the University's faculty members and librarians. Sufficient "catch-up" was already provided to the University's faculty members and librarians due to a large salary increase at an earlier period of time. Neither the award in *University of Waterloo*, nor the methodology on which that award is based supports UTFA's position for further non-compounded salary increases of 10.5% over a two-year period.

168. Arbitrator Burkett's award in *University of Waterloo* is not a pattern-setting award. The salary increases he awarded were unique to the circumstances before him, including where he felt the salaries paid to faculty members at the University of Waterloo ought to be situated relative to two specific comparators: Queen's University and the University of Ottawa. The recent settlement between the University of Ottawa and the Association of Professors of the University of Ottawa ("APUO") does not include the same salary increases awarded in *University of Waterloo*. The University of Ottawa and the APUO agreed on a two-year renewal collective agreement for the period May 1, 2024 to April 30, 2026. This renewal collective agreement includes a 2.5% salary increase retroactive to May 1, 2024 and an additional 2.5% salary increase effective May 1, 2025 along with a small number of benefit increases. It was ratified by the APUO on February 13, 2025, without any strike or lockout activity.

169. Another U-15 university that secured a renewal collective agreement that addressed the salary erosion caused by Bill 124 and the contemporaneous increases in inflation over multiple years was Western University in its Bill 124 renewal agreement, which was ratified on June 30, 2023. When Bill 124 was in force, Western University

and the University of Western Ontario Faculty Association (“UWOFA”) had negotiated a four-year collective agreement that covered the three-year moderation period between July 1, 2022 and June 30, 2025, plus an additional year between July 1, 2025 and June 30, 2026. This additional year included a 3% salary increase.

170. After Bill 124 was declared unconstitutional, Western University and UWOFA concluded a salary reopener agreement, which resulted in several modifications to the salary increases in the final three years of their four-year collective agreement. The salary increase for July 1, 2023 was increased from 1% to 3% and a lump-sum payment of \$1,750.00 was moved forward from July 1, 2025. The salary increase for July 1, 2024 was increased from 1% to 2% and the salary increase for July 1, 2025 was reduced from 3% to 2%.

171. Western University and UWOFA recognized that the combined effect of Bill 124 on the suppression of wages and the diminishment of purchasing power wrought by accompanying increases to inflation needed to be addressed. They reached an agreement whereby the approximately 6% (non-compounded) in “catch-up” increases were spread out over three years using a combination of smaller annual salary increases and one lump-sum payment.

172. On October 5, 2023, the University of Ottawa and the Association of Professors of the University of Ottawa adopted a similar approach. They agreed to address the consequences of Bill 124 and the accompanying impact of inflation that arose during the early part of their May 1, 2021 to April 30 2024 moderation period by negotiating further increases to the 1% annual salary increases that had been provided during this period. This negotiated settlement was concluded at a time when the record-breaking inflation rates experienced in 2021 and 2022 were already in decline. As set out earlier in this brief, the total salary increases over this 3-year period totalled 8.5% (non-compounded). The salary increases totalling 10% non-compounded that were provided to the University’s faculty and librarians over their three-year moderation period compare favourably to this negotiated settlement and militate against any argument that further “catch-up” is required in this current proceeding.

173. The additional 7% salary increase that was already awarded to faculty members and librarians retroactive to July 1, 2022 undermines UTFAs current request for an additional salary increases of 10.5% (non-compounded) over two years. The objectives of “catch-up” connected to the effects of Bill 124 and the high inflation rates of years past have been addressed. Instead of putting further unnecessary distance between the University’s faculty members and librarians and their comparators, the University Administration submits that normative and internally consistent annual salary increases of 2% and 1.8% should be awarded.

UTFA PROPOSAL REGARDING MINIMUM SALARIES FOR FACULTY MEMBERS

CURRENT MINIMUM SALARIES FOR FACULTY MEMBERS

Rank	Minimum Salary
Professor	\$117,007
Associate Professor	\$87,154
Assistant Professor	\$71,027
Assistant/Associate Professor, Teaching Stream	\$96,305**

** Teaching Stream faculty members who commence employment on or after July 1, 2017 will receive an annualized starting salary no lower than the minimum salary for their rank, plus \$620.

UTFAs PROPOSAL

Rank	Minimum Salary
Professor	\$117,007
Associate Professor	\$87,154
Assistant Professor	\$71,027
Assistant/Associate Professor, Teaching Stream	\$96,305
<u>Faculty</u>	<u>\$120,000</u>

UNIVERSITY ADMINISTRATION'S RESPONSE

174. The University Administration requests that the existing structure for minimum faculty salaries be maintained, increased by the ATB increase to be awarded, and that UTFA's proposal be dismissed.

Considering Faculty Members' Minimum Salaries in Context

175. Each time an academic unit proposes the appointment of a faculty member at any rank, the academic unit must establish its rationale for the prospective faculty member's starting salary. This rationale must address three sets of factors. The first set of factors concern the academic unit's budget and salary structure. Ordinarily, the starting salary of a prospective faculty member must be in line with the appointing academic unit's budget and must be consistent with its existing salary structure. When a prospective faculty member is appointed at the rank of Professor or seeks a starting salary that exceeds the academic unit's budgeted amount, additional particulars must be provided before the necessary approval for the starting salary is provided.

176. The second set of factors are specific to the candidate and their discipline. It is widely recognized that a prospective candidate's credentials, experience, profile and academic discipline will impact their starting salary. In certain circumstances, a unique demand for candidates within a specific sub-discipline may require that salary offers be increased as a result.

177. The third set of factors involve the prevailing market conditions at the time of the prospective faculty member's appointment. Consideration of these three sets of factors necessarily makes each appointment process and each starting salary negotiation highly-fact specific. In the vast majority of cases, negotiations regarding a faculty member's starting salary are impacted by these factors and not by the applicable salary minimum.

No Demonstrated Need to alter Faculty Members' Minimum Salaries

178. The University has no difficulty recruiting and retaining top academic talent. When individual units are approved to hire one or more new faculty members, the appointing unit will almost certainly receive numerous applications from extremely qualified applicants. The processes used throughout the University to attract and retain faculty members and the outcomes of these processes in terms of establishing initial salaries for faculty members have remained effective and are unimpacted by the current salary minimums. These realities explain why the subject of salary minimums for faculty members have not been addressed in a settlement or arbitrated award under Article 6 for approximately 20 years.

179. As noted above, the principle of demonstrated need requires the party seeking a departure from the status quo to provide clear and compelling evidence on why such a departure is required. The more that a party wants to depart from the status quo through the advancement of its proposal, the more that its proposal must be supported by evidence of a demonstrated need for the change it seeks. In this instance, UTFA has proposed a drastic departure from the status quo. Its proposal, if awarded, would see the minimum salary applicable to the ranks of Assistant Professor, Associate Professor and Assistant/Associate Professor, Teaching Stream, and Professor increase by 68.95%, 37.69% and 24.6% respectively. UTFA can point to no demonstrated need for the drastic alterations to the to the current salary minimums for faculty members that it now seeks.

UTFA's Proposal offends the Gradualism Principle

180. Not only is UTFA's proposed modifications to the minimum salaries for faculty members unaccompanied by any demonstrated need, the scope and scale of UTFA's proposed modifications to minimum salaries for faculty members are antithetical to the principle of gradualism. As noted above, the extent to which the minimum salaries that currently apply to the ranks of Assistant Professor, Associate Professor and Assistant/Associate Professor Teaching Stream would increase substantially if UTFA's proposal were awarded. Moreover, the existing rank-based structure used for these

minimum salaries would be immediately flattened and replaced with a single minimum salary that would apply regardless of the academic rank to which a prospective faculty member would be appointed. A structural change of this magnitude is not the type of targeted, incremental change that should be addressed in an Article 6 arbitration award.

The Principles of Replication and Total Compensation do not support UTFA's Proposal

181. In articulating how the replication principle applies to Article 6 proceedings, Justice Winkler observed that:

It is common in all collective bargaining that there are major issues and those whose importance is somewhat less so. As experienced collective bargainers are aware, the parties prioritize bargaining issues and bargain in order of priority. Trade-offs are made and bargains struck in a reality where significant issues are bargained against significant issues and lower priority issues are bargained in like fashion.⁶⁶

182. The minimum salary payable to faculty members is not an issue that impacts a significant number of faculty members nor is it likely to impact many prospective faculty members, whose starting salaries will continue to be animated by considerations of unit budgets, applicants' credentials and market demands. This is not an issue that would either cause or sustain any strike activity.

183. The costs associated with UTFA's proposal should not be mischaracterized as a "housekeeping item." Taken together with its proposed alterations to the minimum salaries applicable to librarians, the total cost of this proposal is approximately \$3.1 million, and approximately 0.5% of salary base costs and 0.427% of total compensation costs.⁶⁷ In a fiscal environment where resources are increasingly limited, and as Justice Winkler has recognized, where parties must prioritize their bargaining objectives, the cost of this proposal relative to the minimal number of faculty members who would be impacted are at odds with the principles of replication and total compensation.

⁶⁶ 2010 Winkler Award, *supra* Tab 12 at para. 39.

⁶⁷ University Administration's Costing of UTFA's Salary and Benefit Proposals, *supra*. Tab 14

UTFA PROPOSAL REGARDING MINIMUM SALARIES FOR LIBRARIANS

CURRENT MINIMUM SALARIES FOR LIBRARIANS

Rank	Minimum Salary
Librarian I	\$76,403**
Librarian II	\$79,720**
Librarian III	\$102,203**
Librarian IV	\$120,209**

** Librarians who commence employment on or after July 1, 2017 will receive an annualized starting salary no lower than the minimum salary for their rank, plus \$620.

UTFA'S PROPOSAL

Rank	Minimum Salary
Librarian I	\$76,403
Librarian II I	\$79,720 \$85,500
Librarian III II	\$102,203
Librarian IV III	\$120,209
Librarian IV	\$135,836

UNIVERSITY ADMINISTRATION'S RESPONSE

184. The University Administration requests that the existing minimum salaries for librarians be maintained, increased by the applicable ATB increase to be awarded, and that UTFA's proposal be dismissed.

Considering Librarians' Minimum Salaries in Context

185. The current minimum salaries that apply to librarians reflect important differences that apply to the duration and permanency of an appointment at each of the four Librarian ranks. An appointment at the rank of Librarian I is a probationary appointment that is normally between one and two years in length.⁶⁸ Ordinarily, the review for promotion to the rank of Librarian II occurs at the end of this two-year period. If a Librarian I is not promoted to the rank of Librarian II, they are notified that their employment will not continue past the end of their probationary appointment.⁶⁹

⁶⁸ *Policies for Librarians*, supra Tab 27 at para. 23.

⁶⁹ *Ibid.*, at para. 25.

186. If a Librarian I is successfully promoted to the rank of Librarian II their appointment continues. Upon promotion to the rank of Librarian II, a librarian normally receives a fixed-term contract of three years. In the final year of this contract, they are usually assessed for promotion to the rank of Librarian III and an appointment with permanent status.⁷⁰ If a librarian is unsuccessful in this endeavour, they receive a terminal contract that is normally one year in duration, after which time their employment with the University is terminated.⁷¹

187. When the fixed-term, probationary nature of employment at the rank of Librarian I is compared with the fixed-term probationary nature of employment at the rank of Librarian II, the comparatively narrow gap between the minimum salaries assigned to these ranks is better understood. In contrast, there is a significant difference between an appointment at these two lower ranks and continued employment at the rank of Librarian III which is the lowest rank at which permanent status can be conferred. The rank of Librarian III is the normal career rank for librarians⁷² and the conferral of permanent status on a librarian is described in paragraphs 15 and 48 of the *Policies for Librarians* as follows:

15. ... a librarian may be granted permanent status, which is the holding by a librarian of the University of a continuing full-time appointment which the University has relinquished the freedom to terminate except under the conditions specified in paragraphs 68 and 69 [termination for cause and termination due to the librarian's inability to carry out reasonable duties]

...

48. Permanent status for librarians, as defined in paragraph 15 entails the acceptance by a librarian of the obligation to perform conscientiously as a contributor to teaching, learning and scholarship in the University...

⁷⁰ *Policies for Librarians*, supra Tab 27 at para. 24.

⁷¹ *Ibid.*, at para. 60.

⁷² *Ibid.*, at para. 29.

188. The larger gap between the minimum salaries for the Librarian II and Librarian III rank is explained by the significant differences between the nature and duration of an appointment at these two ranks. The primary criterion for promotion from Librarian I to Librarian II is “a record of effective performance in the area(s) of the candidate’s responsibility as a librarian.” A Librarian promoted to the rank of Librarian II is also expected to “have demonstrated the ability to use their professional education and will have shown the capacity and promise to develop and extend their professional and academic expertise”.⁷³ The determination of whether a librarian should be promoted to the rank of Librarian II is based on a written evaluation prepared by the librarian’s supervisor and the approval of the University Chief Librarian or designate.⁷⁴ A promotion to the rank of Librarian II is normally for a three year term. It ends in termination if a further promotion to the rank of Librarian III is not granted.

189. In contrast, a librarian seeking to be promoted to the rank of Librarian III must meet a more stringent set of criteria and complete a peer-reviewed promotion process. The standards and process that apply to promotions to the rank of Librarian III are more detailed and rigorous than those that apply to promotions to the rank of Librarian II. This is because upon appointment to the rank of Librarian III, a librarian may receive permanent status which, if granted, significantly constrains the University Administration’s ability to terminate the appointment.⁷⁵

190. A candidate seeking promotion to the rank of Librarian III must submit documentation that is far more comprehensive than the written recommendation from a supervisor that is used for promotions to the rank of Librarian II. All applications for promotion to the rank of Librarian III are assessed by the Committee on Permanent Status. This committee is tasked with determining whether a candidate has submitted evidence of continuing effective performance that meets the following criteria:

⁷³ *Policies for Librarians, supra* Tab 27, at para. 24.

⁷⁴ *Ibid.*, at para. 25.

⁷⁵ *Ibid.*, at para 15.

- (a) effective performance in the area(s) or the candidate's responsibility;
- (b) academic achievement and activities;
- (c) professional achievement and activities;
- (d) effectiveness of service to the University, University of Toronto Libraries, and where appropriate, to the profession; and
- (e) clear promise of continuing growth in overall performance as a librarian.⁷⁶

191. The Committee on Permanent Status is required to assess whether a candidate for promotion to the rank of Librarian III has shown clear promise of continuing professional development and demonstrated ability to handle increased responsibilities in areas of specialization or in an administrative capacity.⁷⁷ These differences explain why there is a larger gap between the minimum salaries for Librarian II and Librarian III.

192. The gap between the minimum salaries for the Librarian III and Librarian IV ranks is narrower than the gap between the minimum salaries of Librarian II and Librarian III, but wider than the gap between the minimum salaries for the Librarian I and Librarian II ranks. Promotion to the rank of Librarian IV can occur only after a librarian has been employed at the rank of Librarian III or its equivalent for five years.⁷⁸ If this quantitative requirement is met, this promotion is reserved solely for librarians who meet the following criteria:

a record of excellent performance with demonstrated initiative, leadership and creativity, and to have established a wide reputation in their area or field of interest. As well as making an outstanding contribution to the UTL and to the University the candidate must submit evidence of substantial and sustained achievement in one or more of the following areas:

⁷⁶ *Policies for Librarians*, *supra* Tab 27 at para. 26.

⁷⁷ *Ibid.*, at para. 26.

⁷⁸ *Ibid.*, at 34.

academic activities including research, publication and teaching, professional endeavours including significant involvement in professional organizations; and service to the University, the UTL, and where appropriate to the profession.⁷⁹

193. UTFA’s proposal to equalize the gaps between each of these ranks is at odds with the significant similarities between an appointment at the lower ranks of Librarian I and Librarian II, which are reflected in the relatively close proximity of the respective minimum salaries for these two ranks. UTFA’s proposal is also incongruent with the fundamental differences between appointments at the ranks of Librarian II and III and the comparatively large gap between the salary minimums for these ranks. UTFA’s proposal also does not recognize the high achievement of librarians who successfully attain the rank of Librarian IV, by suggesting that a move from Librarian I to Librarian II is comparable to a promotion from Librarian III to Librarian IV.

194. By focusing exclusively on minimum salaries, UTFA has presented a distorted picture of the salaries that are paid to University of Toronto Librarians. Not all librarians are paid a minimum salary upon appointment. Instead, the recruitment of librarians is impacted by the same factors that animate the recruitment of faculty members, namely, budgetary realities, candidates’ credentials and marketplace dynamics. An examination of the mean and median salaries paid to librarians at each rank provides a broader and more accurate picture of how librarians are compensated.

Librarian Salaries at the University of Toronto			
Rank	Headcount	Mean Salary	Median Salary
Librarian I	7	\$79,181	\$80,033
Librarian II	30	\$93,295	\$91,522
Librarian III	110	\$135,932	\$136,763
Librarian IV	16	\$179,960	\$172,958
Total – All Ranks Combined	163	\$129,969	\$130,930

Data includes all streams (Permanent Status, Permanent Status Stream and Non-Permanent Status). Librarians on LTD and unpaid leave not included in data.

⁷⁹ *Policies for Librarians*, supra Tab 27., at para. 34.

There is no Demonstrated Need to alter Librarians' Minimum Salaries

195. As is the case with UTFA's proposal to alter the minimum salaries applicable to faculty members, there is no demonstrated need to alter the minimum salaries that currently apply to librarians. Paragraph 5 of the *Policies for Librarians* confirms that when librarian appointments are made, postings for such appointments are normally advertised nationally and internationally. The data in the table below demonstrates that there have been no difficulties attracting suitable candidates for these appointments. It also demonstrates that very few appointments are accompanied by a minimum salary.

Librarian Jobs Posted from July 1, 2022 - Present					
UTL Postings					
Posting Year	# Applicants	Rank Advertised	Rank Hired	Salary	Hired at Minimum
1-2022	18	LI/II	LII	79000	
2-2022	40	LI/II	LII	86000	
3-2022	40	LI/II	LII	82000	
1-2023	8	LIII/LIV	LIII	139000	
2-2023	26	LI/II	LI	75051	
3-2023	3	LIII/LIV	LIII	160000	
4-2023	N/A	LIII/LIV	LIV	165121	
5-2023	129	LI/II/III	LI	88000	
6-2023	39	LI/II	LI	71451 + 620	YES
7-2023	N/A	LIII/IV	FAILED SEARCH		
8-2023	89	LI/II	LI	76403 + 620	YES
9-2023	21	LI/II	LI	76403 + 620	YES
10-2023	20	LI/II	LII	87269	
11-2023	15	LIII	LIII	147024	
12-2023	16	LI/II/III	LI	95000	
13-2023	16	LI/II/III	LIII	152000	
14-2023	140	LI/II	LII	95000	
15-2023	65	LI/II	LI	80223	
16-2023	63	LI/II	LII	96000	
1-2024	23	LIII/LIV	LIII	153000	
2-2024	153	LI/II	LI	80223	
3-2024	39	LIII/LIV	LIII	170873	
4-2024	60	LI/II	LI	90000	
5-2024	48	LI/II	LI	80223	
6-2024	61	LI/II	LI	80223	
7-2024	43	LI/II/III	LI	80223	
8-2024	25	LIII/LIV	LIII	135000	
Campus Postings					
Posting Date	# Applicants	Rank Advertised	Rank Hired	Salary	Hired at Minimum
1-2022	20	LI/II	LII	90375	
2-2022	43	LI/II	LI	81887	
1-2023	34	LII/III	LII	78000	
2-2023	11	LII/III	LIII	145500	
3-2023	45	LI/II	LII	84500	
4-2023	54	LI/II	LII	78000	
5-2023	54	LI/II	LII	73677	
6-2023	62	LII/III	LII	80388	
7-2023	41	LI/II	LII	84000	
1-2024	61	LI/II	LI	80,223.00	
2-2024	21	LIII	LIII	105244	
3-2024	39	LIII/LIV	LIII	169092	

UTFA’s Proposal offends the Principles of Replication and Gradualism

196. The data also demonstrate that the awarding of UTFA’s proposal would create an unreasonable and unnecessary salary compression between librarians who would begin to receive significantly increased minimum salaries immediately upon appointment, and experienced librarians, many of whom have consistently shown increased levels of individual achievement during their employment with the University. From a replication perspective, a proposal of this nature would not be maintained by UTFA to the point of impasse. That reality should not be side-stepped by awarding this proposal at interest arbitration.

197. A comparison of how these parties have addressed isolated concerns regarding the minimum salaries paid to librarians and UTFA’s far-reaching proposal reveals that this proposal does not accord with the principle of gradualism. Over the past 20 years, only minor increases have been made to librarians’ minimum salaries, in ways that were comparatively minor in nature.

Incremental Changes to Librarian Minimum Salaries	
Article 6 Settlement / Award	Description of Change
July 1, 2003 – June 30, 2005 Settlement	Librarian I minimum salary to \$44,000 Librarian II minimum salary to \$46,000
July 1, 2005 – June 30, 2007 Winkler Award (Matters Agreed To)	Librarian III minimum salary from \$48,600 to \$62,500 Librarian IV minimum salary from \$55,400 to \$75,700
July 1, 2007 – June 30, 2009 Settlement	Librarian III minimum salary to \$68,000
July 1, 2014 – June 30, 2017 Settlement	Librarian I, II, III and IV minimum salaries increase by \$2,900 Any Librarian with a salary below \$73,907 – increase by \$2,900

198. The comprehensive realignment of and unprecedented increases to the minimum salaries that UTFA has proposed are drastically out-of-step with the incremental approach that the parties have applied to this issue and which the principle of gradualism demands. Consequently, this proposal should not be awarded.

UTFA'S PROPOSAL TO CHANGE THE PTR FUNDING MODEL

UTFA'S PROPOSAL

Increase funding into PTR pool to 2.5% of total wages, applied proportionately by way of (i) adjustments to tenure stream, teaching stream, and librarian breakpoints, and (ii) adjustments to the amounts per FTE above and below the adjusted breakpoints.

UNIVERSITY ADMINISTRATION'S RESPONSE

199. UTFA has requested the arbitral imposition of a costly change to the current PTR funding model. UTFA's proposal, if awarded, would cost more than \$4.4 million for implementation on July 1, 2023, and would give rise to additional costs each year thereafter commensurate with increases to the salary base for faculty members and librarians. A change of this nature also conflicts with the way these parties have agreed to fund the PTR process over the course of decades. To understand the full impact of this proposal, it is necessary to review the components of the PTR framework along with its evolution before addressing UTFA's proposal in greater detail.

An Overview of the PTR Framework

200. For the past 50 years, the salary structure for faculty members and librarians has included a fund that distributes additional compensation solely on the basis of merit. The money in this fund is distributed using the PTR framework. The PTR framework was introduced in 1973. Its purpose is to provide faculty members and librarians with a merit-based award to recognize individual accomplishments on a year- to-year basis. No one is automatically entitled to a PTR award in any year. Rather, PTR awards are provided to faculty members and librarians based on an assessment of their academic contributions in the prior academic year relative to their peers.

201. The University is committed to the rewarding of merit. This commitment applies equally to the students whose academic work is subject to evaluation and to the compensation provided to faculty members and librarians over their careers. The nature of work at a university leads to differential performance amongst faculty members and librarians and the need to recognize faculty members and librarians on the basis of individual merit. Rewarding merit enhances the climate of excellence that attracts and retains the best faculty members and librarians to the University.

202. The University has a clear preference for providing PTR awards over ATB increases. This was recognized by Arbitrator Munroe, who wrote: “We believe that both parties regard the PTR scheme as being at the heart of their bargaining relationship, and that neither party would truly wish to jeopardize the scheme – nor the bargaining stability which it affords – except as the last resort in the most extreme fiscal distress.”⁸⁰ Notably, in this award, Arbitrator Munroe awarded no ATB increase to faculty and librarians for 1993-1994, but directed that the PTR process remain intact, despite the University’s request for a “partial payment of PTR” only.⁸¹

203. Although the distribution of PTR awards is based on merit, the total amount of PTR funds spent on these awards is not discretionary. Each year, every dollar contributed to the PTR pool is allocated to faculty members and librarians in the form of salary increases. A PTR-based increase costs the University the same as an ATB increase and provides the same monetary benefit to a faculty member or librarian as an ATB increase. The only difference is that a PTR increase must be earned on the basis of merit.

⁸⁰ 1993 Munroe Article 6 Award, *supra* Tab 11 at 13.

⁸¹ *Ibid.*, at 19.

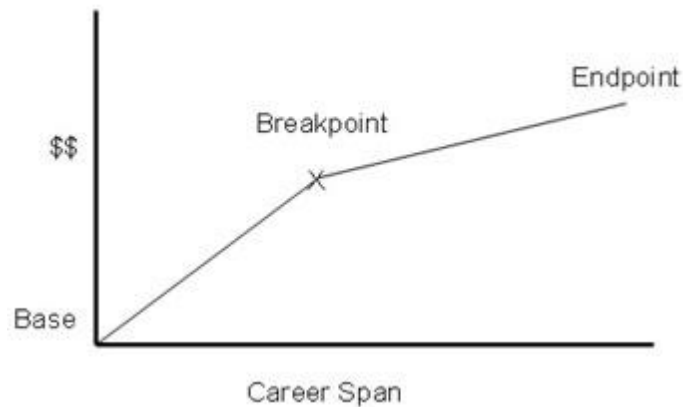
204. The money that the University distributes to faculty and librarians as PTR awards is divided into three separate funds, which are described below.

(a) **Tenured, Tenure Stream and Non-Tenure Stream Faculty PTR Fund** This fund is available to individuals who have a tenured or tenure-stream appointment or those with non-tenure stream appointments at the rank of Professor, Associate Professor, Assistant Professor and Assistant Professor (Conditional);

(b) **Teaching Stream Faculty PTR Fund** This fund is available to all individuals who have a teaching-stream appointment at the rank of Professor, Teaching Stream; Associate Professor, Teaching Stream; Assistant Professor, Teaching Stream; and

(c) **Librarians PTR Fund** – This fund is available to all librarians who hold the rank of Librarian I, II, III or IV.

205. An understanding of how the PTR framework operates begins with an understanding of the three concepts as expressed in the diagram below: (1) the base, (2) the breakpoint, and (3) the endpoint.



206. Within the PTR framework, the base represents the minimum salary, or “salary floor” that applies to the specific group included in each of the three PTR funds listed above. The endpoint represents the salary of this same group at the time of their retirement. The line between these two points, bisected by the breakpoint, represents

an individual's salary progression over the course of their career. As set out in the diagram, the rate of increase between the base and the breakpoint is greater than the rate of increase between the breakpoint and the endpoint. In this way, the PTR process provides for accelerated salary progress in the earlier stages of a faculty member or librarian's career.

207. The starting salaries offered to individuals continue to vary widely by discipline. The career achievements of individual faculty members and librarians will vary widely as well. An individual who receives a high starting salary and begins their career with a sustained period of high achievement will reach the breakpoint at a comparatively early stage of their career.

208. Each of the three PTR funds referred to above is subdivided into three pools. The first pool is for individuals with a current salary below the breakpoint. The second pool is for individuals with a current salary above the breakpoint. The third pool, often described as the "Dean's Merit Pool", valued at 5% of the total PTR pool, is used to reward outstanding contributions or exceptional merit. PTR awards from this third pool are in addition to PTR awards based on the salary-based pool.

209. Except for the 5% Dean's Merit Pool, the amount of money allocated to each PTR pool is normally calculated by taking the number of full-time equivalent individuals in each pool and multiplying that number by the agreed-upon monetary increment for that pool. The increments used in the pools that are below the breakpoint have a higher dollar value than the increments that apply to the PTR pools above the breakpoint.

210. At no time has the funding of the PTR pools been equated to a specific percentage of the salary base for faculty members and librarians. Rather, the monetary increments in each of the three PTR funds referred to above have typically been adjusted upwards by the annual ATB increase, if any. Similarly, the breakpoint in each of the three PTR funds is normally adjusted by the amount of the prior year's ATB increase. From time to time, the parties have agreed to alternative PTR funding arrangements in any given year. However, no such alternative funding arrangements have been imposed as part of an arbitration award.

211. The PTR framework operates as a series of models which determine the increments for merit that are available to individuals within each of the PTR pools from year to year. While no individual faculty member or librarian has an automatic entitlement to PTR in any given year, the current PTR framework assumes that the same specific dollar amount is available for each individual in each PTR pool that is below that pool's breakpoint, and that the same specific lower dollar amount is available for each individual in each PTR pool that is above that pool's breakpoint.

Funding of the PTR Framework

212. Historically, the breakpoint and increments in each PTR fund have normally been adjusted upwards by the ATB increase, if any, from the prior academic year. However, minor changes to the PTR framework can be and have been negotiated between the parties during Article 6 negotiations. There have also been several instances where the University Administration and UTFA have agreed to joint working groups that were tasked with examining the PTR process or specific components thereof in more detail.

Agreed-To Modifications of the PTR Framework	
Term of Agreement	PTR Modifications Agreed To
July 1, 1991 – June 30, 1993 Tab 38	Adjustment of salary floor, breakpoint, endpoint and increments in the Librarian PTR fund
July 1, 1996 – June 30, 1999 Tab 39	Following the Social Contract, payment of an additional PTR award to faculty and librarians on July 1, 1997 – separate from the continuation of “normal PTR” in each year of the agreement
July 1, 1999 – June 30, 2002 Tab 40	Adjustment to the breakpoint in the Faculty PTR fund of \$2,500 effective July 1, 1999 Adjustment to the breakpoint in the Faculty PTR fund of \$2,500 effective July 1, 2000
July 1, 2003 – June 30, 2005 Tab 41	Adjustment to the breakpoints in the Faculty, Librarian and Lecturer PTR funds of \$5,000, \$3,790, and \$3,920 respectively Establishment of a joint working group to review and make recommendations regarding the PTR model

<p>July 1, 2011 – June 30, 2014 Tab 42</p>	<p>One-time only special allotments to the Tenure Stream, Teaching Stream and Librarian PTR funds of \$718 per FTE, \$505 per FTE and \$468 per PTE respectively to be distributed July 1, 2012</p> <p>One-time only special allotments to the Tenure Stream, Teaching Stream and Librarian PTR funds of \$428 per FTE, \$300 per FTE and \$278 per FTE respectively to be distributed July 1, 2013</p> <p>No continuing obligation on the University Administration to make any additional special allotments</p>
<p>July 1, 2014 – June 30, 2017 Tab 29</p>	<p>Adoption of the “Reference Point” funding model, discussed in more detail below.</p> <p>Adjustment of the breakpoint and increments in the Teaching Stream PTR fund, effective July 1, 2015</p> <p>Exceptional one-time only flat dollar increase to annual salary of all faculty and librarians who received a PTR award July 1, 2016 equal to the average PTR award multiplied by the July 1, 2014 ATB increase that is agreed to or awarded. This payment was made to resolve a specific retroactivity issue regarding the calculation of the July 1, 2014 ATB increase and its impact on PTR.</p> <p>Joint working group to discuss PTR issues in units with a small number of Teaching Stream faculty members.</p>
<p>Memorandum of Settlement re: COVID-19 Issues – August 3, 2021 (“COVID LOU”) Tab 43</p>	<p>On an exceptional and one-time only basis, having regard to the impacts of the COVID-19 pandemic, the PTR payments to faculty members and librarians for the 2020-2021 assessment period will be calculated based on the higher of: (1) average of PTR assessment scores received over the past 3 years; and (2) PTR score received for the 2020-2021 assessment period.</p>

213. Consistent with the principles of replication, gradualism and demonstrated need, when disputes regarding the PTR framework were left unresolved, only minor incremental modifications to the PTR process were awarded. Arbitral modifications to the PTR framework have been similar in nature to the more minor changes that the parties have agreed to on other occasions.

PTR Framework Modifications awarded by Dispute Resolution Panels/ Arbitrators	
Term of Award and Arbitrator	PTR Modifications Awarded
July 1, 1986 – June 30, 1987 Munroe Tab 10	Joint committee to examine and attempt to resolve outstanding PTR disputes regarding structure of PTR pools, use of salary ceilings and changes to the PTR process for Tutors and Senior Tutors
July 1, 2002 – June 30, 2003 Teplitsky Tab 44	Increase to the breakpoint in the Faculty PTR pool of \$3,000, with pro-rata adjustment to the breakpoint in the Librarian and Lecturer PTR pools.
July 1, 2005 – June 30, 2007 Winkler Tab 12	Special allotments to the Tenure Stream of \$500 per FTE in the Faculty PTR pool with pro-rated amounts for the Lecturer and Librarian PTR pools on July 1, 2005 and July 1, 2006 “These amounts are special allocations for the years in which they are awarded and do not constitute ongoing obligations of the University beyond the term of this award.”
July 1, 2018 – June 30, 2020 Kaplan Tab 8	PTR policy amended to address the separate weighting of teaching, pedagogical/professional development and service for Teaching Stream faculty members in a manner consistent with the relevant language in the PPAA. PTR policy amended to address the weighting of PTR criteria for faculty members on research and study leave.

214. When more substantive changes to the PTR framework have been made, these changes have been agreed to between the parties. Arbitrators have not made substantial changes to the PTR framework. For example, the creation of the Dean's Merit Pool was agreed to by the parties as part of the Memorandum of Settlement for July 1, 1991 to June 30, 1993.⁸²

215. More recently, in the Article 6 Memorandum of Settlement for the period July 1, 2014 to June 30, 2017⁸³, the University Administration and UTFA agreed to a new PTR funding model. This new PTR funding model introduced a "reference point" salary into the PTR framework. Under this new funding model, individuals with salaries that were higher than the reference point salary received a flat dollar salary increase equal to the agreed-upon ATB increase as applied to the reference point salary, instead of having an increase apply to their higher salary amount. The difference between the salary increase that these individuals received (which was capped at 1% of the reference point salary) and the salary increase they would have received if the ATB increase would have been applied to their actual salary, was then redirected to increase the relevant PTR fund and then distributed through the PTR process.

216. The parties' agreement in the 2014-2017 Memorandum of Settlement allowed for an increase to the overall amount of PTR monies available to faculty members and librarians through a reduction of the salary increases paid to higher-salaried individuals and a redirection of the related savings to the PTR funds. This new funding model was freely and voluntarily agreed to by the parties. It was not imposed at arbitration.

217. Since the introduction of this alternative PTR funding model, the University Administration and UTFA have agreed to the funding model that has applied to each annual distribution of PTR awards. At no time has a funding model been imposed on the parties by an interest arbitrator. Interest arbitrators have left the infrastructure and funding arrangements of the PTR framework largely undisturbed.

⁸² Memorandum of Agreement between the Governing Council of the University of Toronto and UTFA, July 1 1991 to June 30 1993, *supra* Tab 38

⁸³ Memorandum of Agreement between the Governing Council of the University of Toronto and UTFA, July 1, 2014 to June 30, 2017, *supra* Tab 29

PTR Payments during the Most Recently Completed Article 6 Process

218. In a series of letters exchanged between the University Administration and UTFA in January 2021,⁸⁴ that were made without prejudice to either party's position to advance other proposals concerning PTR, the parties agreed to pay out PTR awards for the July 1, 2019 to June 30, 2020 assessment period effective July 1, 2020. They concluded a similar agreement to pay PTR awards for the July 1, 2020 to June 30, 2021 assessment period effective July 1, 2021 as part of the COVID LOU.⁸⁵

219. In section 4 the January 25 2022 MOS, the University Administration and UTFA agreed to pay out PTR awards for the July 1, 2021 to June 30, 2022 assessment period on July 1, 2022 in accordance with the following terms:

4 JULY 1, 2022 PTR FOR THE JULY 1, 2021 TO JUNE 30, 2022 ASSESSMENT PERIOD

(a) It has been the University's consistent position that issues related to July 1 PTR are subject to negotiations and/or the dispute resolution process for salary, benefits and workload under Article 6 of the MOA for the relevant July 1 to June 30 period such that it is the University's position that issues related to July 1, 2022 PTR are subject to the dispute resolution process for salary, benefits and workload for the Year 3 period July 1, 2022 to June 30, 2023.

(b) Notwithstanding paragraph 4(a) above the parties have from time to time, as they are entitled to do, agreed to PTR issues for the relevant July 1 prior to reaching an agreement or the conclusion of a dispute resolution process regarding salary, benefits and workload for the relevant July 1 to June 30 period on a without prejudice or precedent basis to the University's position set out in paragraph 4(a) above.

(c) In the context of paragraphs 4(a) and (b) above, the parties agree that PTR for the 2021-2022 assessment period shall be paid on July 1, 2022, with the PTR breakpoints and increments moving by the 1% amount of the ATB percentage wage increase agreed to for the period July 1, 2021 to June 30, 2022. PTR funds shall be allocated utilizing the model in place prior to the 2015 Memorandum of Settlement (i.e. using the same model

⁸⁴ January 14 2021 letter from Kelly Hannah-Moffat to Terezia Zorić, January 15, 2021 e-mail exchange between Kelly Hannah-Moffat and Terezia Zorić, January 15, 2021 letter from Terezia Zorić to Kelly Hannah-Moffat, and January 19, 2021 letter from Kelly Hannah-Moffat to Terezia Zorić. **Tab 45.**

⁸⁵ COVID LOU, *supra* at Tab 43

as was used for the July 1, 2020 PTR payment). The PTR assessment process for PTR to be paid on July 1, 2022 for the July 1, 2021 to June 30, 2022 assessment period is subject to any mutually agreed modifications to the process for determining PTR awards and assessments for that assessment period as may arise as a result of the provisions of paragraph 2.10 of the COVID LOU that; “[i]f the University’s operations continue to be limited or impacted by COVID protocols that prohibit or limit indoor gatherings beyond December 31, 2021, the parties shall meet to discuss whether and on what terms there should be any modifications to the process for determining PTR scores and awards for the 2021-22 assessment period.”

The Continuation of PTR Payments during the Current Article 6 Process

220. In advance of commencing bilateral negotiations under Article 6 of the MOA for the period July 1, 2023 to June 30, 2024, the parties agreed that PTR awards for the July 1, 2022 to June 30, 2023 assessment process would be paid out during the July 2023 pay period in accordance with the following terms:

(1) in the event the parties have not reached agreement on salary, benefits and workload or there has not been a decision of a Dispute Resolution Panel in respect of same for the period July 1, 2023 to June 30, 2024 that the University and UTFA agree that the July 1, 2023 PTR will be paid to faculty members and librarians in the July 2023 pay period and funds will be allocated using the PTR model in place prior to the 2015 Memorandum of Settlement.

(2) The parties agree that the PTR breakpoints and increments will be increased by 1% for July 1, 2023 PTR in light of the 1% across-the-board (“ATB”) salary increase already awarded by Arbitrator Gedalof effective July 1, 2022. Should a further ATB salary increase be awarded or agreed to for the period of July 1, 2022 to June 30, 2023 before May 1, 2023 then the PTR breakpoints and increments will be further increased for July 1, 2023 PTR by the amount of the additional ATB salary increase above 1%, or on any other such basis as awarded or agreed to by the parties. Should a further ATB increase be awarded or agreed to for the period of July 1, 2022 to June 30, 2023 subsequent to May 1, 2023, the University and UTFA would agree that the University will make an additional payment of PTR retroactive to July 1, 2023 of the difference owing based on increasing the breakpoints and increments by the amount of the additional ATB percentage salary increase for the period of July 1, 2022 to June 30, 2023, or on any other such basis as awarded or agreed to by the parties.

(3) This agreement would be without prejudice or precedent to the parties not having reached a salary, benefits and workload agreement for the period of July 1, 2023 to June 30, 2024. This agreement would also be without prejudice or precedent to any positions taken by UTFA or the University in the upcoming interest arbitration before Mr. Eli Gedalof regarding the period of July 1, 2022 to June 30, 2023, including any arguments regarding the jurisdiction or lack thereof of Mr. Gedalof to make any award regarding the July 1, 2023 PTR.⁸⁶

221. The University Administration and UTFA also agreed that, without prejudice to their right to make additional proposals regarding PTR during the current Article 6 process, the PTR awards for the July 1, 2023 to June 30, 2024 assessment period would be paid in the July 2024 pay period, as follows:

1. PTR for July 1, 2024 will be paid to faculty members and librarians in the July 2024 pay period and funds will be allocated using the PTR model in place prior to the 2015 Memorandum of Settlement [i.e., The same model was used for July 1, 2023 PTR].

2. Further to paragraph 1 above, PTR breakpoints and increments will be increased by the amount of July 1, 2023 ATB agreed upon/awarded for July 1, 2024 PTR.

3. For clarity once an agreement or award for an ATB salary increase for July 1, 2023 is later reached, the University will make an additional payment of PTR retroactive to July 1, 2024 for the difference owing based on increasing the breakpoints and increments by the amount of the additional ATB percentage salary increase for the period of July 1, 2023 to June 30, 2024, or on any other such basis as awarded or agreed to by the Parties.

4. The Parties agree that this process, as outlined in paragraphs 1 to 3 above, binds the Parties for the purposes of PTR matters for the payment on July 1, 2024 to capture PTR earned July 1, 2023 through June 30, 2024.⁸⁷

⁸⁶ 2023 PTR Agreement Documents, *supra* Tab 3

⁸⁷ May 3 2024 Memorandum of Agreement between University Administration and UTFA, *supra* Tab 4.

PTR is an Important and Significant Part of Total Compensation

222. PTR has historically been recognized as an important and significant part of the total compensation that is provided to faculty members and librarians. After the full amount of the 8% salary increase for July 1, 2022 was applied to the July 1, 2023 PTR process, approximately \$11.165 million, or 1.787% of the total compensation provided to faculty members and librarians, was disbursed through the PTR process.

223. The breakpoints for each of the 3 PTR pools is identified in the table below, as is the amount in each of these PTR pools for individuals above and below each breakpoint.

PTR Calculations – July 1, 2023 to June 30, 2024			
PTR Pool	Breakpoint	Amount Per FTE Below Breakpoint	Amount Per FTE Above Breakpoint
Tenured, Tenure Stream and Non-Tenure Stream Faculty	\$186,948	\$4,087.80*	\$2,316.60
Teaching Stream Faculty	\$166,698	\$3,817.80*	\$2,214*
Librarians	\$141,696	\$3,196.80	\$1,576.80*

* Excludes the 5% set aside for allocation through the 5% Dean’s merit pool

224. Five percent (5%) of each PTR fund is placed in a special merit pool. Funds from this 5% merit pool are awarded by Deans in multi-departmental Faculties/divisions or the Provost in single department Faculty/divisions or the University Chief Librarian on the basis of outstanding performance. Faculty members and librarians who receive an award from the 5% merit pool receive such an award in addition to their regular PTR award.

225. Under the current PTR process, all monies in each of the PTR funds must be disbursed to faculty and librarians annually, based on an assessment of individual merit. The monies available to individuals within one PTR fund cannot be used to compensate members covered by another PTR fund. While most Article 6 agreements and awards regarding salary and benefits – including PTR – between these parties have included an ATB increase to all faculty and librarian salaries alongside the continuation of the merit-based PTR process, these two components of compensation have remained separate and distinct.

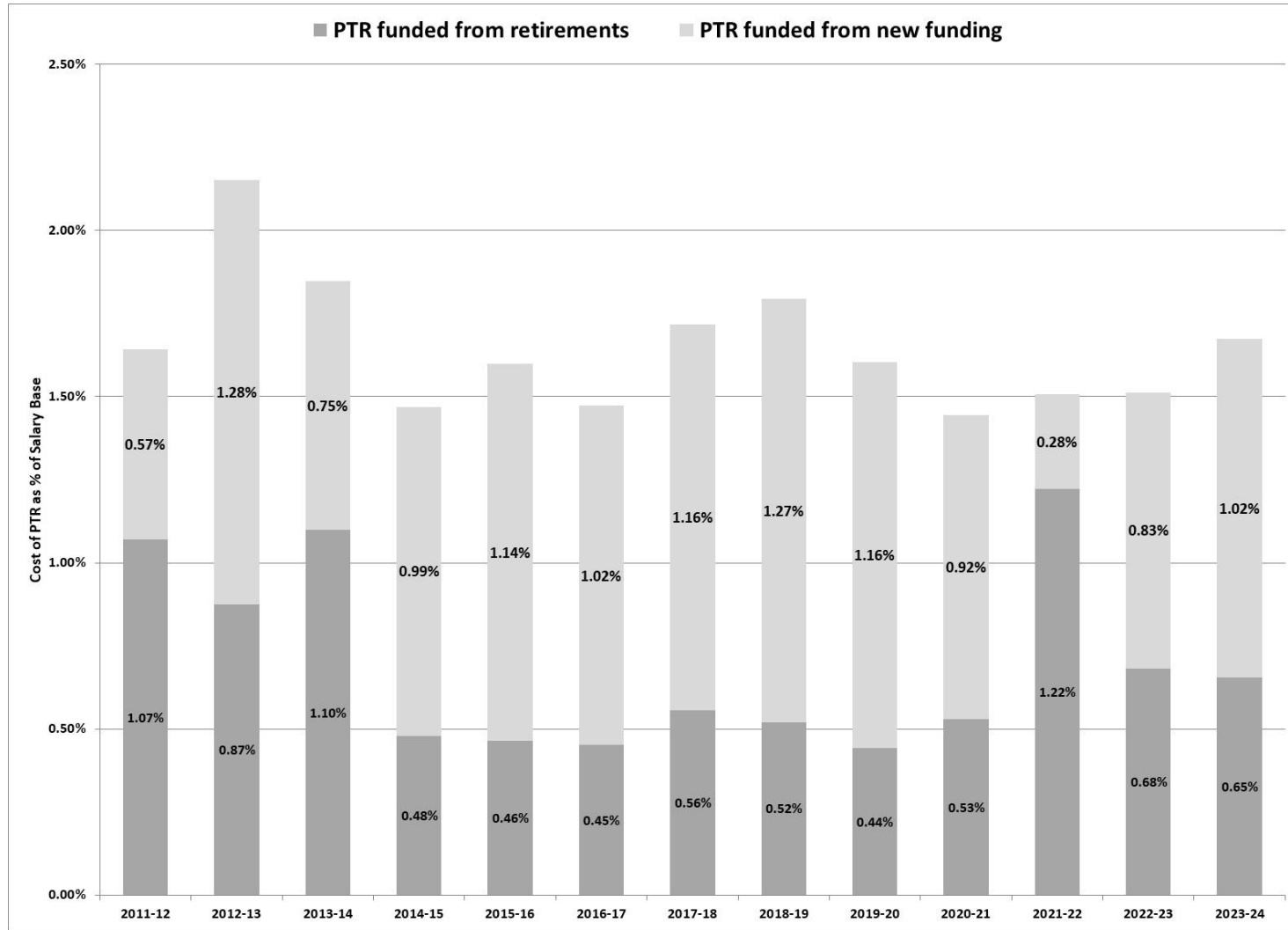
226. The fact that the parties have continued to treat ATB increases as separate and distinct from the merit-based PTR awards does not mean that the costs associated with the latter exercise ought to be discounted or disregarded when determining the salary costs that the University Administration actually incurs as part of a settlement or award made pursuant to Article 6 of the MOA.

227. An increase to faculty and librarian salaries that are the result of the PTR process costs the University Administration the same as an equivalent ATB increase. The financial benefit to a faculty member or librarian whose salary is increased by means of a PTR award is the same as if that member were to have received an equivalent ATB increase in place thereof. A key difference between these two forms of compensation increases is that a PTR award must be earned on the basis of merit.

Net Cost of PTR to the University Administration

228. Decades ago, it was suggested by UTFA that the University's PTR costs would be offset by the savings generated by the replacement of high-salaried retirees with newer faculty members and librarians earning lower starting salaries. This suggestion has been proven to be inaccurate. The table and chart set out below shows that the administration of the PTR scheme gives rise to significant net total compensation costs.

Net Cost of PTR at the University of Toronto (Tenure Stream Faculty): Retirements Only



Notes: In 2011-12 retirements were affected by the Special Retirement program which included 38 FTEs tenured/tenure stream faculty with a salary base of \$6,337,357. In 2012-13 retirements were affected by the Special Retirement program which included 28 FTEs tenured/tenure stream faculty with a salary base of \$4,550,763. In 2013-14 retirements were affected by the Special Retirement program which included 1 FTE tenured/tenure stream faculty with a salary base of \$131,490. In 2021-22 retirements were affected by the Covid-19 Pandemic which was identified in March 2020.

Retirements are those that retired at the beginning of the academic year plus those who retired during the year. Those whose last day worked is the end of the academic year are counted in the next year. This stems from the original FIS methodology which went by the budget year.

Net Cost of PTR – Tenure Stream Faculty: 2011-12 to 2023-24

Net Cost of PTR- Tenure Stream Faculty: 2011-12 to 2023-24

Retirements Only

	2011 - 2012		2012 - 2013		2013 - 2014		2014-2015		2015-2016		2016-2017		2017-2018		2018-2019		2019-2020		2020-2021		2021-2022		2022-2023		2023-2024		
	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	FTE	Salary	
Retirements																											
Total FTE&salary base of retirements	A	65.00	\$ 10,785,544	54.00	\$ 8,922,820	65.00	\$ 10,785,544	25.93	\$ 4,689,461	23.50	\$ 4,252,129	24.83	\$ 4,527,831	29.27	\$ 5,638,313	30.65	\$ 6,066,330	23.37	\$ 5,191,557	34.62	\$ 7,144,636	64.00	\$ 14,465,917	46.35	\$ 10,250,850	35.87	\$ 8,904,200
Average salary of retirements	B		\$ 165,931		\$ 165,237		\$ 165,931		\$ 180,851		\$ 180,942		\$ 182,353		\$ 192,631		\$ 197,923		\$ 222,146		\$ 206,373		\$ 226,030		\$ 221,162		\$ 248,235
New Hires																											
Salary base of new hires	C	63.00	\$ 7,329,500	68.00	\$ 7,981,894	87.00	\$ 9,888,629	92.00	\$ 11,152,308	75.00	\$ 8,693,700	89.00	\$ 10,596,240	92.00	\$ 11,406,008	100.00	\$ 13,453,000	93.00	\$ 13,031,106	108.00	\$ 15,166,291	106.00	\$ 15,284,905	113.00	\$ 17,682,605	96.00	\$ 15,966,925
Average salary of new hires	D		\$ 116,341		\$ 117,381		\$ 113,662		\$ 121,221		\$ 115,916		\$ 119,059		\$ 123,978		\$ 134,530		\$ 140,119		\$ 140,429		\$ 144,197		\$ 156,483		\$ 166,322
Net new hires: FTE and cost/(savings)	E	-2.00	(3,456,044)	14.00	(940,926)	22.00	(896,915)	66.07	6,462,847	51.50	4,441,571	64.17	6,068,409	62.73	5,767,695	69.35	7,386,670	69.63	7,839,549	73.38	8,021,655	42.00	818,988	66.65	7,431,755	60.13	7,062,725
Average PTR recovery per FTE	F=B-E		\$ 49,590		\$ 47,857		\$ 52,269		\$ 59,630		\$ 65,026		\$ 63,294		\$ 68,653		\$ 63,393		\$ 82,027		\$ 65,944		\$ 81,833		\$ 64,679		\$ 81,913
Total PTR recovery	G		\$ 3,223,361		\$ 2,584,257		\$ 3,397,488		\$ 1,546,207		\$ 1,528,103		\$ 1,571,599		\$ 2,009,467		\$ 1,942,986		\$ 1,916,966		\$ 2,282,997		\$ 5,237,295		\$ 2,997,852		\$ 2,938,225
Analysis of PTR cost																											
July 1st - PTR Awards	H		\$ 4,948,107		\$ 6,354,175		\$ 5,712,104		\$ 4,741,922		\$ 5,277,104		\$ 5,129,065		\$ 6,199,603		\$ 6,709,240		\$ 6,966,617		\$ 6,236,286		\$ 6,449,466		\$ 6,649,459		\$ 7,515,241
Salary base - tenure stream	I		\$301,299,281		\$295,426,570		\$309,344,180		\$322,666,819		\$329,905,470		\$348,374,385		\$361,072,018		\$373,970,396		\$434,241,315		\$431,669,038		\$428,232,784		\$439,450,758		\$449,263,227
Gross % cost of PTR	J=H/I		1.64%		2.15%		1.85%		1.47%		1.60%		1.47%		1.72%		1.79%		1.60%		1.44%		1.51%		1.51%		1.67%
Portion of PTR funded by recovery	K=G/H		65.14%		40.67%		59.48%		32.61%		28.96%		30.64%		32.41%		28.96%		27.52%		36.61%		81.21%		45.08%		39.10%
PTR recovery %	L=J*K		1.07%		0.87%		1.10%		0.48%		0.46%		0.45%		0.56%		0.52%		0.44%		0.53%		1.22%		0.68%		0.65%
Net cost of PTR %	M=J-L		0.57%		1.28%		0.75%		0.99%		1.14%		1.02%		1.16%		1.27%		1.16%		0.92%		0.28%		0.83%		1.02%

Notes: In 2011-12 retirements were affected by the Special Retirement program which included 38 FTEs tenured/tenure stream faculty with a salary base of \$6,337,357.

In 2012-13 retirements were affected by the Special Retirement program which included 28 FTEs tenured/tenure stream faculty with a salary base of \$4,550,763.
 In 2013-14 retirements were affected by the Special Retirement program which included 1 FTE tenured/tenure stream faculty with a salary base of \$131,490.

In 2021-22 retirements were affected by the Covid-19 Pandemic which was identified in March 2020.

Retirements are those that retired at the beginning of the academic year plus those who retired during the year. Those whose last day worked is the end of the academic year are counted in the next year. This stems from the original FIS methodology which went by the budget year

UNIVERSITY ADMINISTRATION'S RESPONSE TO UTFA'S PTR PROPOSAL

UTFA's PTR Proposal has significant Cost Implications

229. As noted above, the PTR process provides eligible faculty members and librarians with annual merit-based increases to their salaries. The cost of providing these annual salary increases to eligible faculty members and librarians is significant. The PTR awards provided to eligible faculty members and librarians effective July 1, 2023 for the 2022-2023 assessment period generated a cost of \$11,165 million, which accounts for approximately 1.787% of the salary base for faculty members and librarians.⁸⁸

230. If the University Administration became obligated to fund the July 1, 2023 PTR process using an amount equivalent to 2.5% of the salary base, it would generate an additional cost of approximately \$4.45 million, which equates to over 0.7% of the salary base. These costs would be incurred at a time when employee compensation costs already account for a significant and increasing percentage of the University's operating budget. UTFA's proposal should be rejected on this basis.

UTFA's Proposal is Antithetical to the Replication and Gradualism Principles

231. Since its inception, the structure of the PTR framework has been stable. The model used to fund the PTR framework is well-established. Over time, the parties have largely eschewed drastic changes to the PTR framework and how it is funded and administered. Even after the parties agreed to adopt the "reference point" PTR model as part of the 2014-2017 Article 6 Memorandum of Settlement, the parties have continued to negotiate and agree on the specific PTR model that has been applied to subsequent PTR processes. Arbitral intervention in matters concerning the design and funding of the PTR framework has been minimal.

⁸⁸ University Administration's Costing of UTFA's Proposals, *supra* Tab 14

232. UTFA has now proposed a material change to the PTR funding model. Rather than continuing the established process of funding each PTR fund based on the application of below-breakpoint and above-breakpoint increments to the number of full-time equivalent faculty members and librarians in the above-breakpoint and below-breakpoint PTR pools based on the prior year's ATB increase or an agreed-upon special contribution, UTFA seeks to inextricably connect the funding of the PTR process to a specific percentage of the overall salary base. This is a connection that the University Administration has consistently and steadfastly opposed, and one that has never been recognized in any Article 6 award between these parties.

233. If UTFA's proposal is awarded, the calculation of the increments in each of the three PTR funds will necessarily change. Instead of continuing to be connected with the number of FTEs in each PTR pool and instead of increasing by the prior year's ATB increase, if any, or another agreed-upon amount, the total amount allocated to all three PTR funds will always need to be equivalent to 2.5% of the total salary base for faculty members and librarians. It is unclear whether UTFA's proposal would require the University Administration to ascertain the amount that is equivalent to 2.5% of the salary base across the University and then calculate a uniform value for the increments in each of the PTR funds, or whether UTFA's proposal would require the University to calculate the amount equivalent to 2.5% of the salary base attributable to the faculty members or librarians in each of the three PTR funds individually and then determine the appropriate value of the increments within each PTR fund. In either instance, calculating the new increments under this proposed approach would be difficult and time consuming.

234. Another significant administrative component of the PTR process that is unaddressed in UTFA's proposal is the precise date on which the "2.5% of total wages" referenced in UTFA's proposal would be calculated for each annual PTR process. The amount of "2.5% of total wages" will necessarily change, depending on when this calculation is required to be made.

235. The lack of clarity in UTFA's proposal regarding these important administrative issues demonstrates that the implementation of UTFA's proposal involves far more than simply adding funds to the PTR process. Instead, UTFA's proposal would necessitate significant and unwarranted modifications to the overall structure and administration of the PTR process in the absence of any accompanying demonstrated need.

236. The history of how the parties have addressed these matters during prior Article 6 processes supports the University Administration's position on this issue. The only other time that UTFA has advanced a proposal of this nature to interest arbitration was before Chief Justice Winker as part of the Article 6 process covering the period July 1, 2005 to June 30, 2007. As part of this earlier proceeding, UTFA advanced the following proposal:

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

237. In response, the University Administration proposed a tailored increase to each of the PTR funds. It proposed to increase the PTR funds using 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.". Justice Winkler referenced the various and ongoing impacts that PTR awards have on total compensation as well as the replication principle in support of his rejection of UTFA's PTR proposal. He emphasized that:

With respect to the competing PTR proposals, in consideration of determination that this should be a two-year award, we conclude that the University's proposal to make a special allotment to the PTR pool more closely reflects the likely bargained result than does the Association's proposal to increase respective pools by 1% of salary. We extend it to apply in equal terms to the second year of the agreement. The PTR pool has historically been available to ensure that the meritorious achievement of faculty members is properly rewarded. In that respect, while PTR amounts have the dual effect of increasing the base pay of faculty members once awarded and a continuing impact thereafter in regard to faculty wide ATB increases, **the available pool has never been tied specifically to the total salary allocation. The Association proposal to increase the PTR pool by the amount suggested has ramifications**

that require consideration of the effect on the overall economics of the relationship.

In our view, the University proposal to "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 Librarian", coupled with an identical special allotment to be distributed on July 1, 2006 would have been an acceptable result for both parties in bargaining. As a point of further clarification, these amounts are special allocations for the years in which they are awarded and do not constitute ongoing obligations of the University beyond the term of this award.⁸⁹

[Emphasis added]

238. UTFFA's latest attempt to impose this new form of funding model on the PTR framework should again be rejected, and for the same reasons. This major change to the funding of the PTR framework is not one that the University Administration would have accepted in the course of unrestricted collective bargaining. The divergence of UTFFA's proposal from the comparatively modest and focused changes to the PTR framework that have historically been either agreed to or awarded over the past several decades is also at odds with the principle of gradualism and establishes a separate basis for its rejection.

⁸⁹ 2010 Winkler Award, *supra* at Tab 12 paras. 29-30.

PART V – BENEFITS MATTERS

FACULTY MEMBERS AND LIBRARIANS HAVE COMPREHENSIVE, COMPETITIVE BENEFITS

239. The benefits provided to faculty members and librarians are very competitive with the benefits provided to other employee groups within the University, and faculty members and librarians at comparator universities. Retired faculty members and librarians enjoy the same comprehensive health and dental plan as active faculty members and librarians, which is provided on the same cost sharing basis.

240. In addition, faculty members and librarians also receive an annual Health Care Spending Account which can be used by members to pay for additional expenses related to their health care and dental care that are not otherwise covered by OHIP or the benefit plans referenced above. Faculty members and librarians are also eligible for a generous Child Care Benefit Plan which is not common in the post-secondary education sector. Faculty members and librarians are also eligible for the University's Tuition Waiver Program, which allows them to enrol in certain University courses at a discounted rate, along with a Dependant Scholarship Program that applies to their dependents who are enrolled in full-time undergraduate studies in any recognized degree-granting post-secondary education in the world.

GREEN SHIELD EXTENDED HEALTH AND DENTAL COVERAGE

241. The benefits available under Green Shield's Health Benefit Plan, Travel Benefit Plan and Dental Benefit Plan are available to full-time and part-time faculty members and librarians with appointments of at least 25% FTE.⁹⁰ A summary of the benefits provided under these plans is set out in the table on the following page.

⁹⁰ A copy of the Green Shield Benefit Plan Booklet for Active Faculty Members and Librarians effective November 1, 2022 is attached at **Tab 46**.

Health and Dental Benefit Plan – Summary of Benefits		
Plan	Contributions and Costs	Benefits Include
Extended Health (Optional)	University Administration Pays 75% of premiums (pro-rated for eligible part-time faculty and librarians)	Most prescription drugs (no co-pay, dispensing fee coverage capped at \$6.50)
		Semi-private hospital accommodation
		Ambulance services
		Medical Items and Services including custom orthotics, blood glucose meters, insulin infusion pump supplies, continuous glucose monitors, and other items and services which are subject to specific maximum coverage levels
		Private duty nursing services
		Paramedical Services (including chiropractor, physiotherapist, RMT, osteopath, chiropodist, acupuncturist, dietician, occupational therapist) to a combined maximum of \$5,000.00 per benefit year
		Psychologist, Psychotherapist or MSW, Addiction counselling and marriage counselling provided by professionals that belong to certain recognized counselling associations to a combined maximum of \$7,000.00 per benefit year
		Prescription eyewear, laser eye surgery or the services of a licensed optometrist to a maximum of \$725 every 24 months
		Eye examinations to a maximum of \$110 every 24 months
		Hearing aids \$1,000 per ear to a maximum of \$2,000 every 36 months
		Travel coverage to a maximum of \$1 million for emergency services per covered person per calendar year and \$50,000 in referral services per covered person per calendar year. No limits on duration of travel as long as the covered person retains OHIP coverage.
Dental (Mandatory)	University Administration pays 80% of monthly premiums (and a pro-rated amount for eligible part-time staff)	Services reimbursed at the current Ontario Dental Association (“ODA”) Fee Guide for General Practitioners
		For independent Dental Hygienists, the lesser of the current Ontario Dental Hygienists Association Fee Guide or Ontario Dental Association Fee Guide for General Practitioners
		Recall examinations for adults every 9 months and every 6 months for dependent children under 18
		Basic diagnostic and preventative services, endodontic treatment, periodontic treatment, basic restorative services, basic and comprehensive oral surgery, standard denture services at 100%
		Major Services including crowns, bridges and dentures at 80% to a maximum of \$5,000 per covered person per benefit year
		Orthodontic Services paid at 75% to a maximum of \$5,000 per covered person per lifetime

242. These plans are funded under an Administrative Services Agreement with Green Shield. This means that the University Administration pays an administrative fee for Green Shield to adjudicate and manage claims submitted by members. The University Administration, through combined employer and employee premiums, assumes the financial liability for claims paid.

243. Despite having different benefit usage rates than active faculty members and librarians, retired faculty members and librarians in receipt of a pension under the University Pension Plan who retired after May 1981 have identical coverage, both in terms of the level of benefits and cost sharing arrangements, as active faculty members and librarians. The University Administration pays 75% or 80% of the premium for these benefits and the active faculty member, librarian or retiree pays the balance of the premium cost.

244. The benefit coverage provided to retirees is applicable anywhere in the world that the faculty member or librarian retires, with actual coverage varying slightly where the benefit is integrated with the coverage provided by provincial health coverage such as OHIP. It is extremely uncommon in the post-secondary education sector, the broader public sector, or the private sector, for an employer to provide identical health and dental benefits to retirees and active employees, particularly on the same cost sharing basis.

HEALTH CARE SPENDING ACCOUNT

245. Since July 1, 2017, faculty members and librarians have received an annual Health Care Spending Account ("HCSA"). The HCSA is not available to retired faculty members and librarians. At present, the HCSA provides each full-time faculty member and librarian with \$650.00 per year which can be used to pay for eligible health and dental expenses that are not covered by OHIP or the Green Shield benefit plan. Part-time faculty members with an appointment of 25% FTE or greater receive a pro-rated HCSA. Eligible expenses include those that qualify for medical expense credits under the Canada Revenue Agency's Income Tax Guidelines as well as the amount of the

deductible and the percentage not covered by the group benefit plan or the amount in excess of group benefit plan maximums.

246. Any balance remaining in an individual's HCSA at the end of the benefit year is carried forward to the subsequent benefit year and claims within that year are applied to the combined amount of the individual's unused balance and the \$650.00 annual amount. At the end of that subsequent benefit year, any balance that the individual carried forward from the earlier benefit year is forfeited.

LONG TERM DISABILITY BENEFITS

247. For faculty members and librarians who exhaust their 15-week entitlement to paid sick leave and require ongoing income replacement benefits to cover their continued absence from work, the University provides a long-term disability insurance plan. The benefits under this plan are paid by the University but administered through a third-party administrator. The maximum earnings limit under the University's long-term disability plan is \$150,000.

CHILD CARE BENEFIT PLAN

248. Faculty members and librarians may also submit child care expenses for reimbursement through the University's Child Care Benefit Plan.⁹¹ This plan applies to eligible child care expenses that faculty members and librarians incur in respect of each eligible child that is under age 7, which are not otherwise covered by another subsidy that applies to child care expenses. This age limit does not apply to eligible children who have mental and/or physical disabilities and who remain dependent on the faculty members for care as set out in the *Income Tax Act*.

⁹¹ The benefits available to faculty members and librarians under the Child Care Benefit Plan are summarized in an article that is made available to faculty members and librarians on the University's HR Service Centre. A copy is at **Tab 47**. The "FAQ" document and the application instructions referenced in this article are included in this Tab.

249. A wide variety of child care expenses are eligible for reimbursement under the Child Care Benefit Plan. Payments made to eligible in-home and out-of-home caregivers, daycare centres, before-school and after-school childcare providers, day camps and overnight camps fit within this plan's ambit. Eligible child care expenses are reimbursed at the rate of 50% of the expense, up to the maximums of \$20.00 per day of full-day child care and \$10.00 per day of half-day child care for each eligible child. These reimbursement amounts are subject to an annual maximum reimbursement of \$2,000.00 per calendar year. This maximum is pro-rated for part-time faculty members and librarians, as well as for individuals who work less than the entire calendar year.

250. The Child Care Benefit Plan is subject to a total maximum amount of \$1 million. If the amount of the total eligible claims submitted exceeds this \$1 million, the claims are pro-rated. If the amount of the total eligible claims falls below \$1 million, the claims are proportionately increased, so that the entire amount of \$1 million is used to reimburse eligible claims.

TUITION WAIVER PROGRAM AND DEPENDANT SCHOLARSHIP PROGRAM

251. Full-time faculty members and librarians and part-time faculty members and librarians with appointments of 25% FTE or higher who work 20 hours or more per week on a regular and continuing basis and who have been employed at the University for at least three continuous years are eligible for the University's tuition waiver benefit. Tuition fees are waived for eligible faculty members who enroll in part-time University degree courses up to and including Ph.D. courses, diploma or certificate programs offered through Woodsworth College and courses offered by the School of Continuing Studies.

252. This tuition waiver benefit covers faculty and librarians who enroll in a part-time or flex-time Ph.D. program at the University. However, for graduate-level programs, the amount of the waiver is limited to the part-time program fee per academic year, or the course fee, whichever is less.

253. Faculty members and librarians who have eligible dependants enrolled in undergraduate-level courses at the University or other eligible post-secondary educational institutions are eligible for the University's Dependant Scholarship Program. It allows eligible dependants of faculty members and librarians to have part of their dependants' tuition fees paid by the University if they are taking a full-time course load at a recognized degree-granting post-secondary educational institution.

254. For faculty members and librarians with an appointment of 76% FTE or greater, the Dependant Scholarship Program covers an amount equal to 65% of the amount of the academic fees for five full courses in a general program in the Faculty of Arts and Science at the University. Faculty members with an appointment of between 25% and 75% FTE are eligible for a pro-rated amount of this benefit.

THE MOST RECENTLY COMPLETED ARTICLE 6 PROCESS INCLUDED SIGNIFICANT INCREASES TO NUMEROUS BENEFIT ENTITLEMENTS

255. In addition to the 10% ATB increases that were agreed to or awarded in the last Article 6 process, the University Administration and UTFA also agreed on very significant improvements to benefits during the course of negotiations and immediately before the 2023 interest arbitration. These agreed-to benefit increases arose in the unique circumstances under which the prior Article 6 process occurred, namely the impact of Bill 124 on increases to non-salary compensation.

256. While in force, Bill 124 limited salary rate increases during the three-year moderation to one percent per year.⁹² It also required that the broader scope of annual "increases to existing compensation entitlements or for new compensation entitlements", including any increases to salary rates be limited to one percent of the value of this broader array of compensation entitlements, including any salary rate increases.⁹³

⁹² *Protecting a Sustainable Public Sector for Future Generations Act, 2019* S.O. 2019, c. 12, s. 10(1).

Tab 48

⁹³ *Ibid.*, at ss. 11(1) and (2).

257. For large employers like the University who were subject to this legislation, where the total value of the compensation envelop provided to an affected employee group was especially high, as was the case for its faculty members and librarians, Bill 124 allowed for benefit increases to be negotiated and agreed to that were disproportionately higher than the benefit increases that might otherwise have been negotiated during the course of a regular Article 6 process.

258. The most recently completed Article 6 process covered the entire three-year moderation period set by Bill 124: July 1, 2020 to June 30, 2023. During this three-year moderation period, the University Administration and UTFA negotiated and agreed to benefit increases that were memorialized in two separate agreements. In the January 25, 2022 MOS, the University Administration and UTFA agreed to increase the amount in the Health Care Spending Account of each faculty member and librarian as follows:

(a) July 1, 2020 – The annual Health Care Spending Account of each full-time faculty member and librarian was increased from \$650.00 to \$830.00, with a pro-rated increase provided to part-time faculty members and librarians.

(b) July 1, 2021 – The annual Health Care Spending Account of each full-time faculty member and librarian was returned to the amount of \$650.00 per faculty member and librarian before being increased to \$700.00, with a pro-rated increase provided to part-time faculty members and librarians;

(c) July 1, 2022 – the annual Health Care Spending Account of each full-time faculty member and librarian was returned to the amount of \$650.00, with a pro-rated amount provided to part-time faculty members and librarians.

259. In order to exhaust the full amount of the residual amount available to be spent on non-salary compensation increases under Bill 124, the University Administration and UTFA also agreed to the following additional benefit improvements.⁹⁴

Benefit Improvements under the 2020-2023 Agreement		
Benefit	Improvement	Date
Psychologist, Psychotherapist, Master of Social Work	Add marriage and family therapists and addiction counsellors	January 25, 2022
	Increase annual maximum from \$3,000 to \$7,000	January 25, 2022 October 13, 2022
Vision Care	Add laser eye surgery from vision correction	January 25, 2022
	Increase annual maximum from \$450.00 to \$725.00 every 24 months	January 25, 2022 October 13, 2022
Major Restorative Dental	Increase annual maximum from \$2,800 to \$5,000	January 25, 2022
Orthodontics Coverage	Increase coverage to 75% with lifetime coverage increased to \$5,000	January 25, 2022
Paramedical Services	Increase annual maximum from \$1,250 to \$5,000	January 25, 2022 October 13, 2022
Dependant Scholarship Program	Increase coverage from 50% to 65% of amount of academic fees for 5 courses at general arts and sciences program	October 13, 2022

260. The extensive benefit improvements that were agreed to during the last Article 6 process militate against the awarding of any additional benefit improvements as part of this proceeding. The benefits that are currently provided to faculty members and librarians already compare very favourably to the relevant internal and external comparators. UTFA has made numerous proposals that, if awarded, would result in additional expensive increases to existing benefit entitlements. UTFA's benefit proposals are unsupported by the principles of replication, total compensation, comparability and demonstrated need. They should not be awarded.

⁹⁴ These benefits improvements were included in the January 25, 2022 MOA and the October 13 2022 Memorandum of Settlement between the Governing Council of the University of Toronto and UTFA. **Tab 49.**

UTFA'S PROPOSAL TO PROVIDE BENEFIT IMPROVEMENTS TO RETIREES

Parity with improvements to active member plan.

UNIVERSITY ADMINISTRATION'S RESPONSE

261. Without prejudice to its position in any other matter, including in any subsequent Article 6 process, and without prejudice to its position that there is no basis to award any benefit improvements as part of this proceeding, the University Administration does not object to continuing the practice of extending improvements to the current extended health and dental plans awarded to active faculty members and librarians to retirees. In taking this position, the cost of this continued practice must be considered, as required by Article 6(19) of the MOA, which requires that the full cost of any change or modification of any benefit must be taken into account.

262. The importance of considering the costs associated with the continuation of this practice begins with an understanding of how these costs must be accounted for. The University's Condensed Financial Report for April 30, 2001 sets out an important accounting change that was applied to the University's treatment of future benefit obligations, including the benefits that are paid to retirees.

The University provides employee future benefits other than pension, such as long-term disability coverage and medical benefits to pensioners. During the year, the University was required to change its method of accounting for its employee future benefits other than pension from the cash basis to recording the cost over the periods in which employees render the service. This change will be recorded prospectively and will be amortized over the estimated average remaining service life of the employees. The University has recorded a liability of **\$41.3 million** which includes **\$20.3 million** relating to medical benefits, **\$17.1 million** relating to long-term disability obligations, and **\$3.9 [million]** relating to other benefits.⁹⁵

[Emphases added]

⁹⁵ Governing Council of the University of Toronto, Condensed Financial Report – April 30, 2001 at 4.
Tab 50

263. A subsequent explanation of this accounting change is found in the University's Financial Report of April 30, 2009. In addressing the University's salary and benefits expenses, "future benefits" were given the following description:

Employee future benefits represent benefits to employees in the future based on service in the current year. They include pensions, long-term disability insurance, cost of living adjustments for survivor income, and medical benefits for pensioners. These benefits are accounted for on an accrual basis of accounting and therefore reflect the cost of providing these benefits irrespective of the amount of funding provided in support of these benefits. Since 2000, the cost of providing these benefits has increased by **\$195.8 million**, mainly as a result of an increasing number of staff, as well as improved retiree pension benefits, and due to changes in accounting rules which are explained further below.

...

Beginning in 2001, accounting rules required that expenses and liabilities for employee future benefits be reported on an accrual basis instead of on a pay as you go (funding) basis. Liabilities were also required by GAAP to be valued using current long-term bond rates instead of using long-term asset return assumptions for funding purposes. This requirement gave rise to both current and past service liabilities which are being added to the liabilities recorded on the financial statements over 14 years. The addition over time of unfunded employee future benefits liabilities is increasing the liabilities section of the balance sheet without a corresponding increase in assets. It is therefore also reducing the next assets section of the balance sheet and constraining our ability to grow and our capacity to borrow.⁹⁶

[Emphasis added]

264. As noted above, the large and increasing unfunded liability connected to the future cost of retiree benefits must be addressed as part of the total compensation analysis. These obligations were calculated to be \$699 million as at April 30, 2024, with an accumulated deficit of \$564 million, the majority of which are attributable to future benefit costs related to faculty members and librarians, as they are the only employee group at the University which has maintained the aforementioned level of benefit parity with their actively-employed counterparts.

⁹⁶ Governing Council of the University of Toronto, Financial Report – April 30, 2009 at 13. **Tab 51**

UTFA PROPOSAL TO INCREASE THE SCOPE AND COSTS OF THE PROFESSIONAL EXPENSE REIMBURSEMENT ALLOWANCE (“PERA”)

Each faculty member (excluding clinicians, adjunct faculty, visiting faculty, status only appointments) and librarian, whose FTE is ~~25%~~ **20%** or greater, will be entitled to claim reimbursement for University business expenses included on a mutually agreed upon list of eligible expenses related to their position with the University of Toronto.

Eligible employees are defined as follows:

- Faculty (Professoriate, Lecturers and Senior Lecturers, ~~Tutors and Senior Tutors~~, Athletics Instructors and Senior Athletics Instructors)
- Librarians

Faculty members and Librarians on LTD and Unpaid leave (except parental and pregnancy leave) are not eligible for PERA.

Eligible Expenses

Listed below are eligible expenditures, which may be summarized as anything which constitutes legitimate University business and which is currently eligible for reimbursement under our current reimbursement program.

The Guide to Financial Management, Travel and Other Reimbursable Expenses section, defines **outlines** expenses eligible for reimbursement, indicating that “The University of Toronto will reimburse out-of-pocket, university business travel and related expenses that are legitimate, reasonable and appropriate for the business activity undertaken, and that meet the terms and conditions imposed by the funding source used to pay for them.”

The funds provided under the faculty **member** and librarian expense reimbursement program may be used to pay for any expenses eligible for reimbursement in the Guide to Financial Management such as:

- membership fees for professional and/or learned societies related to the faculty member’s or librarian’s discipline;
- subscription to professional and/or learned journals;
- books, materials, equipment and services directly related to research;
- registration fees for attendance at scholarly conferences;
- travel including transportation, food, and accommodation (subject to the University’s travel policy) for attendance at scholarly conferences, seminars, workshops, field trips, and research;
- computer hardware and software and supplies used in performance of academic duties;
- expenses incurred in preparation and completion of scholarly manuscripts, and page or reprint charges;
- office supplies relating to the performance of teaching and research duties; **and,**
- **tuition fees; and**
- fees incurred for professional development.

Annual Amounts Provided

- **The administrative guidelines for implementing PERA shall not be altered in any way that negatively impacts the level of benefits and/or services available to members, as negotiated between the University of Toronto Administration and UTFA.**
- **Parity of PERA amounts for full-time faculty members and part-time faculty members (>=50%). For clarity, parity does not allow for pro-rated amounts for part-time members.**
- **Parity of PERA amounts for full-time librarians and part-time librarians. For clarity, parity does not allow for pro-rated amounts for part-time members.**
- **Increase PERA amounts on an annual basis by the rate of inflation.**

Pre-tenure faculty, pre-promotion teaching stream, full-time continuing pre-permanent status librarians

- Full-Time - ~~\$2,000~~ **\$2,530**
- Part-time (>=50%) - ~~\$1,600~~ **\$2,530**
- Part-time (25% ~~25%~~ **20%** to 49%) - ~~\$1,000~~ **\$1,265**

Tenured faculty, continuing teaching stream, all other librarians, contract-limited term assignment (CLTAs), limited-term lecturers

- Full-Time - ~~\$1,700~~ **\$2,151**
- Part-time (>=50%) - ~~\$1,360~~ **\$2,151**
- Part-time (25% ~~25%~~ **20%** to 49%) - ~~\$850~~ **\$1,075**

UNIVERSITY ADMINISTRATION'S RESPONSE

Each faculty member (excluding clinicians, adjunct faculty, visiting faculty, status only appointments) and librarian, whose FTE is ~~25%~~ **20%** or greater, will be entitled to claim reimbursement for University business expenses included on a mutually agreed upon list of eligible expenses related to their position with the University of Toronto.

Eligible employees are defined as follows:

- Faculty (Professoriate, Lecturers and Senior Lecturers, ~~Tutors and Senior Tutors~~, Athletics Instructors and Senior Athletics Instructors)
- Librarians

Faculty members and Librarians on LTD and Unpaid leave (except parental and pregnancy leave) are not eligible for PERA.

Eligible Expenses

Listed below are eligible expenditures, which may be summarized as anything which constitutes legitimate University business and which is currently eligible for reimbursement under our current reimbursement program.

The Guide to Financial Management, Travel and Other Reimbursable Expenses section, defines expenses eligible for reimbursement, indicating that "The University of Toronto will reimburse out-of-pocket, university business travel and related expenses that are legitimate, reasonable and appropriate for the business activity undertaken, and that meet the terms and conditions imposed by the funding source used to pay for them."

The funds provided under the faculty **member** and librarian expense reimbursement program may be used to pay for any expenses eligible for reimbursement in the Guide to Financial Management such as:

- membership fees for professional and/or learned societies related to the faculty member's or librarian's discipline;
- subscription to professional and/or learned journals;
- books, materials, equipment and services directly related to research;
- registration fees for attendance at scholarly conferences;
- travel including transportation, food, and accommodation (subject to the University's travel policy) for attendance at scholarly conferences, seminars, workshops, field trips, and research;
- computer hardware and software and supplies used in performance of academic duties;
- expenses incurred in preparation and completion of scholarly manuscripts, and page or reprint charges;
- office supplies relating to the performance of teaching and research duties; and,
- fees incurred for professional development.

Pre-tenure faculty, pre-promotion teaching stream, full-time continuing pre-permanent status librarians

- **Full-Time** - \$2,000
- **Part-time** (>=50%) - \$1,600
- **Part-time** (25% **20%** to 49%) - \$1,000

Tenured faculty, continuing teaching stream, all other librarians, contract-limited term assignment (CLTAs), limited-term lecturers

- **Full-Time** - \$1,700
- **Part-time** (>=50%) - \$1,360
- **Part-time** (25% **20%** to 49%) - \$850

Preliminary Jurisdictional Issue – Late-Filed Proposal to Amend the Treatment of the *Guide to Financial Management, Travel and Other Reimbursable Expenses*

265. UTFA has proposed several modifications to an information article regarding PERA (the “PERA HR Article”) that appears on the University’s online HR Service Centre.⁹⁷ In its February 24, 2026 Final Proposals, UTFA included an additional change to its proposal that was not included in its mediation brief. UTFA now seeks to amend the PERA HR Article’s reference to the University’s *Guide to Financial Management, Travel and Other Reimbursable Expenses* as follows:

The *Guide to Financial Management, Travel and Other Reimbursable Expenses* section, defines **outlines** expenses eligible for reimbursement, indicating that the “The University of Toronto will reimburse out-of-pocket, university business travel and related expenses that are legitimate, reasonable and appropriate for the business activity undertaken, and that meet the terms and conditions imposed by the funding source used to pay for them.

⁹⁷ HR Service Centre Article – *Professional Expense Reimbursement Allowance (PERA) for Faculty & Librarians*, **Tab 52**

266. UTFA's proposed change to how the PERA HR Article addresses the *Guide to Financial Management, Travel and Other Reimbursable Expenses* is not a salary, benefits or workload matter that is subject to Article 6 of the MOA. Rather, this aspect of UTFA's proposal involves only a proposed change to a separate document available through the University's HR Service Centre that describes how the University administers PERA. Proposed amendments to the text of a informational article that the University uses to provide information on PERA cannot be the subject of negotiation, mediation or interest arbitration under Article 6 of the MOA.

267. In the alternative, if this component of UTFA's proposal fits within the jurisdictional scope of Article 6 of the MOS, which is not admitted and expressly denied, its status as a late-filed proposal is sufficient reason for it not to be awarded. UTFA did not advance this proposal during bi-lateral negotiations or at mediation. The University Administration has no knowledge of the rationale for this proposed change. Proposed changes of this nature should not be proposed for the first time at interest arbitration.

268. If this proposal is not dismissed because it is a late-filed proposal, it should be dismissed because it proposes a change that is not accurate. It is clear that the *Guide to Financial Management, Travel and Other Reimbursable Expenses*, as referenced in the PERA Article is definitional in nature. This section of the University's *Guide to Financial Management*⁹⁸ includes polices and guidelines. The Policy for Travel and Other Reimbursable Expenses begins with the following language:

Objective

The objective is to define and allow for reimbursement of reasonable costs incurred by University of Toronto travellers for university business travel and other reimbursable expenses on a fair basis, providing the greatest possible flexibility. This policy is designed to rely on the goodwill and discretion of the employee and supervisor, while at the same time allowing the University to meet its stewardship obligations as a public institution.

[Emphasis added]

⁹⁸ University's *Guide to Financial Management, Travel and Other Reimbursable Expenses*, **Tab 53**

269. The Key Principles included in this policy build on the stated objective of defining when expenses will be reimbursed. It includes the same language that is found in the PERA policy on which UTFA's proposal is based, namely:

The University of Toronto will reimburse out-of-pocket, university business travel and related expenses that are legitimate, reasonable and appropriate for the business activity undertaken, and that meet the terms and conditions imposed by the funding source used to pay for them....

270. The policy included in the *Guide to Financial Management, Travel and Other Reimbursable Expenses* clearly states that only expenses that are "legitimate, reasonable and appropriate for the business activity undertaken, and that meet the terms and conditions of the funding source used to pay for them" are eligible for reimbursement. This is not an "outline". It is an express list of defined requirements that must be met, failing which, expenses will not be reimbursed.

271. The guidelines included in the *Guide to Financial Management, Travel and Other Reimbursable Expenses* are designed to help claimants and administrators determine whether or not certain expenses meet the definitional requirements referred to above. These guidelines do not derogate from the fact that the aforementioned policy does "define expenses eligible for reimbursement" and does not merely "outline" which expenses might or might not be reimbursed.

A Contextual Understanding of PERA

272. PERA enables faculty members and librarians to claim reimbursement for professional memberships, books, journal subscriptions, materials, equipment, conference fees, travel, computer hardware and software and other expenses related to the performance of their duties at the University.

273. PERA was first introduced at the University in 1999. At that time, the annual PERA was \$250 per year. The amount of the PERA has since increased, but these increases have never been connected to CPI increases.. Full-time faculty members and librarians currently receive \$1,700 in PERA each year (which increases to \$2,000 during the probationary period). Part-time faculty members and librarians who have an

appointment greater than 50% FTE receive 80% of the PERA provided to full-time faculty members and librarians, which is \$1,360 per year (\$1,600 during the pre-promotion period). Part-time faculty members with an appointment greater than 20% FTE but less than 50% FTE receive 50% of the annual full-time PERA, which is \$850 (or \$1,000 during the pre-promotion period).

274. If a faculty member or a librarian does not spend their PERA in a given year, the balance can accumulate indefinitely. It is not subject to a fixed cap. This level of flexibility is not in place at most other U-15 Universities, many of which limit the allowance that can be accumulated or stipulate that it must be spent within a set timeline, or forfeited.

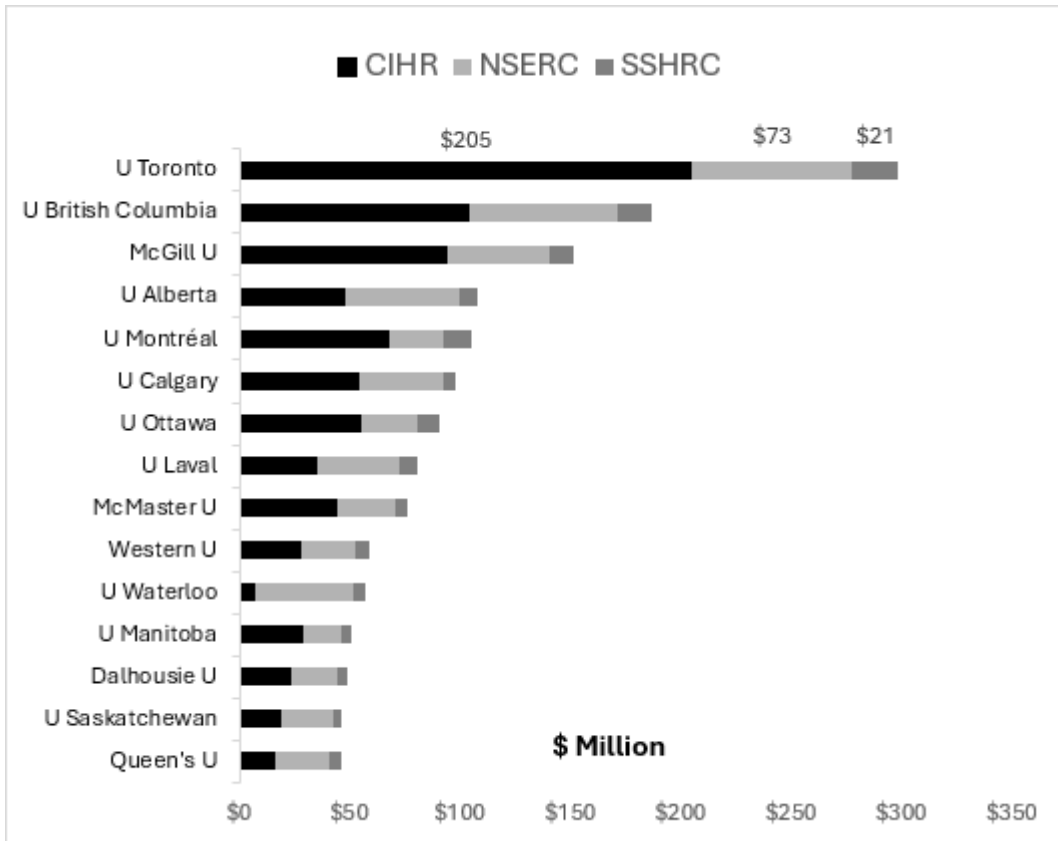
Restrictions on Accumulation of PERA Funds	
U-15 University	Details of Restrictions
Dalhousie University	Individuals must apply for reimbursement of eligible expenses on an annual basis. No carry-forward of unused reimbursement entitlements.
Western University	Funds that are unspent at the end of the year must be spent in the subsequent year, and no later.
McGill University	Funds that are unspent at the end of the fiscal year are available only for two additional years. Cumulative maximum of \$1,500 per individual.
University of Ottawa	Funds must be spent within three years of deposit into an individuals PER account
Queen's University	Reimbursement entitlements can be carried forward for three years.
University of Waterloo	Funds that are unspent at the end of the academic year may be carried over for up to three years. Reimbursement requests must be submitted in the same year as the expenses were incurred.
University of Manitoba	Funds that are unspent at the end of the academic year may be carried over for the next two academic years, if the unspent portion is more than \$100.00
McMaster University	Funds that are unspent at the end of the fiscal year are available only for two additional years
University of British Columbia	Unspent funds can accrue for a maximum of 5 years
University of Calgary	Unspent funds may be carried forward for two years. Any additional extension must be approved by the Vice-President, Finance and Services

Université de Montreal	An individual's allowance may not exceed \$9,000
Université Laval	An individual's allowance may not exceed \$15,000
University of Saskatchewan	An individual's allowance may not exceed 6 times the annual allowance amount.
University of Alberta	No restrictions, except short-term contractually limited teaching staff cannot carry forward unused funds

275. The amount of PERA available to faculty members and librarians cannot be examined in isolation. It must be considered alongside the many other external and internal sources of research funding that remain available to them. A professional expense reimbursement allowance is more beneficial at universities that are less research-intensive than the University, where it may be the primary or exclusive means by which a faculty member's research is supported. At the University, a wide range of resources are available to support research, scholarly activity, pedagogical/professional development and teaching activity. This includes obtaining funding from external sources. The three main federal granting councils, the Social Sciences and Humanities Research Council ("SSHRC"), the Natural Sciences and Engineering Research Council ("NSERC") and the Canadian Institutes for Health Research ("CIHR") – are collectively known as the Tri-Agencies. They collectively represent the largest external source of research funding in Canada.

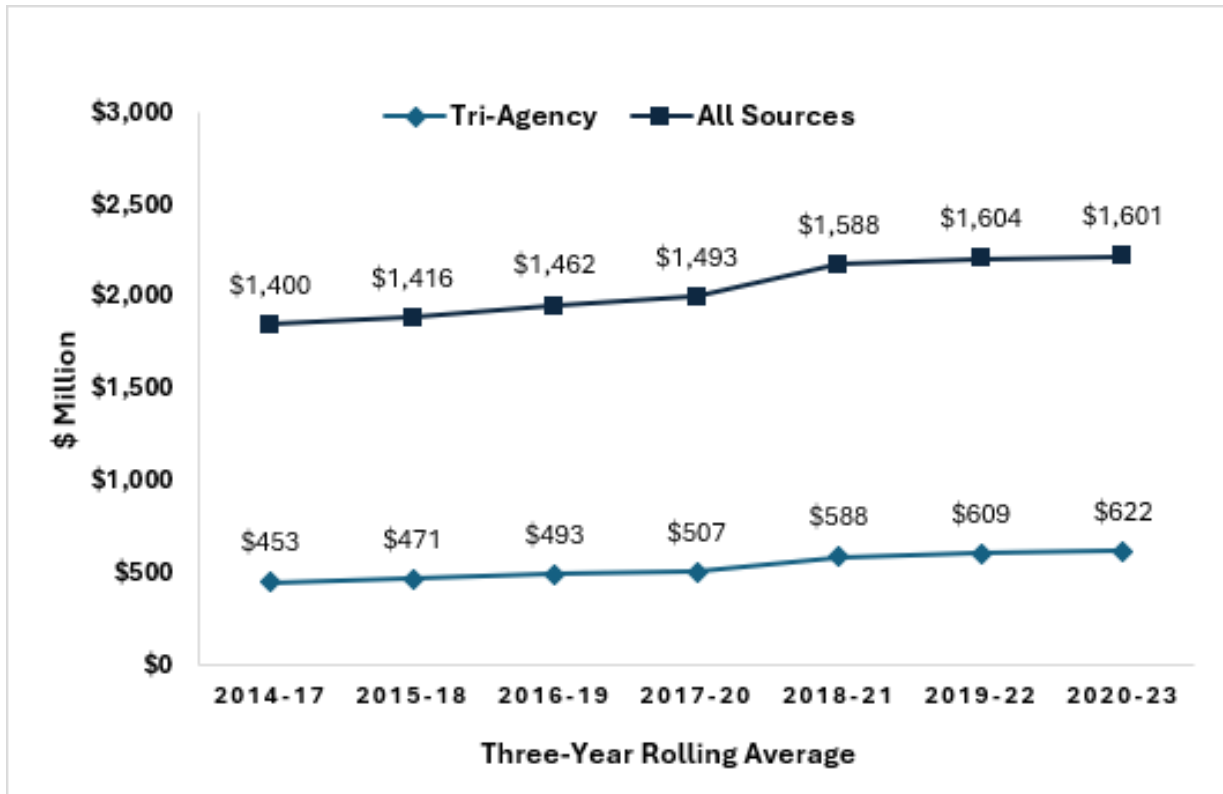
276. As the charts below demonstrate, the University leads all universities in annual Tri-Agency funding.

Tri-Agency Funding to U15 Universities 2022-23



Notes: Data sources – TIPS Control Sheet_RSIF_IPG_and_Research Security_2024-2025 report for most recent 2022-23 data, based on government fiscal year, April to March. Funding is RSF-eligible grants only, including NCE grants. Partner hospitals and affiliates data are counted with each university. Fundings from this list are excluded <https://www.rsif-fsr.gc.ca/apply-demande/calculations-eng.aspx>

Inflation Adjusted Research Funds Awarded (UofT and Partner Hospitals) Three-Year Rolling Average 2014-17 to 2020-23



Notes: Data sources – UofT VPRI Funds Awarded Dashboards. Tri-Agency includes the Canada Research Chairs (CIHR, NSERC and SSHRC), the Canada Excellence Research Chairs, the Research Support Fund and the Canada First Research Excellence Fund programs. All sources include the Federal Granting Agencies (Tri-Agency funding), Other Federal, Government of Ontario, Other Governments, Corporations, International, Not-for-Profit, and Inter-Institutional Collaborations.

Source: University of Toronto, Office of the Vice-President, Research and Innovation

277. In addition to continuing to lead all universities in the amount of Tri-Agencies funding received, the University also receives the greatest amount of funding from the Canada Foundation for Innovation, which is Canada’s primary source of research infrastructure funding and is matched equally by the province through the Ontario Research Fund’s Research Infrastructure program and holds the most Canada Research Chairs of any university.

278. The University also supports faculty members through a number of its own internal funding programs. For example:

(a) New Tenure Stream faculty members are eligible to apply for the Connaught Fund's New Researcher Award to assist them in establishing competitive research programs. Approximately \$1.5 million is allocated annually for these awards. An individual faculty member can receive up to \$30,000 per award.

(b) Faculty members can also apply to a range of other Connaught Fund programs including the Community Partnership Research Program and the Innovation Award, both of which can provide funding at a level up to \$100,000 per award.

(c) Faculty members applying to large, complex Tri-agency and CRC-eligible funding programs with multi-investigator, multi-departmental, and/or multi-institutional projects can apply to the Major Research Project Management ("MRPM") Fund. The MRPM program supports both pre-award proposal development costs (up to \$10,000) and post-award administration costs, such as funding for a project manager (up to \$50,000). This central MRPM funding is to be matched on a 1:1 ratio by the applicant's division(s).

(d) The Provost's office provides a \$10,000 annual research allowance to faculty members who occupy a Canada Research Chair. Approximately 160 members of the University's faculty are in receipt of this annual allowance.

(e) It has become common practice for deans and department chairs to provide start-up funding packages to newly hired faculty members.

(f) Certain divisions provide bridging funds for faculty members who are unsuccessful in key funding competitions, to allow them to continue their research projects and become more competitive in their next

competition. For example, the Faculty of Arts & Science awards bridge funds to unsuccessful applicants for SSHRC (Insight and Development), NSERC (Discovery, Horizons, Research Tools & Instruments), or CIHR Project grants. The Temerty Faculty of Medicine offers its Pathway Grant: a similar bridge funding program for unsuccessful CIHR Project Grant applicants.

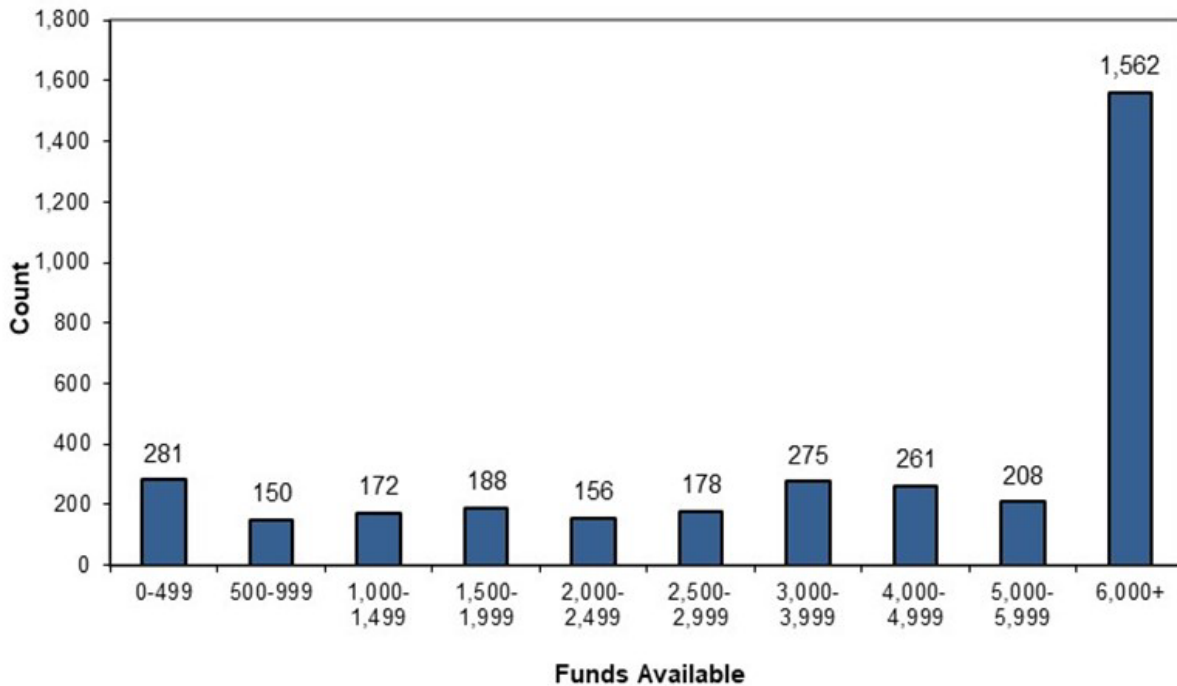
(g) Faculty members and librarians can apply also to the Division of People Strategy, Equity & Culture to have a portion of their salary converted into a research grant from which they can deduct certain professional and research expenses.

279. Not all faculty members and librarians make use of all the PERA funds that they receive annually. As of April 2024, approximately \$24.1 million has accumulated, unused in PERA accounts. This is not a new development. It is an established trend. Approximately 30% of the total amount that has been granted under the PERA program since its inception in 1999 remains unspent.

280. Focusing on the present state of PERA accounts, the table and bar graph below show that more than 87% of faculty members and librarians eligible for a PERA have accounts with balances that are greater than \$1,000.00. Almost 77% of this same group of faculty members and librarians have PERA accounts with balances that exceed \$2,000.00. Approximately two thirds of the faculty members and librarians who are eligible for PERA allowances have accounts that have balances of \$3,000.00 or more. A total of 1,562 of the 3,431 faculty members and librarians with PERA accounts have accumulated a balance that is at or above \$6,000.

Count of Current Faculty Members and Librarians with PERA Available: April 2024

Budget Available	Count	%	Cumulative %
0-499	281	8.2%	100.0%
500-999	150	4.4%	91.8%
1,000-1,499	172	5.0%	87.4%
1,500-1,999	188	5.5%	82.4%
2,000-2,499	156	4.5%	76.9%
2,500-2,999	178	5.2%	72.4%
3,000-3,999	275	8.0%	67.2%
4,000-4,999	261	7.6%	59.2%
5,000-5,999	208	6.1%	51.6%
6,000+	1,562	45.5%	45.5%
Total	3,431		



281. Because faculty members and librarians can access numerous external and internal sources of research funding sources outside of their PERA accounts, and because a large percentage of faculty members and librarians currently carry PERA accounts with significant balances, any proposal seeking to expand the scope or increase the costs associated with PERA, as UTFa now requests should be rejected.

Faculty Members whose FTE is 20% or Higher are entitled to PERA

282. The first substantive component of UTFA's PERA proposal is that any faculty member or librarian who holds an appointment of at least 20% of a full-time equivalent should be entitled to a PERA. The University Administration has already confirmed that faculty members with at least a 20% FTE appointment will receive PERA. This information was communicated to UTFA in a letter from Professor Kelly Hannah-Moffat, Vice-President People Strategy, Equity and Culture, dated January 4, 2024.⁹⁹ This letter confirmed the University Administration's position that:

The University will update the PERA entitlement for part-time faculty members to allow eligibility for those appointed from 20% to 24% FTE back to January 1, 2021. We will make this change no later than February 1, 2024.

283. Consistent with the information set out in this letter, part-time faculty members with at least a 20% FTE appointment are now eligible for and in receipt of PERA. There are not currently any librarians who hold a 20% FTE appointment, but this same eligibility threshold would apply to librarians who hold such an appointment.

The Monetary consequences of UTFA's proposed PERA increases are Significant

284. UTFA's proposal, if awarded, would result in significant increases to the costs associated with PERA in three distinct ways. First, UTFA's proposals would result in 26.5% increases to the PERA entitlements provided to full-time faculty members and librarians and part-time faculty members and librarians holding appointments of between 20% and 49% FTE. An increase of this magnitude cannot be objectively described as a normative or incremental increase.

285. To the extent that UTFA may reference the professional expense reimbursement allowances or programs that other universities provide to faculty members and librarians, the University Administration submits that the principle of total compensation militates against any isolated comparison between these programs that is conducted

⁹⁹ January 4, 2024 letter from Kelly Hannah-Moffat to Terezia Zorić. **Tab 54.**

separately from the assessment of the salaries, benefits and other entitlements that the University's faculty members and librarians receive.

286. Second, UTFA has also requested a full equalization between the PERA entitlements provided to full-time faculty members and librarians and those which are provided to part-time faculty members and librarians with appointments at or above 50% FTE. At present, these part-time faculty members do not receive PERA entitlements that are pro-rated to their FTE appointment percentage. Instead, any part-time faculty member or librarian with an appointment at or above 50% FTE is automatically provided with PERA entitlements that are equal to 80% of the PERA entitlement provided to the full-time faculty members and librarians. This relatively small difference in the PERA entitlements provided to these different employee groups is supported by the fact that they have different levels of responsibility to the University. UTFA's proposal disregards this reality and would result in the PERA entitlements of this group of faculty members increasing by over 58%. Such an outcome is unsupported by the gradualism principle.

287. From a replication perspective, part-time faculty members, including those with appointments that are less than 50% FTE, comprise approximately 14% of the University's total complement of faculty members. Part-time librarians account for less than 1% of the University's librarians. In this context, UTFA's pursuit of full equalization of the PERA entitlements provided to full-time faculty members and librarians for this small group of individuals would not support the commencement or continuation of a strike in which all full-time faculty members and librarians would participate.

288. Based on the costings prepared by the University Administration¹⁰⁰, UTFA's PERA proposal, if awarded, would result in additional non-salary costs of \$1.8 million for the period July 1, 2023 to June 30, 2024 and an additional \$365,000 in the period July 1, 2024 to June 30, 2025. These costs would increase in each subsequent year, because of the third financial component of UTFA's proposal: the requirement that PERA entitlements would increase annually alongside the rate of inflation.

¹⁰⁰ University Administration's Costing of UTFA's Proposals, *supra* Tab 14

289. As part of the Article 6 negotiation, mediation and dispute resolution process, the University Administration and UTFA have never connected the PERA entitlement to increases in inflation. This monetary benefit has instead been treated as one of the many monetary entitlements provided to faculty members and librarians, which remains subject to the total compensation principle. On occasion, increases to PERA entitlements have been agreed to or awarded. On other occasions, no such improvements have been made. The parties have approached this issue in the same way as all other monetary issues that are subject to this process. It would be a radical change for these parties to now have this specific monetary benefit automatically tied to annual increases in inflation.

290. Interest arbitrators appointed under Article 6 have declined to award language that would automatically require a monetary benefit to increase in perpetuity. In his Article 6 award, Justice Winkler addressed a request by UTFA for pension augmentation. He was required to determine the unresolved matters relating to salary, benefits and pensions for the period July 1, 2005 to June 30, 2007. UTFA requested that all retirees receive an augmentation to their pensions in an amount equal to 100% inflation as of July 1, 2005. Justice Winkler granted UTFA's proposal, but declined to embed UTFA's proposal into the pension plan on a go-forward basis. He wrote that:

Although we are awarding the Association's proposal on the pension augmentation issue, I do not accept the Association's position that augmentation to 100% should become the norm in the sense that it is enshrined in the plan in perpetuity. **It has traditionally been a matter of bargaining and so it should remain.**¹⁰¹

[Emphasis added]

291. The same approach should be adopted in response to UTFA's PERA proposal. Since this issue has historically formed part of the Article 6 process, the parties should retain full latitude to negotiate about the quantum of this monetary benefit without being encumbered by an annual CPI increase. To do otherwise would cause an unnecessary impact on future Article 6 processes.

¹⁰¹ Winkler Article 6 Award, *supra* at Tab 12 para. 37

292. The comparability principle does not support this aspect of UTFA's proposal. Within the U-15, no university outside of Quebec has connected their professional expense reimbursement programs with annual increases in inflation. The two U-15 universities within Quebec have not adopted a model whereby PERA is subject to unrestrained CPI increases, as UTFA has proposed. The Université Laval's Academic Activities Support Fund is increased annually by the increase to the Canadian Consumer Price Index. However, the amount of any such increase is capped at two percent. The Université de Montreal, applies an annual increase that is limited to 75% of the annual increase to the Consumer Price Index.

293. All other U-15 institutions address this issue in the ordinary course of negotiations with their respective faculty associations without being met with an automatic increase to this entitlement. This normative approach should be continued at the University, particularly in circumstances where PERA is far from the only financial resource available to faculty members and librarians who seek to have their professional expenses reimbursed.

294. Finally, there is no demonstrated need for the changes that UTFA now requests in circumstances where PERA is only one of many sources from which professional expenses can be reimbursed and where many faculty members and librarians have accumulated significant balances in their PERA accounts.

Expanding PERA to cover Tuition Fees is incongruous with PERA's Purpose

295. UTFA's proposal to expand the scope of PERA to include the reimbursement of tuition fees is a broad expansion of the scope of expenses that would be covered by PERA. The existing examples of expenses that are eligible for reimbursement using PERA all relate to expenses that are directly related to the performance of a faculty member or librarian's employment duties. Where faculty members and librarians incur such expenses, they can use their PERA to recover such expenses.

296. At the University, faculty members are expected to complete the terminal degree in their discipline before or at the commencement of their appointment, or they are granted a conditional appointment with the expectation of degree completion to follow shortly thereafter. In all but exceptional circumstances, librarians are expected to have completed a graduate degree in library, archival or information science or equivalent professional education before beginning their appointment. Librarians who have not done so are required to remain enrolled in their graduate program until their graduate degree is conferred. With these requirements in mind, the reimbursement of other tuition fees through PERA would not fit within this same classification of reimbursable expenses related to academic duties.

297. Faculty members and librarians are eligible for a tuition waiver benefit, which allows faculty members to pursue additional programs of study during their employment. In the most recent Article 6 interest arbitration proceeding, UTFA sought to expand the scope of the University's tuition waiver benefit by removing "any limit on the tuition waiver for the part-time Master's, part-time PhD, and flex-time PhD (including all doctorate programs such as EdD) for faculty members and librarians enrolled in these programs and to clarify that the full tuition would be waived for these programs." UTFA's proposal was not awarded. By now seeking to expand the scope of expenses to be reimbursed using PERA, UTFA is seeking to secure this same benefit using an entirely separate mechanism. The University Administration submits that this approach should not be countenanced and that the scope of expenses that are reimbursable under PERA should remain unchanged.

298. UTFA's proposal is not supported by the comparability principle. Within the U-15, no collective agreement provisions or policies related to the reimbursement of professional expenses expressly include tuition fees as an expense that is eligible for reimbursement – with one exception. The University of Alberta's list of expenses that are eligible for reimbursement using its Professional Expense Reimbursement Program references "tuition". However, the scope of this permissible reimbursable expense is limited by the following language:

Tuition or other educational costs **in a field related to the staff member's current or future responsibility with the University**. Any tuition fees reimbursed under PER are not eligible expenses for individual tax credit.¹⁰²

299. UTFA's request to add language precluding any changes to the administrative guidelines for implementing PERA "that negatively impacts the level of benefits and/or services available to members, as negotiated between the University of Toronto Administration and UTFA" should be rejected. The administration of PERA remains subject to the *Income Tax Act* and decisions and guidelines issued by the Canada Revenue Agency. These are subject to changes which could impact the way in which the University is required to administer PERA. UTFA's proposal ignores these realities.

UTFA'S PROPOSED 66% INCREASE TO MAXIMUM EARNINGS COVERED UNDER THE LTD PLAN

UTFA'S PROPOSAL

The Association proposes that the maximum earnings covered under the LTD plan be increased from \$150,000 to **\$250,000, and will be increased annually in accordance with cost of living.**

UNIVERSITY ADMINISTRATION'S RESPONSE

300. The Long-Term Disability Plan is a benefit that is infrequently accessed by faculty members and librarians. Over the past four years, the total number of unique claimants in each calendar year has remained relatively small, as set out in the table below, and any proposed increase to the maximum amount of pre-disability earnings would impact a very small number of faculty members and librarians, while generating an estimated corresponding cost of \$1.15 million. This is not an issue that could support the commencement or continuation of a strike and therefore is unsupported by the replication principle.

¹⁰² University of Alberta, Professional Expense Reimbursement – Eligible Expenses. **Tab 55.**

LTD CLAIMS BY DATE FOR FACULTY AND LIBRARIANS													
(UOFT) UNIVERSITY OF TORONTO													
CURRENT PERIOD: JANUARY 1, 2020 to NOVEMBER 30, 2024													
Date Range	January	February	March	April	May	June	July	August	September	October	November	December	Total
Jan-01-2020 to Dec-31-2020	17	16	16	17	17	17	16	16	15	16	17	17	22
Jan-01-2021 to Dec-31-2021	17	17	18	20	20	21	18	18	17	17	18	20	24
Jan-01-2022 to Dec-31-2022	20	20	18	17	16	15	15	17	16	17	17	18	31
Jan-01-2023 to Dec-31-2023	18	20	20	22	23	23	23	26	25	27	27	29	41
Jan-01-2024 to Nov-30-2024	28	28	29	30	28	27	24	24	23	23	22		41

301. The low usage rate of this benefit counterbalanced against the costs of awarding UTFA’s proposal militate against awarding this proposal. The current benefit level is in line with many of the relevant comparators and when a total compensation analysis is undertaken, there is no basis to support the dramatic increase to this benefit that UTFA now seeks. This proposal should not be awarded.

UTFA’S REQUEST FOR SUPERFLUOUS LANGUAGE REGARDING “PROTECTION OF BENEFIT LEVELS”

UTFA’S PROPOSAL

The Association recognizes the University’s responsibility to administer the benefits plan, provided the level of benefits and/or services to members will not be negatively impacted.

UNIVERSITY ADMINISTRATION’S RESPONSE

302. There is no evidence that the University Administration has carried out its responsibility to administer the benefits plan in a way that has negatively impacted any of the benefits or services that are provided to faculty members and librarians. This includes the University Administration’s engagement of Green Shield Canada as its benefits administrator. The University Administration is well aware of and has met all of its related legal obligations. Put simply, there is no demonstrated need to award this non-normative and superfluous language.

303. Moreover, the Joint Benefit Committee is already empowered to review matters concerning the operation and administration of the benefit plans in which faculty members and librarians are involved. This Joint Benefit Committee's terms of reference already include the "review [of] claim rejection/denial reports to identify trends and patterns."¹⁰³ The continued use of this Committee for this purpose is the appropriate way to identify and address concerns regarding the levels of benefits and services that are to be provided.

UTFA'S REQUEST TO INCREASE THE COST AND EXPAND THE SCOPE OF VISION CARE

CURRENT BENEFIT ENTITLEMENT

Vision	
• Prescription eye glasses or contact lenses, or medically necessary contact lenses, laser eye surgery, or the services of a licensed optometrist	\$725 every 24 months
• Eye examinations	\$110 every 24 months

UTFA'S PROPOSAL

Vision	
• Prescription eye glasses or contact lenses, or medically necessary contact lenses, laser eye surgery, or the services of a licensed optometrist <u>or ophthalmologist</u>	\$725 \$1,000 every 24 months
• Eye examinations	\$110 every 24 months \$125 every 18 months for all plan members, subject to amounts paid by OHIP.

¹⁰³ 2010 Teplitzky Article 6 Award, *supra* Tab 19, Schedule "A", p. 2

UNIVERSITY ADMINISTRATION'S RESPONSE

304. Faculty members and librarians were recently provided with significant increases to their vision care coverage entitlements. In 2022, the University Administration agreed to add laser eye surgery as an eligible vision care expense. In addition to expanding the scope of its vision care coverage, the University Administration also agreed to increase the level of coverage from \$700.00 to \$725.00 every 24 months, effective November 1, 2022.

305. The comparability principle does not support the awarding of any additional vision care improvements as part of this proceeding. When these recent improvements to vision care benefits are considered, faculty members already enjoy vision care benefits that are far superior to those provided to other employee groups at the University. Employees represented by USW Local 1998, CUPE Locals 1230 and 2484, OPSEU Locals 519, IBEW Local 353 and Unifor Local 2023 have vision care benefits that are limited to \$650 every 24 months and eye examination coverage of \$120 every 24 months. The table below references the larger disparities between the vision care benefits that faculty members and librarians currently receive, and the vision care benefits provided to other employee groups.

University of Toronto Employee Groups – Vision Care Benefits		
Employee Groups	Vision Care Coverage	Eye Examination Coverage
CUPE 3261 Full-Time CUPE 3261 Part-Time CUPE 3261 – 89 Chestnut	\$600 every 24 months	\$120 every 24 months
Administrators / Confidentials Professional/Managerial 1-5 Research Associates	\$600 every 24 months	\$140 every 24 months
Professional / Managerial 6-11	\$500 every 24 months	\$120 every 24 months

306. The current vision care benefits that the University's faculty members and librarians receive are much higher than the vision care benefits that faculty members and librarians at other U-15 institutions receive.

U-15 Universities – Vision Care Benefits		
University	Vision Care Coverage	Eye Examination Coverage
University of Toronto	\$725 every 24 months	\$110 every 24 months
McMaster University	\$500 every 24 months	\$100 every 24 months
University of British Columbia	\$400 every 24 months	\$130 every 24 months
University of Saskatchewan	\$400 every 24 months	\$150 every 24 months
University of Alberta	\$350 every 24 months for adults \$350 every 12 months for children	One eye examination per year
University of Calgary	\$350 every 24 months	\$40 every 24 months
University of Manitoba	\$350 every 24 months	Included in vision care coverage
Queen's University	\$300 every 24 months	\$100 every 24 months
Western University	\$300 annually or \$600 for a single claim every 24 months	\$75 per eye exam
University of Ottawa	\$250 every 24 months	\$80 every 24 months
Université Laval	\$250 every 24 months	\$100 every 24 months
Dalhousie University	\$100 every 24 months \$100 every 12 months for those under age 19	Included in vision care coverage
University of Waterloo	Not provided	\$85 every 24 months
McGill University	Not provided	\$70 once every 24 months

307. From a total compensation perspective, awarding UTFA the increased vision care benefit entitlements it now seeks would cost the University Administration an additional \$310,000.¹⁰⁴ There is no reason why the award in this proceeding should further widen the existing gaps between the vision care benefits that faculty members

¹⁰⁴ 14. University Administration's Costing of UTFA's Proposals, *supra* Tab 14

and librarians already receive and the level of vision care benefits that internal and external comparators receive. The recent enhancements to the scope and cost of vision care benefits in the most recent Article 6 negotiations need not be further enhanced in this proceeding.

308. In addition to seeking significant increases to vision care benefits, UTFA also seeks to expand the scope of this coverage to include all services performed by a licensed ophthalmologist. At present, only the following ophthalmologist services are covered by the benefit plan:

8(e) optometric eye examinations for visual acuity performed by a licensed optometrist, ophthalmologist or physician (available only in those provinces where eye examinations are not covered by the provincial health insurance plan)

309. The language in the current benefit plan does not cover any and all services provided by an ophthalmologist, nor does this language mean that there is an inconsistency with the information that is summarized in the Benefit Plan's Schedule of Benefits, which provides only a brief summary of vision care benefits. UTFA's attempt to add all services performed by an ophthalmologist to the current benefit plan is not a housekeeping matter. It is a further attempt to expand the scope of this benefit that should not be awarded as part of this proceeding.

310. There is no discrepancy within the Green Shield benefit booklet. Page 12 of this booklet identifies the specific services performed by a licensed ophthalmologist are covered, subject to the applicable maximum amount in the accompanying schedule of benefits. The services performed by an ophthalmologist that are covered by the benefits plan are limited to the eye examination that the benefit booklet references. There is no language in the benefit booklet which suggests or supports the contention that any and all services performed by an ophthalmologist are presently covered by the current benefit plan. It would constitute an expansion of the benefits that are currently provided.

UTFA'S PROPOSAL TO ABSORB ALL PROVINCIALY DE-LISTED SERVICES AND SUPPLIES WITHIN THE BENEFIT PLAN

CURRENT LANGUAGE IN BENEFIT PLAN

Health Exclusions

Eligible benefits do not include and reimbursement will not be made for:

...

8. Services or supplies that:

t) would normally be paid through any provincial health insurance plan, Workplace Safety and Insurance Board or tribunal, the Assistive Devices Program or any other government agency, or which would have been payable under such a plan had proper application for coverage been made, or had proper and timely claims submission been made;

u) were previously provided or paid for by any governmental body or agency, but which have been modified, suspended or discontinued as a result of changes in provincial health plan legislation or de-listing of any provincial health plan services or supplies;

UTFA'S PROPOSAL

Health Exclusions

Eligible benefits do not include and reimbursement will not be made for:

...

8. Services or supplies that:

t) would normally be paid through any provincial health insurance plan, Workplace Safety and Insurance Board or tribunal, the Assistive Devices Program or any other government agency, or which would have been payable under such a plan had proper application for coverage been made, or had proper and timely claims submission been made;

~~u) were previously provided or paid for by any governmental body or agency, but which have been modified, suspended or discontinued as a result of changes in provincial health plan legislation or de-listing of any provincial health plan services or supplies;~~

UNIVERSITY ADMINISTRATION'S RESPONSE

311. UTFA seeks to have the University Administration assume responsibility for the costs associated with any services or supplies that are currently provided or paid for by a governmental body or agency that might someday be modified, suspended or discontinued as a result of decisions made by these same governmental bodies or agencies. This is a faulty presumption which is fundamentally inconsistent with the structure and operation of benefit plans. The de-listing of a health benefit that was once publicly funded or subsidized does not mean that responsibility for continuing the funding for that same benefit can or should be automatically diverted to benefit plan sponsors or private insurers.

312. The University has no control over decisions made by governmental bodies or agencies regarding the funding of health-related services or supplies. These decisions are driven by a multitude of factors, including changes to the financial stability of the relevant public healthcare plans. The financial ramifications of any decision by a governmental body or agency to modify, suspend or discontinue the funding of any health-related services or supplies should not automatically be borne by the University Administration. The suggestion that the University Administration should automatically assume responsibility for any reduction in the level of benefits that are currently provided through public benefit plans or programs is fundamentally unworkable. Such a change is neither normative nor incremental.

313. UTFA's proposal disregards the fact that if changes to the funding of certain services and supplies through OHIP or other governmental bodies or agencies occur, faculty members and librarians may be able to use their HCSA to pay for or reduce related expenditures. Proposing a reasonable increase to the HCSA, as the University Administration has done, is a sensible and predictable way to address concerns that UTFA may have regarding future changes to publicly-funded health services and supplies.

314. UTFA has experience in addressing the de-listing of services by OHIP through the Article 6 process. In 2004, OHIP de-listed routine eye examinations for adults aged 20 to 64. UTFA responded by proposing to have this service included in the benefits plan for faculty members and librarians. The University Administration agreed, and eye examinations were added to the services covered by the benefits plan. That agreed-to expansion of services covered by the benefits plan responded to a demonstrated need. The expansion was limited in scope and could be costed in a conventional manner as part of the ordinary Article 6 negotiation process. UTFA's current proposal cannot be so described. There is no clarity in its forward-looking approach and no cost certainty attached to the potential cost consequences that would accompany the awarding of this proposal.

315. The exclusion that UTFA seeks to eliminate from the Green Shield Benefit plan is a standard exclusion in benefit plans. It provides clarity on the scope of benefits to be provided under the plan. Making any changes to existing benefit plan language that purport to have the University Administration fill any funding gap created by public policy decisions would be accompanied by uncertain and potentially drastic cost ramifications. The University Administration would not agree to take on this type of exposure as part of an ordinary collective bargaining process as part of a voluntary settlement and this proposal should not therefore be imposed on the University Administration at arbitration.

UTFA'S REQUEST TO INCREASE PARAMEDICAL BENEFIT COVERAGE BY \$3,000 AND TO BROADEN THE SCOPE OF COVERAGE

CURRENT BENEFIT ENTITLEMENT

Paramedical Services	
<ul style="list-style-type: none">Chiropractor, Physiotherapist, Registered Massage Therapist, Osteopath, Chiropodist, Acupuncturist, Dietitian, Occupational Therapist	\$5,000 per benefit year for all practitioners combined
<ul style="list-style-type: none">Psychologist, or Psychotherapist, or Master of Social WorkAddiction counselling provided by a professional that belongs to one of the following associations: CAMFT, AAMFT, CACCF, ICADC, ICCS, CCS-AC, ICCAC, CCAC, CCRCMarriage/Family counselling provided by a professional that belongs to one of the following associations: CAMFT, AAMFT	\$7,000 per benefit year for all practitioners combined
<ul style="list-style-type: none">Speech Therapist (Physician (M.D.) or nurse practitioner recommendation required if there are no benefits on file within the preceding 12 months)	Reasonable and customary charges

UTFA'S PROPOSAL

Paramedical Services	
<ul style="list-style-type: none">Chiropractor, Physiotherapist, Registered Massage Therapist, Osteopath, Chiropodist, Acupuncturist, Dietitian, Occupational Therapist	\$5,000 per benefit year for all practitioners combined
<ul style="list-style-type: none">Psychologist, or Psychotherapist, or Master of Social Work	\$7,000 \$10,000 per benefit year for all practitioners combined
<ul style="list-style-type: none">Addiction counselling provided by a professional that belongs to one of the following associations: CAMFT, AAMFT, CACCF, ICADC, ICCS, CCS-AC, ICCAC, CCAC, CCRC	
<ul style="list-style-type: none">Marriage/Family counselling provided by a professional that belongs to one of the following associations: CAMFT, AAMFT	
<u>Paramedical service providers accessed by members through the Health Care Spending Account are presumed eligible for reimbursement up to the maximum entitlement for paramedical services under the Schedule of Benefits.</u>	
<ul style="list-style-type: none">Speech Therapist (Physician (M.D.) or nurse practitioner recommendation required if there are no benefits on file within the preceding 12 months)	Reasonable and customary charges

UNIVERSITY ADMINISTRATION'S RESPONSE

316. During the recent Bill 124 moderation period, the University Administration twice agreed to increase the level of coverage for psychology and mental health benefits. Beforehand, the maximum annual reimbursement limit for psychology and mental health benefits was \$3,000.00. This maximum annual reimbursement limit increased from \$3,000.00 to \$5,000.00 effective March 1, 2022. The University Administration then agreed to further increase this maximum annual reimbursement limit to \$7,000.00, effective November 1, 2022. This second increase occurred alongside an increase to faculty members' and librarians' vision care coverage described above and a separate \$2,500.00 increase to the combined annual cap for paramedical benefits.

317. Evaluating UTFA's proposal for a further increase to these benefits requires a close and careful examination of the University's internal comparators. Not only do faculty members and librarians already have a maximum annual reimbursement limit that is far higher than that which applies to other employee groups at the University, the scope of mental health service providers that faculty members and librarians can access is much broader than those that other employees can access.

318. Members of USW Local 1998, CUPE Locals 1230 and 2484, OPSEU Locals 519 and 578 have an annual maximum reimbursement limit of \$3,000.00 for psychology and mental health benefits. These benefits cover the services of a psychologist, Master of Social Work and psychotherapist. University employees represented by IBEW Local 353 and Unifor Local 2003 will not receive this same annual maximum reimbursement limit until May 1, 2025. Their psychology and mental health benefits are currently capped at \$2,900.00 annually. University employees who hold administrative, confidential or professional/managerial roles are subject to an annual maximum reimbursement limit of \$2,700.00 for psychology and mental health benefits along with the University's research associates and employees represented by CUPE Local 3261.

319. All of these employee groups' coverage levels for psychology and mental health benefits are currently subject to maximum annual reimbursement limits that were either equal to or below the maximum annual reimbursement limit that applied to faculty members and librarians in March 2022. Since that time, the applicable maximum annual reimbursement limit for these benefits that applies to faculty members and librarians has risen by 133%.

320. The psychology and mental health benefits that faculty members and librarians received before the increases provided during the Bill 124 moderation period already met if not exceeded almost all of the benefits provided by comparator universities within the U-15. As set out in more detail below, the comparability principle offers little to no support for any further increases to these entitlements.

Psychology and Mental Health Benefits – U-15 Universities	
University	Annual Maximum Reimbursement Amount
University of Toronto – Before March 1, 2022	\$3,000
University of Toronto – Effective March 1, 2022	\$5,000
University of Toronto – Effective November 1, 2022	\$7,000
University of British Columbia, McMaster University	\$3,000
University of Ottawa	\$3,000 (50% reimbursement rate)
Université Laval	\$2,250
McGill University, University of Saskatchewan	\$2,000
University of Alberta	\$1,800 combined with other paramedical services
Dalhousie University	\$1,500 (80% reimbursement rate)
University of Waterloo	\$1,067
University of Manitoba	\$1,000
Queen's University	\$1,000

Western University	No maximum - but coverage is limited to 85% of eligible expenses and subject to annual out-of-pocket maxima of \$450 per person & \$900 per family.
University of Calgary	\$800

321. The increases to psychology and mental health benefits that faculty members and librarians received during the Bill 124 moderation period already provide a generous benefit relative to internal and external comparators. No further augmentation is necessary. UTFA's proposed \$3,000 increase is unwarranted.

322. UTFA has proposed to broaden mental health benefits in an unrealistic and unworkable way. It has proposed that any paramedical services that faculty members or librarians access through the use of their HCSA should be "presumed eligible for reimbursement up to the maximum entitlement for paramedical services under the schedule of benefits." The University Administration has no knowledge of any benefit plan that is designed in this manner.

323. The services and supplies that are reimbursable through individuals' use of their HCSA cannot be conflated with the list of paramedical service providers whose services are covered by the Green Shield benefit plan. The Canada Revenue Agency determines the expenses that can be reimbursed through the HCSA, and the amount of money provided through the HCSA is the subject of negotiation, mediation and interest arbitration through the Article 6 process.

324. The paramedical service providers listed in the Green Shield Benefit Plan can be negotiated, mediated and arbitrated through this same process. However, expanding the coverage of the Green Shield benefit plan by adding one or more service providers is accompanied by a cost that must be factored into the parties' total compensation analyses. UTFA's proposal seeks to blend together two entirely separate concepts by importing the broader list of HCSA expenses that the CRA permits into the Green Shield benefit plan. This proposal is fundamentally unworkable and accompanied by incalculable costs. It should not be awarded.

UTFA'S PROPOSAL TO ELIMINATE THE DRUG DISPENSING FEE CAP

CURRENT BENEFIT PLAN LANGUAGE

Your Co-Pay

Prescription Drugs:

- Insulin and injectable serums: 0%
- All other covered drugs: All dispensing fee amounts in excess of \$6.50

UTFA'S PROPOSAL

Your Co-Pay

Prescription Drugs:

- Insulin and injectable serums: 0%
- All other covered drugs: ~~All dispensing fee amounts in excess of \$6.50~~

UNIVERSITY ADMINISTRATION'S RESPONSE

325. UTFA's proposal to eliminate the current dispensing fee co-pay requirement is out of step with the University's internal comparators as well as the level of prescription drug coverage provided by many of the relevant external comparators. UTFA also seeks to delete a standard exclusion regarding the availability of mixtures. The scope of this existing exclusion is not broad and was recently narrowed when Green Shield amended its compound policy. It should remain in place.

326. No employee group at the University has a drug benefit plan that covers all pharmacy dispensing fees. Many employee groups at the University are subject to the same \$6.50 co-pay requirement that applies to faculty members and librarians. Recently negotiated settlements with several unions have resulted in incremental increases to dispensing fee caps, as set out in the table below. None of these agreements support for the outright deletion of the co-pay obligation that applies to dispensing fees, as proposed by UTFA.

University of Toronto – Dispensing Fee Co-Pay Requirements	
Employee Group	Dispensing Fee Co-Pay Requirement
CUPE 3261, Full-Time	\$6.50
CUPE 3261, Part-Time	\$6.50
CUPE 3261, 89 Chestnut	\$6.50
Administrative and Confidential Employees	\$6.50
Professional/Managerial Employees 1-5	\$6.50
Professional/Managerial Employees 6-11	\$6.50
Research Associates	\$6.50
USW Local 1998	\$7.50 effective November 1, 2023
CUPE 1230	\$7.50 effective May 1, 2024
Unifor Local 2003	\$7.50 effective June 1, 2024
OPSEU Local 519	\$7.50 effective October 1, 2024
OPSEU Local 578	\$7.50 effective November 1, 2024
CUPE Local 2484 and IBEW Local 353	\$7.50 effective December 1, 2024

327. Within the U-15, prescription drug coverage varies considerably, with many institutions providing prescription drug coverage that is limited to 80% of eligible drug expenses. Similarly, the extent to which plan members are subject to dispensing fee co-pay obligations varies. A holistic comparison of the prescription drug coverage currently available to the University’s faculty members and librarians and the level of coverage offered by many of the relevant comparators shows that the current prescription drug benefit coverage, including the \$6.50 dispensing fee co-pay obligation is reasonable and does not require further modification.

Prescription Drug Benefit Coverage at U-15 Universities	
University	Description of Prescription Drug Coverage
University of Saskatchewan	100% coverage subject to \$5,000 limit No dispensing fee co-pay
Dalhousie University	100% coverage for any amount in excess of the pharmacy dispensing fee for Tier 1 drugs, 60% coverage for Tier 2 drugs Employee responsible for all dispensing fees
McMaster University	100% coverage for eligible prescription drugs, \$6.50 dispensing fee co-pay
University of Alberta	100% coverage for eligible prescription drugs. No dispensing fee co-pay.
Queen’s University	100% coverage for eligible prescription drugs \$10.00 dispensing fee cap

University of British Columbia	80% coverage for eligible prescription drugs - subject to \$25.00 annual deductible No dispensing fee co-pay
University of Manitoba	80% coverage for eligible prescription drugs No dispensing fee co-pay
University of Waterloo	80% coverage for eligible prescription drugs, with coverage increasing to \$100 after \$143 out-of-pocket limit for individual coverage and \$288 limit per family. \$7.00 dispensing fee cap
McGill University	80% coverage for eligible prescription drugs, with coverage increasing to 100% after \$400 out-of-pocket limit for individual coverage and \$800 limit per family \$7 dispensing fee co-pay
Western University	85% coverage for eligible prescription drugs, with coverage increasing to 100% after \$450 out-of-pocket limit for individual coverage and \$900 limit per family

328. The complete elimination of any dispensing fee obligation would be a significant alteration of the status quo and should therefore not be awarded. Similarly, UTFA's proposed addition of "mixtures compounded by a pharmacist", without exception or contextualization would run contrary to standard and commonplace benefit exclusion language in all Green Shield benefit plans.

UTFA’S PROPOSAL TO QUADRUPLE THE COST OF HEARING AID COVERAGE

CURRENT BENEFIT PLAN LANGUAGE

Hearing Care	\$1,000 for one left hearing aid and \$1,000 for one right hearing aid up to \$2,000 every 36 months.
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UTFA’S PROPOSAL

Hearing Care	\$1,000 \$4,000 for one left hearing aid and \$1,000 \$4,000 for one right hearing aid up to \$2,000 \$8,000 every 36 months.
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UNIVERSITY ADMINISTRATION’S RESPONSE

329. UTFA proposes to quadruple the hearing care coverage provided to faculty members and librarians. There is no objective support for this proposal. Faculty members and librarians already receive very generous hearing care benefits when compared to internal and external comparators. No part of UTFA’s proposal is a gradual or incremental increase to existing benefit levels.

330. At the University, no employee group has the same level of hearing care benefits as faculty members and librarians. The \$1,000 per-ear entitlement currently in place already exceeds the hearing care benefits provided to other University employees.

Hearing Care Benefits at the University of Toronto	
Employee Group	Hearing Care Benefit
USW Local 1998 CUPE Locals 1230 and 2484 OPSEU Locals 519 and 578 IBEW Local 353 Unifor Local 2003	\$800 per ear every 36 months
CUPE 3261 Full-Time, CUPE 3261 Part-Time, CUPE 3261 89 Chestnut Administrative and Confidential Employees Professional/Managerial Employees 1-5 Professional/Managerial Employees 6-11 Research Associates	\$500 per ear every 36 months

331. This same trend is evident when the U-15 comparators are examined. Faculty members and librarians employed by the University already have hearing care benefits that are superior to the hearing care benefits provided to almost all faculty and librarians employed by these comparator institutions. In many instances, the disparity between the hearing care benefits available to faculty members and librarians at the University and those available elsewhere is substantial, both in terms of the quantum of coverage available and the time period over which this coverage is provided. These facts further militate against any additional increase, let alone the drastic increases that UTFA proposes.

Hearing Care Benefits at U-15 Universities		
University	Hearing Care Benefit	Time Period
University of Toronto	\$1,000 for one left hearing aid and \$1,000 for one right hearing aid up to \$2,000	36 months
University of Alberta	\$2,000 combined with audiologist expenses	36 months
University of British Columbia	\$2,000	60 months
University of Ottawa	\$2,000	60 months
Western University	85% of eligible expenses (excludes replacement batteries and hearing tests)	None specified
University of Waterloo	\$841 per ear (total \$1,682)	60 months
McMaster University	80% of eligible expenses up to a maximum of \$1,500	36 months
Université Laval	80% of eligible expenses up to a maximum of \$1,000	60 months
University of Manitoba	\$700	60 months
University of Calgary	\$600	60 months
University of Saskatchewan	\$500	36 months
Queen's University	\$500	48 months
McGill University	\$500	60 months
Dalhousie University	80% of eligible expenses to a maximum of \$200	84 months

332. Finally, this is a benefit that is not used extensively by faculty members and librarians. During the 12-month period ending May 31, 2024, only 448 claimants submitted hearing care claims that exceeded the existing benefit level of \$1,000 for each hearing aid. To advantage this small group of employees, expanding this benefit coverage in the manner suggested by UTFa would yield an estimated cost of \$490,000. The advancement of this proposal to the point of impasse would be unsustainable and therefore inconsistent with the replication principle and should not, therefore, be awarded.

UTFA'S PROPOSAL TO DOUBLE CHILD CARE BENEFIT COSTS AND EXPAND IT TO CHILDREN 12 YEARS OLD AND UNDER

UTFA'S PROPOSAL

What the Plan Covers: Faculty and Librarians

The Child Care Benefit Plan reimburses eligible child care expenses you incur between January 1 to December 31 of each year for each eligible child (natural, step, common-law, adopted or ward) under age **7 12 or to August 31st of the year in which they turn 12, whichever is the later date.**

- For example, if your child has a birthdate of July 18, ~~2016~~**2012** you are eligible for **the expenses incurred through August 31st** months January — July 2023, inclusive since **even though** your child turned **7 12** in July 2023~~4~~.

- **For example, if your child has a birthdate of November 1st you are eligible for expenses incurred through October 31st of the year they turn 12.**

- However, the age limit does not apply if the child was mentally or physically infirm and dependent on you as outlined under the Income Tax Act.

Child Care Expenses you May Claim

You may claim child care payments made to:

- Eligible caregivers providing child care services (in home / out of home care)
- Day nursery schools and daycare centres
- Educational institutions for the part of the fees that relate to child care services (i.e. before and after school child care)
- Day camps and day sports schools where the primary goal of the camp is to care for children
- Boarding schools, overnight sports schools, or camps where lodging is involved

Restrictions

Where childcare services are provided by an individual, the individual cannot be:

- The child's mother or father
- A spouse or common-law partner
- A person under 18 who is related to you

For information on eligible caregivers, please visit the Canada Revenue Agency website.

Amount of Reimbursement

Your eligible child care expenses will be reimbursed at **5 100%**:

- Up to **\$20 40** for a full day (defined as a minimum of six (6) hours of care) per eligible child and
- Up to **\$10 20** for a half day (defined as a minimum of **two (2)** hours of care and a maximum of six (6) hours of care) per eligible child.

The annual maximum reimbursement per plan year is **\$2,000 \$4,000** for each child. Note the following:

- If both parents are eligible for reimbursement, only one parent is entitled to claim reimbursement for a child under this plan.
- If you work part-time, your maximum reimbursement will be prorated **to your FTE percentage**. For example, if you work 50% FTE, your maximum reimbursement is prorated to **\$1,000. \$2,000**.
- If you work less than the full year, your maximum reimbursement will be prorated. For example, if you are hired on July 1, your maximum reimbursement for that year is prorated to **\$1,000. \$2,000**.

Faculty & Librarians: The maximum amount that can be paid out for all Faculty & Librarians is **\$1,000,000 \$2,000,000**. If the total eligible claims:

- Exceed **\$1,000,000 \$2,000,000**, your claim will be proportionately decreased so the **\$1,000,000 \$2,000,000** maximum is not exceeded.
- Are less than **\$1,000,000, \$2,000,000**, your claim will be proportionately increased so the entire **\$1,000,000 \$2,000,000** is spent.

Receiving Reimbursement

After all claims have been submitted and processed, eligible care expenses will be reimbursed through payroll direct deposit as a separate line item, no later than April 30 each year.

This reimbursement is a T4 Taxable Benefit and is subject to legislative deductions, including income tax, Canada Pension Plan and Employment Insurance.

If you receive reimbursement under the Child Care Benefit, you can claim your eligible child care expenses on your income tax each year. For example, if you incur eligible child care expenses during the period January 1 to December 31:

- Reimbursement of expenses under U of T's Child Care Benefit would be processed by the end of April, and would be included as income on your T4 slip (which would be issued the following year).
- You can still claim your expenses when filing your income taxes for the current year (which would occur the following year).

Submitting Your Claim

Please visit the Child Care Benefit Plan: Online Application Instructions article for details on the application process.

Questions

Please visit the Child Care Benefit: FAQ article for frequently asked questions.

This site is for information purposes only. For complete details, refer to your employment policy and official benefits provider documentation (e.g., the University of Toronto Pension booklet and Green Shield benefits plan documents) as applicable. In the event of a discrepancy, the latest official documents and all applicable legislation supersede site content.

UNIVERSITY ADMINISTRATION'S RESPONSE

333. Faculty members and librarians already receive a generous child care benefit. UTFA's proposal to double the cost of this benefit and expand its scope to cover children 12 years of age and under should be dismissed.

334. No other employee group within the University has a child care benefit that can be used to reimburse child care expenses for children at or over the age of 7. If UTFA's proposal were to be awarded, faculty members and librarians would receive a disproportionately expansive child care benefit relative to all other employees at the University.

335. UTFA's proposed expansion of the scope of this benefit is not reflective of a broader trend amongst the relevant external comparators, only one of which extends a child care benefit program to children over age 7.

Maximum Age of Children Covered by Child Care Benefit Plans	
University	Applicable Age Limit
University of Toronto	7
University of Alberta	7
McMaster University	7
Queen's University	7
Western University	12

336. The existing child care benefit provided to faculty members and librarians requires that each year, the full amount of \$1,000,000 must be reimbursed to cover 50% of eligible child care expenses at the rate to a maximum reimbursement amount of \$2,000 per child, with daily maximum amounts applied to day care expenses. UTFA seeks to double the total annual reimbursement amount to \$2,000,000. Within this expanded funding envelope, it wants to double the reimbursement rate for eligible child care expenses from 50% to 100% and double the maximum reimbursement amount from \$2,000 to \$4,000 per child. It also wants to reduce the threshold that must be met before a half-day of child care is reimbursed. At present, this threshold is set at four hours. In its arbitration proposal, UTFA has requested that this threshold be reduced to two hours. This late-filed proposal should be rejected.

337. For the purpose of comparability, most universities within the U-15 do not offer this type of benefit to faculty members and librarians. The few that do offer benefits compare favourably with the benefits that are currently available to faculty members and librarians at the University. The University of Alberta's child care benefit also reimburses 50% of eligible child care expenses and makes that reimbursement requirement subject to an annual maximum of \$2,000 per child. The child care benefit provided to faculty members and librarians at McMaster University includes a higher annual per child maximum (\$2,500) than the University's child care benefit. However, McMaster University's annual child care expense reimbursement limit is capped at \$500,000 per year. Queen's University and Western University have higher annual per child maxima than the University (\$2,250 and \$5,000 per child respectively), but has a reimbursement limit of \$351,714.

338. The cost of this proposal is \$1,000,000, which is significant on its own. Consistent with the total compensation principle, the cost of this proposal cannot be viewed in isolation. The cost of this one proposal must be alongside UTFA's numerous other proposed increases to salary, PTR, and other benefit entitlements. When the total compensation principle is applied to the full suite of UTFA's monetary proposals, it militates against the awarding of this proposal. For these reasons, the University Administration requests that this proposal be dismissed.

THE UNIVERSITY ADMINISTRATION'S ALTERNATIVE BENEFITS PROPOSAL

339. As set out above, when the benefit increases that faculty members and librarians received in the prior Article 6 proceeding are properly considered and contextualized, there is no basis to award any further benefit improvements in the current proceeding. In the alternative, the University Administration submits that any benefit improvements that may be awarded should be carefully circumscribed. The University Administration submits that if any benefit increases are awarded, they should be limited to a \$50 increase to the HCSA and the introduction of gender affirmation care benefits in line with those that provided to many other employees of the University. The University Administration further submits that adjustments must be made to current travel medical coverage and private duty nursing care benefits, so that important cost savings can be realized for both plan members and the University as a result of reductions to the cost of the University's stop loss reinsurance coverage.

THE UNIVERSITY ADMINISTRATION'S PROPOSED HCSA INCREASE

As soon as is practicable following the release of the arbitration award, increase the amount available in the Health Care Spending Account ("HCSA") of each faculty member and librarian holding a 100% FTE appointment on the date of the award in this matter by \$50.00 to \$700.00. A pro-rated increase shall be added to the HCSA of faculty members and librarians holding an appointment of 25% FTE or more and less than 100% FTE on the date of the award in this matter, based on their FTE percentage.

340. In an effort to provide enhanced benefits coverage to all employees, the University Administration proposes that the annual available funds in the HCSA of each faculty member and librarian holding a 100% FTE appointment on the date of the award be increased from \$650.00 to \$700.00, with a pro-rated increase for faculty members and librarians who hold appointments on the date of the award of least 25% FTE and less than 100% FTE.

341. This benefit enhancement will provide a prompt increase to faculty members and librarians on a go-forward basis, in circumstances where other types of benefit increases are not implemented retroactively. Unlike many of the benefits that UTFA seeks to augment, the HCSA is widely used by faculty members and librarians. For the July 1, 2023 to June 30, 2024 benefit plan year, 2,724 plan members submitted at least one claim under their HCSA, and \$1,688,910.79 in HCSA claims were paid.

342. Focusing on augmenting the HCSA provides extensive flexibility, as faculty members and librarians can use this additional HCSA contribution to supplement other benefit coverages, to cover health-related expenses that are not covered by the benefit plans but are listed under the CRA's guidelines, or to reimburse the benefit premiums that are deducted from their pay. From a total compensation perspective, this proposed benefit increase is especially efficient in terms of its cost to the University. The University Administration estimates that this proposed benefit increase will cost approximately \$200,000.

343. This proposed benefit increase is also accompanied by tax efficiencies for the faculty members and librarians who receive it. It provides them improvements to the benefits they actually use without requiring them to make increased contributions to the benefit plan and having their net pay reduced as a result.

THE UNIVERSITY ADMINISTRATION'S PROPOSED PROVISION OF GENDER AFFIRMATION COVERAGE

As soon as is practicable after the arbitration award, introduce gender affirmation coverage to support plan members throughout their gender transition journey. Reimbursement of eligible expenses is subject to diagnosis of "gender dysphoria" from a medical doctor, in addition to a reasonable and customary fee per claim of \$5,000 and an overall lifetime maximum of \$10,000. There will be two categories:

- Foundation: Includes reimbursement for core surgeries not covered by provincial coverage and services that assist in the physical realignment of the individual's transitioned gender. Examples include vocal surgery, tracheal shave, chest contouring/breast construction, vaginal dilators, facial feminization, and laser hair removal.
- Focused: Includes reimbursement for surgical enhancement of the individual's features that follows their accepted gender ideal. Procedures include nose surgery, liposuction/lipofilling, face/eyelid lift, lip/cheek fillers, hair transplant/implants, and gluteal lift/implants.

344. The University Administration's proposal to introduce gender affirmation coverage that provides reimbursement for eligible foundation and focused surgical procedures is responsive to the needs of individuals during their gender transition journey. The cost of introducing this benefit to faculty and librarians is estimated to be approximately \$90,000.

345. From a comparability perspective, the benefits included in this proposal align with gender affirmation benefits that have been negotiated and agreed to in collective bargaining negotiations between the University Administration and USW Local 1998 (Staff-Appointed), CUPE Locals 1230 (Full-Time and Part-Time), 2484 and 3261 (Full-Time, Part-Time and 89 Chestnut), OPSEU Locals 519 and 578 and Unifor Local 2003. The University Administration is of the view that making these benefits available to faculty members and librarians on the same terms is an important objective that serves as a clear and concrete commitment to equity, diversity and inclusion.

THE UNIVERSITY ADMINISTRATION’S PROPOSAL TO REDUCE STOP-LOSS CHARGES

The University Administration proposes to reduce the benefit premiums paid by faculty members and librarians, and the University, by passing on the savings achieved through a reduction in Green Shield’s stop loss charges by implementing the following changes:

1. Deluxe emergency travel provision to be restricted to travel up to 60 days, except in the case of faculty members and librarians on research and/or study leave (coverage would continue beyond 60 days provided the faculty member or librarian retain OHIP coverage).
2. A cap of \$10,000 per person per annum on private duty registered nursing services.

346. To avoid the adverse impact of large cost claims in any given year, the University Administration utilizes a pooled stop loss provision. This is a form of reinsurance for any individual claims that exceed \$100,000.00 in any plan year (excluding dental claims). The cost of this stop loss provision is driven by both the assessed risk of the plan provisions as well as recent experience and claim trends. The following table illustrates the stop loss charge that Green Shield has charged to the University for this reinsurance.

Cost of Green Shield Stop Loss Insurance to the University			
Year	Stop Loss Charge (% of Gross Premiums)	Stop Loss Charge (in Dollars)	Pooled Claims (in Dollars)
2016-2017	4.8%	\$1,496,879	\$908,170
2017-2018	4.8%	\$1,579,373	\$763,050
2018-2019	5.3%	\$1,930,026	\$1,447,096
2019-2020	6.0%	\$2,216,309	\$,854,212
2020-2021	3.7% (decreased rate because stop loss level increased from \$50,000 to \$100,000 effective July 1, 2020)	\$1,433,761	\$810,915
2021-2022	4.8%	\$1,661,578	\$1,040,892
2022-2023	5.5%	\$3,056,423	\$917,153
2023-2024	6.28%	\$4,002,141	\$1,105,216

347. A way to reduce the benefit premiums paid by individual plan members and the University Administration is to seek a reduction in the stop-loss charges that Green Shield charges for this reinsurance. The amount of these charges is impacted by several factors, including:

- (a) the cost of and risk of exposure related to the current unlimited private duty nursing benefit;
- (b) the long duration of travel coverage, which remains in place for up to 212 travel days in any 12-month period. This is the maximum amount of annual travel permitted by OHIP, and for even longer travel periods that occur during an approved research and study leave; and
- (c) the extremely high cost of specialized drugs, which can generate annual costs of \$2 million per patient.

348. The University Administration's interest in reducing the premiums that are currently charged for stop loss reinsurance is focused only on the first two factors identified above. It seeks no change to the coverage available for specialized drugs. Its proposal includes only minor adjustments to the current private nursing benefit and the duration that the existing travel coverage remains in place.

349. The private duty nursing benefit reimburses eligible individuals for the services of a Registered Nurse in their home on a visit or shift basis. It makes a significant impact on the cost of Green Shield's stop loss reinsurance because the risk that a claim will exceed the \$100,000 stop loss threshold is significant. To address this risk, the University Administration proposes adding a \$10,000 annual limit to this benefit. If this new limit is adopted, most individuals will continue receiving the nursing care they require, with additional nursing services available through provincial agencies. It would reduce the accompanying risks that the use of this benefit would engage Green Shield's stop loss reinsurance, which would result in a corresponding decrease to the accompanying costs. These reduced costs would, in turn, reduce the benefit premiums paid by individual plan members and the University Administration.

350. The University Administration does not propose any changes to the travel coverage that is available during approved research and study leaves. Instead, it seeks to limit the availability of its travel coverage to 60 days for other travel events. This proposal is consistent with the purpose of this travel coverage. It was never intended to provide ongoing coverage to individuals who choose to live outside Ontario for extended periods of time, typically during the winter months. The cost of emergency medical travel claims can easily eclipse the \$100,000 stop loss threshold set by Green Shield, and the risk of this outcome increases as the duration of individuals' out-of-province travel increases.

351. The University Administration's proposed limit on travel benefit coverage accords with the focused purpose of these benefits – to provide continued coverage for short duration travel. As with its proposed adjustment to the private nursing care benefit described above, a reduction in the risk that the stop loss reinsurance will be engaged will result in a reduction of the benefit premiums paid by individuals and the University Administration. The University Administration estimates that the awarding of this proposal would reduce premium payments by a total of approximately \$200,000.00.

PART VI – WORKLOAD MATTERS

THE ASSIGNMENT OF WORKLOAD TO FACULTY MEMBERS AND LIBRARIANS

352. In determining any unresolved matter relating to workload, the parties' existing arrangements regarding workload, and how these arrangements have evolved over time, must first be examined and understood. This approach is supported by Article 8 of the MOA, which is reproduced in its entirety below.

Article 8 – Workloads and Working Conditions

The parties agree that no faculty member shall be expected to carry out duties and have a workload unreasonably in excess of those applicable to faculty members within the academic division or department (in multi-departmental divisions) of the University of Toronto to which such faculty member belongs.

In the interest of research and scholarship, faculty members shall not be required to teach formal scheduled courses for more than two terms in any academic year and those terms normally shall be the Spring and Fall terms. Summer teaching shall continue to be voluntary and on an overload basis. However, nothing in this Article shall be interpreted to alter substantially the current arrangements for integrated summer teaching in those departments and divisions where this is now the practice. Nor shall this Article be construed to preclude faculty members from voluntarily agreeing to rearrange their teaching schedules so as to include summer teaching as part of their teaching loads where this is acceptable to them and the colleges, divisions or departments (in multi-departmental divisions) offering summer courses.

The University of Toronto agrees to continue to use its best efforts to ensure that there is an adequate level of support for faculty members **relating to working conditions and equitable distribution of support among members of the same academic division or department (in multi-departmental divisions)**.

Amendments to Article 8 will be made in accordance with and are part of the process under Article 6 of the Memorandum of Agreement.

Workload is subject to this article and the Workload Policy and Procedures for faculty and librarians negotiated pursuant to Article 6.

[Emphasis added]

353. In recognition of the unrivalled breadth of academic programming offered by the University across its 18 academic divisions, which include over 130 academic units – single department faculties, academic departments within multi-department faculties, extra-departmental units – and the many ways in which these academic programs are structured and delivered, Article 8 of the MOA repeatedly emphasizes that workload must be assessed and determined locally, having regard to the norms and standards set within an “academic division or department (in multi-departmental divisions).” The emphasis on the assessment and determination of workload at the local level is expressed in six (6) specific ways within Article 8:

(a) An academic unit’s workload policy including workload norms, standards and ranges must be determined by the members of that academic unit through a collegial process. The head of the academic unit, such as the Chair of a Department then assigns individual workloads in accordance with the applicable collegially determined workload policy.

(b) The assessments and comparisons of faculty members’ respective duties and workloads are determined at the divisional or departmental level (in cases involving multi-departmental divisions).

(c) The determination of whether or not a faculty member has been assigned workload that is unreasonably in excess of the workload assigned to their peers is determined by examining the workload assignments of the faculty member’s peers within their division or department (in cases involving multi-departmental divisions).

(d) The fact that formal scheduled courses are normally delivered in the Spring and Fall terms remains subject to current arrangements in specific divisions and departments (in the case of multi-departmental divisions) where there is a current practice of offering integrated summer teaching.

(e) Faculty members can engage in summer teaching as part of their normal teaching load, where such arrangements are acceptable within the college, division or department (in the case of multi-departmental divisions) in which the faculty member performs their teaching.

(f) The University’s commitment to continue to use its best efforts to ensure that there is an adequate level of support for faculty members relating to working conditions amid equitable distribution of support is assessed at the divisional or departmental level (in the case of multi-departmental divisions.)

354. The emphasis on the autonomy of each unit on matters of workload is further reflected in the WLPP, which is reviewed in more detail below.

THE WORKLOAD POLICY AND PROCEDURES FOR FACULTY AND LIBRARIANS

355. To address workload issues in more detail, the University Administration and UTFA agreed to the WLPP.¹⁰⁵ As set out in Article 8 of the MOA, any amendments to the WLPP must be made through the negotiation, mediation and dispute resolution process in Article 6 of the MOA.

356. There are five central themes that are addressed throughout the WLPP: (1) the autonomy of individual academic units; (2) flexibility; (3) collegiality; (4) transparency; and (5) accountability.

THEME 1 – UNIT-LEVEL AUTONOMY

357. Consistent with the locally focused language that the parties used to address workload in Article 8, the WLPP is unit-based. Paragraph 2.4 of the WLPP defines the term “Unit” as follows:

2.4 “Unit” for the purposes of this Policy is a single-department faculty, a department within a multi-department faculty, an Institute, Centre, or School with Extra Departmental Unit A or B (EDU:A or B) status including the ability to appoint members of the teaching staff, or a College where the primary appointment of a faculty member is held in the College.

358. Each unit under the WLPP is headed by a Unit Head, which is defined in section 2.4 of the Policy as:

the Dean, Chair, Director or Principal of a Unit who has been appointed under the *Policy on the Appointment of Academic Administrators*.

¹⁰⁵ 2010 Teplitsky Article 6 Award, *supra* Tab 19. The parties’ agreement on the WLPP is set out in Schedule B of this award. The current version of the WLPP is at **Tab 56**

359. Every faculty member and librarian must be included in a Unit. The WLPP then requires each Unit to engage in the following process:

(a) Establish a Unit Workload Policy Committee

The composition of the Unit Workload Policy Committee must be “established through a collegial process that provides a reasonable opportunity for all members of the unit to have input regarding which members shall serve on the Committee.”

The membership of the Unit Workload Policy Committee is to be “reasonably reflective of the membership of the Unit”. Each Unit Workload Policy Committee should be structured in a way that is reflective of the types of appointments held by those within the Unit.

(b) Ensure that the Unit Workload Policy Committee creates and maintains a Unit Workload Policy.

Each Unit Workload Policy is to be developed by the members of that Unit, with every member having an opportunity to provide their input to the Unit Workload Policy Committee on the form, content and proposed modifications to this policy.

In developing a Unit Workload Policy, the Unit Workload Policy Committee must ensure that it is consistent with Article 8 of the Memorandum of Agreement, the Unit’s own operating obligations, the University’s operating obligations, and the rights and obligations of its members.

Once a Unit Workload Policy has been developed, it must be approved by the appropriate University administrator. The approval process is structured in such a way as to require ongoing collaboration by the Unit’s members if a proposed Unit Workload Policy is not approved.

The Association is provided with copies of all approved and rejected Unit Workload Policies along with any written responses that follow a Unit Workload Policy’s rejection.

(c) Append the Unit Workload Policy to all of the Unit’s offers of appointment and renewal letters, so that prospective members of the Unit, and members whose appointments have been renewed, are made aware of the policy.

(d) Communicate the Unit Workload Policy to all members of the Unit and ensure that it remain accessible to all members of the Unit.

(e) Provide for a meeting between each Unit member and the Unit Head before the Unit Head assigns workload to the Unit member in accordance with the WLPP, the Unit Workload Plan, and other factors that are relevant to the individual Unit member.

(f) Supply each member of the Unit with a detailed written assignment of their workload duties by June 30 of each year. This written assignment must include the Unit member's percentage appointment and details of their teaching and service (or for librarians, details of their professional practice and service).

(g) Inform any Unit member whose workload assignment is "materially different from the Unit's workload norms, standards or ranges" by particularizing the specific workload variation(s) and providing written reasons in support of same, subject to any confidential arrangements concerning the accommodation of a Unit member.

(h) Foster transparency within each Unit by requiring that all written workload assignments be available for review within the Unit by any member of that Unit, or the Association, subject to any confidential arrangements concerning the accommodation of a Unit member.

(i) Review the Unit Workload Policy every three years, within the Unit.

360. The structure of the University and the extensive breadth of academic programming that it offers within its Faculties, Departments, Colleges, Institutes, Centres and Schools requires this decentralized approach to workload policy development, review and modification. The members of a unit are uniquely positioned to make determinations on how their Unit Workload Policy Committees and Unit Workload Policies are to be structured, administered and updated.

361. Just as each unit is responsible for the composition and membership of its Unit Workload Policy Committee and the Unit Workload Policy that is prepared, paragraph 4.0 of the WLPP empowers each unit to determine the balance among the three principal components of a faculty member's activities: teaching, research and service, subject to the requirements in Article 8 of the MOA and the WLPP. Paragraph 4.0 of the WLPP is explicit that the "assigned proportion" of a faculty member's workload to be determined by their unit includes teaching and service, and that the remainder of a faculty member's working time is not assigned. Rather, the remainder of a faculty member's work time is entirely self-directed and may consist of research, scholarly,

creative, or professional work consistent with the type of appointment the faculty member holds". When faculty members receive their unit workload letters, they are informed of their assigned teaching and service. The "remainder of [their] working time is self-directed." In this way, each unit "determine[s] the balance amongst the three principal components of a faculty member's activities: teaching, research and service". This "balance" has never been determined by the imposition of any kind of workload formula that quantifies the time or effort that a faculty member is to spend on each one of the three principal components of workload.

362. In order for each unit to conduct its own assessment of the teaching component of normal workload, Article 4.2 of the WLPP requires that the relevant factors related to the performance of teaching be examined. Paragraph 4.2 provides each unit with a non-exhaustive list of factors to consider such as class size, mode of delivery, and the level and/or hours of teaching assistant support provided. There are other factors that require an examination of a unit member's overall teaching load, such as the expected total number of students in all of a unit member's courses, the mix of course levels that they are assigned to teach, and their responsibilities as graduate student supervisors or their membership in graduate supervision committees. Other course-specific factors focus on the particular nature of the course, the assignments and supervisory work associated with the course, and whether or not the course is one that has been newly developed or required to be delivered on short notice.

363. Here again, a determination of which factors are to be used in determining the teaching component of normal workload, and the relative weight to be given to each such factor is left to each individual unit to determine in the context of the relevant academic programs. The specific ways in which courses are delivered can vary unit-to-unit and even course-to-course within a unit. The WLPP eschews formalistic calculations and University-wide comparisons in favour of affording greater autonomy to each unit.

364. The WLPP uses the same approach for the establishment of the service component of workload. This component of workload can be satisfied through the performance of work within and outside of the University through the leadership of or membership in a wide variety of councils, committees or other organizations. Each member of a unit is expected to take on an “equitable share of administrative responsibilities”, and the ways in which such shares are measured are left to each unit to determine.

THEME 2 – FLEXIBILITY IN ASSIGNING WORKLOAD

365. The workload of faculty members and librarians has a high degree of fluidity. Within any unit, these assigned workloads can change during an academic year, as well as over the course of several academic years. For example, an individual faculty member’s assigned workload may be balanced against the assigned workload of other faculty members in their academic unit over the span of several years as opposed to focusing solely on one particular year. This type of broader balancing may occur in academic units where one or more large- enrolment courses are assigned to different faculty members each year on a rotating basis.

366. There are a multitude of factors that can lead to changes in a faculty member’s assigned workload. These realities militate against any attempt to impose the substitution of fixed temporal measurements or standardized formulae in place of the current and longstanding unit-specific workload assignment processes. The WLPP requires that the task of workload assignment be addressed flexibly, having regard to the changing personnel, programs, priorities and resources in a given unit at a given time. The absence in the WLPP of overly prescriptive language as to how assigned workload is to be calculated under a Unit Workload Plan is important. An overly formulaic approach to workload issues would be fundamentally at odds with the values of the University, including respect for the academic autonomy of each academic unit, for collegiality and for the process and procedures that units have used to determine workload for over a decade.

THEME 3 – UNIT-LEVEL COLLEGIALITY

367. Each academic unit must establish a Unit Workload Policy Committee to create and maintain the Unit Workload Policy. The composition and membership of each Unit Workload Policy Committee is determined by the unit in a collegial manner. Each member of the unit should have a reasonable opportunity to provide input on which members will serve on the Unit Workload Policy Committee.

368. In developing a Unit Workload Policy, the members of the Unit Workload Policy Committee must invite their colleagues in the unit to contribute their ideas and viewpoints. Once it is finalized, the Unit Workload Policy must be disseminated to all members in the unit. The review and revision of these Unit Workload Policies must be completed in a collegial manner with all updated Unit Workload Policies communicated to all members of the unit and to UTFA.

THEME 4 – ENSURING TRANSPARENCY IN WORKLOAD ASSIGNMENTS

369. The WLPP advances the theme of transparency in several ways. First, each unit member is entitled to consult about their workload with the Unit Head, or in the case of a librarian, the person to whom they report, and to receive their annual workload assignment in writing. A member's workload assignment must set out their annual teaching and service responsibilities. This provides each unit member with a document against which their actual workload in these areas can be compared with other unit members. The provision of a written workload assignment to each unit member therefore increases the level of transparency between each unit member and their Unit Head.

370. The WLPP also provides for transparency within each unit. This is accomplished by allowing all of the members within each unit to access and review all of the unit's written assignments of workload and to receive a copy of the unit's Annual Workload Document – a requirement that was added to the WLPP in the most recently-completed Article 6 interest arbitration. A unit member who is concerned that their assigned workload is unreasonably high compared to others within their unit has the opportunity to address those concerns by consulting these resources within the unit.

371. The WLPP also allows anyone who feels that their assigned workload contravenes either the WLPP or their Unit Workload Policy to initiate a complaint under the WLPP's dispute resolution process. Unresolved complaints made under this process are referred to the Workload Adjudicator for final and binding determination. In this way, decisions concerning a unit member's workload remain subject to a neutral decision-maker's assessment and determination.

THEME 5 – ACCOUNTABILITY IF THE RELEVANT POLICES ARE BREACHED

372. If a faculty member or librarian is of the view that their assigned workload is contrary to the WLPP or their Unit Workload Policy, or any other factors relevant to them, Article 10 of the WLPP provides an expedited process whereby a faculty member or librarian can either resolve their complaint by means of a mutually agreed-to settlement, or a final and binding adjudication. A faculty member must first raise their complaint with the person who assigned their workload. If the complaint remains unresolved, and the complainant is in a multi-departmental faculty, it can be referred to the Dean. If the complainant is in a single department faculty, their complaint can be referred to the Provost. A librarian whose workload complaint is unresolved at first instances can forward their complaint to the University Chief Librarian.

373. Workload complaints that remain unresolved after this second level of discussion can then be referred to the Workload Adjudicator. Pursuant to Article 10.4 of the WLPP, the Workload Adjudicator must be a current or retired University faculty member, librarian or administrator whose appointment is agreed to by the University Administration and UTFA. The Workload Adjudicator may establish their own procedure in dealing with workload complaints but is required to consult with both the complainant and the individual who assigned their workload and any other individuals whom the Workload Adjudicator deems relevant to consult.

374. The Workload Adjudicator is required to review the workload complaint in the context of Article 3.1 of the WLPP, the relevant Unit Workload Policy, and any other factors relevant to the complaint. The Workload Adjudicator may also require the production of documents that they deem relevant to the complaint. At the conclusion of

this consultation and review process, the Workload Adjudicator is empowered to issue a final and binding determination of the complaint. They can issue an appropriate remedy if they find that a faculty member or librarian was issued an improper workload.

375. Units within the University have issued approximately 3,400 to 3,500 workload assignments per academic year since the WLPP was first implemented in 2010. During this fifteen-year period, there have been only 2 workload adjudications. This fact underscores the lack of demonstrated need for any significant and wholesale changes to the WLPP proposed by UTFA.

376. The fact that there has been a continued dearth of Workload Adjudications over more than a decade indicates that an overwhelming majority of faculty members do not have complaints that their workloads contravene the WLPP, their Unit Workload Policies, or other factors relevant to them. It also indicates that if and when such complaints do arise, they are almost always resolved after discussions with the individual who assigned the workload and/or the Dean/Provost. These facts support the University Administration's view that there is no need to make drastic alterations to the form or content of the WLPP as UTFA has proposed.

AMENDMENTS TO THE WLPP AGREED TO BY THE PARTIES

377. Since the parties initially agreed to the WLPP, it has been amended on several occasions. These amendments have been incremental and needs-specific. They have not altered the central themes of the WLPP. On most occasions, the parties have agreed on such amendments during bilateral negotiations or mediation. On the occasions where the WLPP has been amended at interest arbitration, amendments imposed at arbitration have been carefully circumscribed in keeping with the principles of gradualism and demonstrated need.

378. The WLPP was not amended as part of the Article 6 Memorandum of Settlement covering the three-year period of period July 1, 2011 to June 30, 2014. As part of the negotiations that culminated in the Article 6 Memorandum of Settlement for July 1, 2014 to June 30, 2017¹⁰⁶, the parties agreed to revise several sections of the WLPP. The vast majority of these amendments either clarified existing processes or corrected typographical errors. There were no fundamental changes to the WLPP's processes. All of the parties' agreed-to amendments are highlighted in yellow below:

Preamble

Workload is a combination of tasks assigned and tasks determined through collegial interaction and self-direction. Units vary in their contributions to the University mission and so it is understood that what constitutes normal workload will vary from one unit to another. At the same time, unit members will experience different demands from year to year in the balancing of domains of workload, and so an individual member's workload may vary from year to year and from a colleague's workload within a year. This flexibility is important for recognizing the unique missions of units and the differences in agreed upon activities of individuals within units. **Engaging in collegial discussions about workload and producing fair and transparent workload considerations within units is intended to assist units and unit members in managing and balancing workloads.**

1.0 Principles Governing the Establishment and Assignment of Workload

...

1.2 The University of Toronto is committed to:

...

- Workload allocation that will comprehensively take into account the full scope of activities and expectations of a member of a unit, commensurate with the three **principle principal** components of a faculty member's appointment.

2.0 Unit Workload Committee

¹⁰⁶ July 1, 2014 – June 30, 2017 Memorandum of Settlement between the University Administration and UTFA, *supra* Tab 29.

Faculty

2.1 All units shall establish a Unit Workload Policy Committee to create and maintain a Unit Workload Policy, including workload norms, standards or ranges appropriate to the Unit and consistent with the terms of the WLPP **and the Memorandum of Agreement (“MOA”)**. The composition of the Unit Workload Policy Committee will be established through a collegial process that provides a reasonable opportunity for all members of the unit to have input regarding which members shall serve on the Committee. **This will include an email or other written communication to unit members inviting them to put their names forward for consideration.** Committee membership should be reasonably reflective of the membership of the Unit, including reflecting the types of appointments that faculty members in the unit hold. The Unit Head shall be the Chair of the Unit Workload Policy Committee.

2.3 “Unit” for the purposes of this Policy is a single department faculty, a department within a multi-department faculty, an Institute Centre or School with Extra Departmental Unit A or B (EDU: A or B) status including the ability to appoint members of the teaching staff, or College where the primary appointment of a faculty member is held in the College. “Unit Head” is the Dean, Chair, Director or Principal of the Unit who has been appointed under the Policy on the Appointment of Academic Administrators. It is intended that every faculty member will be covered by a Unit Workload Policy. With respect to current faculty whose primary appointment is not held in an academic unit or College as defined in this WLPP, the parties will meet with a view to agreeing on the Unit for these faculty members for the purposes of this Policy. If necessary the Chair of the GRP shall resolve any disputes between the parties with respect to the Unit to which any current faculty with no academic department should be assigned for the purposes of this Policy.

Librarians

2.4 Librarians will be covered by a Librarian Workload Policy Committee that will create and maintain a Librarian Workload Policy, including workload norms, standards or ranges appropriate for the libraries and consistent with the terms of this WLPP **and the MOA**. The composition of the Librarian Workload Policy Committee will be established through a collegial process that provides a reasonable opportunity for all Librarians to have input regarding which members shall serve on the Committee. **This will include an e-mail or other written communication to unit members inviting them to put their names forward for consideration.** Committee membership should be reasonably reflective of the membership of the libraries, including reflecting the types of appointments that Librarians hold and should include representation from the UTM,

UTSC, and Central and Divisional libraries. The University's Chief Librarian shall be the Chair of the Librarian Workload Policy Committee.

Faculty and Librarians

...

2.6 Unit ~~workload policies~~ **Workload Policies** shall be consistent with the operating obligations of the unit and the University and the rights and obligations of members.

2.7 Offers of Appointment and renewal letters (if applicable) shall be consistent with the WLPP and the MOA, and shall reference and include a copy of the applicable Unit Workload Policy(ies) and a link to the WLPP.

...

2.9 Proposed Unit Workload policies shall be developed and revised collegially at the unit level. Members of the unit shall be invited to provide input on the contents of the proposed policy.

2.10 In developing Unit Workload Policies, the Committee should address workload assignments for CLTAs having regard to workload related similarities and differences with tenure and teaching stream faculties in the same unit.

...

2.1113 Unit ~~workload policies~~ **Workload Policies** shall be reviewed at least every three years by the unit.

...

3.0 Establishing Individual Workloads

...

3.2 In assigning workload to pre-tenure and ~~pre-promotion~~ **continuing status** faculty, temporary reductions in teaching and service loads are to be encouraged.

4.0 Establishing the Teaching Component of Normal Workload

The assigned proportion of a faculty member's work will include teaching and preparation for teaching, and the necessary administrative tasks associated with the operation of a collegial environment. The remainder of a faculty member's working time is self-directed and may consist of

research, scholarly, or creative or professional work consistent with the type of appointment the faculty member holds. Subject to any requirements in Article 8 **of the MOA** and the WLPP, individual units shall determine the balance amongst the three **principle principal** components of a faculty member's activities: teaching, research and service.

4.1 As reflected in Article 8 of the **Memorandum of Agreement MOA**, faculty will not be required to teach in all three terms, nor shall they be pressured to volunteer to do so.

...

5.0 Establishing the Service Component of Normal Workload

...

5.3 In considering the service component of normal workload, relevant factors include the following if applicable:

- Participation on University governance committees, task-forces, advisory groups or other related activities including participation on committees created by the Office of the President, the Office of the Provost, and/or by Governing Council;
- Participation on Faculty, School, College, Library or Departmental Councils and their subcommittees
- Participation in UTFA and its committees;
- Participation in joint UTFA/Administration committees and activities;
- Holding of academic administrative positions;
- Holding of librarian administrative positions
- Participation in unit level academic and administrative committees
- Service to organizations outside the University which is of an administrative nature, relevant to the University mission and not part of a member's research and scholarly contributions, including serving on review committees for awards, grants, and scholarships.
- University related development activities.
- Participation **in such units as the writing centres and** in activities designed to support teaching and learning.

...

6.0 Faculty Members Holding Budgetary Cross-appointments Or Who Hold Their Main Graduate Appointment Outside Their Primary Unit of Appointment

6.1 Faculty members holding budgetary cross-appointments to more than one unit should be assigned teaching and university service duties in a manner consistent with their percentage appointment in each unit. A common meeting involving the faculty member and all heads of units to which the member is appointed should take place **on an annual basis** to discuss workload and to resolve any conflicts in expectations between units. **This meeting should occur in person or by telephone, in any given year in which one of the Unit Workload Policies is amended or at the request of the faculty member or any of the heads of relevant units.** A written record of the teaching, supervisory and service expectations agreed at the meeting shall be kept by the unit heads and the faculty member.

6.2 Faculty members who hold their main graduate appointment outside their primary unit of appointment should also have a common meeting, **in person or by telephone,** involving the faculty member and both the unit head and graduate chair **on an annual basis, in any year in which one of the Workload Policies is amended or at the request of the faculty member or any of the relevant units.** This is to **discuss clarify** workload and to resolve any conflicts in expectations between units. A written record of the teaching, supervisory and service expectations agreed at the meeting shall be kept by the unit head, graduate chair and the faculty member.

7.0 Faculty Members in the Teaching Stream: Additional Provisions

7.1 The duties of faculty members in the Teaching Stream normally consist of teaching students who are in degree programs or access programs, and related professional and administrative activities. **Lecturers and senior lecturers Teaching Stream faculty** may have independent responsibility for designing and teaching courses or significant components of courses within their departmental and divisional curricula. While the patterns of these duties may vary from individual to individual, these duties, namely: Teaching and related Administrative Responsibilities; Scholarship, and Service, constitute the principal obligations of faculty members in the Teaching Stream.

7.2 Scholarship refers to any combination of discipline-based scholarship in relation to or relevant to the field in which the faculty member teaches, the scholarship of teaching and learning, and creative/professional activities. Teaching stream faculty are entitled to reasonable time for pedagogical/professional development in determining workload. **as set out in paragraph 30(x)(b) of the PPAA*.**

* e.g. discipline-based scholarship in relation to, or relevant to, the field in which the faculty member teaches; participation at, and contributions to, academic conferences where sessions on pedagogical research and technique are prominent; teaching-related activity by the faculty member outside of his or her classroom functions and responsibilities; professional work that allows the faculty member to maintain a mastery of his or her subject area in accordance with appropriate divisional guidelines.

...

~~7.5 Appointment and renewal letters for members in the Teaching Stream in a Unit should be consistent with the WLPP and the Workload Policy for that Unit.~~

...

8.0 Librarians: Additional Provisions

...

8.2 Appointed librarians will have the opportunity to discuss with the appropriate unit head or senior administrator the distribution of their duties, taking into account the need for adequate time to ~~fulfil~~ **fulfill** the 3 ~~principle~~ **principal** responsibilities of librarians for the next academic year, at the time of the annual performance review.

8.3 When previously unforeseen circumstances warrant, a librarian may request an in-year adjustment to their agreed workload distribution pattern. Requests for an in year adjustment will be considered in a manner consistent with the Librarian Workload Policy, **the WLPP**, and the **WLPP MOA**.

...

~~9.0 Tenure or Professional Stream: Additional Provisions~~

~~9.1 The parties agree to meet to discuss additional provisions related to tenure or professorial stream faculty.~~

409 Dispute Resolution

409.1 A member who has a complaint that the assignment of their workload is in violation of paragraph 3.1 of the WLPP or ~~of~~ the Unit Workload Policy must raise their complaint with the person who assigned their workload within 20 working days of the date on which the member knew or reasonably ought to have known of their workload assignment, and cannot file an individual grievance with the GRP under Article 7 of the ~~Memorandum of Agreement~~ **MOA**.

...

409.7 For clarity, if a dispute arises over the interpretation or application or alleged violation of the WLPP which does not fall within the scope of this Article, it will be subject to Article 7: Grievance Procedure of the ~~Memorandum of Agreement~~ **MOA**.

379. The Article 6 Memorandum of Settlement between the University Administration and UTFA for the one-year period of July 1, 2017 to June 30, 2018¹⁰⁷ included only one administrative change to the WLPP. This one change did not modify any of the rights or processes set out in the WLPP in any material way. It was an administrative change that required the Vice-Provost Faculty & Academic Life to deliver all updated Unit Workload Policies to UTFA by March 15 of each year. The full text of agreed-to amendment to the WLPP is reproduced below.

Workload Policy Administrative Changes:

Revise existing sections 2.13 to add the bolded text below:

*2.13 Unit Workload Policy shall be reviewed at least ever 3 years by the Unit. **The Vice-Provost Faculty & Academic Life will transmit all updated polices to the Association by March 15.***

The Parties agree to further WLPP Amendments

¹⁰⁷ July 1 2017 – June 30 2018 Article 6 Settlement between the University Administration and UTFA.
Tab 57.

380. As part of the Article 6 Memorandum of Agreement covering the period July 1, 2018 to June 30, 2020, the University Administration and UTFA agreed that unresolved issues concerning workload would be subject to mediation and final and binding arbitration before Arbitrator William Kaplan.¹⁰⁸ Following their execution of this Memorandum of Agreement, the parties engaged in a lengthy multi-day mediation process with Arbitrator Kaplan. Through this process, the University Administration and UTFA agreed to several WLPP amendments. Like the first set of amendments to the WLPP that had been agreed to as part of the 2014-2017 Memorandum of Settlement, many of these amendments clarified existing processes and roles rather than creating any new substantive or procedural rights under the WLPP. The parties' agreed-to amendments were set out in a side-by-side comparison document that was provided to Arbitrator Kaplan. The proposed WLPP amendments on which the parties did not reach agreement are highlighted in yellow.¹⁰⁹

381. The parties agreed to subdivide several of the lengthier articles in the WLPP into smaller sections. They also agreed to add subheadings throughout the WLPP. Minor grammatical changes were also agreed to.

382. Within Article 2.0 of the WLPP, the parties agreed to add language clarifying the role of the University Administration prior to a unit's submission of its Unit Workload Policy for approval. This agreed-to amendment is reproduced below, with the amended language highlighted:

2.12 Prior to the submission of the proposed Unit Workload Policy as described in paragraph 2.14 (Approval Process), the role of the Dean's office and the Provost's office in assisting the unit workload committee to develop or review the workload policy shall consist of advising the unit workload committee on the interpretation of the WLPP and to provide the Unit Workload Committee with information, in order to facilitate the Unit Workload Committee's independent development or review of their proposed Unit Workload Policy.

¹⁰⁸ July 1 2018 – June 30, 2020 Memorandum of Agreement between the University Administration and UTFA. **Tab 58.**

¹⁰⁹ Side-by-Side Comparison of Proposed WLPP Amendments provided to Arbitrator Kaplan during the 2018-2020 Article 6 Process. **Tab 59.**

383. The University Administration and UTFA also agreed that in addition to transmitting all updated Unit Workload Policies to UTFA, that “copies of Unit Workload Policies shall also be provided to cognate units on request” as part of the language in Article 2.16. The parties amended Article 2.18 to reference the professional practice component of librarians’ workload and to require that the written assignments of workload that had already been addressed in the WLPP were to be provided to each faculty member and librarian by no later than June 30 of each year. The prior iteration of the WLPP did not have a fixed deadline for this requirement. The parties agreed to add the following language to Article 2.18, which explained another way in which Unit Workload Plans might be made accessible:

Provided it is technologically practical to do so, the University and UTFA will discuss in Joint Committee and endeavour to agree on copies being posted on a unit internet site or other password-protected website, accessible to UTFA and its members in the applicable unit, subject to any confidential accommodation agreements, with a target implementation date of January 1, 2020.

384. Before the parties engaged in this set of mediated discussions with Arbitrator Kaplan, the WLPP already obligated the University Administration to provide UTFA with copies of all Unit Workload Policies that were approved or rejected. The parties agreed to an amendment which confirmed that the University Administration would do so “at the same time as they are approved in accordance with paragraph 2.14” of the WLPP.

385. Article 4.2 of the WLPP is a non-exhaustive list of factors that can be considered when considering the teaching component of a faculty member’s workload if and when relevant. The University Administration and UTFA did not make significant changes to this list. They agreed to add “level and/or hours of teaching assistant support” as one of the factors that could be considered, if relevant.

386. The University Administration and UTFA agreed to new language in Article 8.4 of the WLPP which addressed how workload should be assigned to librarians with appointments in more than one library or division. They agreed to add the following language to the WLPP to apply to this specific group of librarians:

8.4 Librarians holding appointments in more than one library unit or Division should be assigned workload in a manner consistent with their percentage appointment in each unit. A meeting involving the librarian and all heads of units to which the librarian is appointed should take place on an annual basis to discuss workload and to resolve any conflicts in expectations between units. A written record of the expectations agreed at the meeting shall be kept by the unit heads and the librarian.

387. The parties also agreed to add language to the WLPP that applied specifically to faculty members and librarians holding CLTAs. This language is reproduced in full below:

9.0 Additional Provisions

9.1 The teaching load of a Contractually Limited Term Appointed (CLTA) faculty member shall be no more than that of a comparably situated member in the same continuing track (i.e. Tenure Stream or Teaching Stream).

9.2 The Librarian Workload Policy shall include the same workload norms for both permanent stream and CLTA librarians.

388. At the conclusion of the parties' mediation process with Arbitrator Kaplan, the language in two of the WLPP provisions remained in dispute. They were referred to Arbitrator Kaplan for final and binding determination pursuant to the second paragraph of the 2018-2020 Article 6 Memorandum of Agreement. The first of these disputed changes to the WLPP involved the following language, with the disputed language in each party's proposal highlighted in yellow.

UTFA's Proposal	University Administration's Proposal
<p>2.184 Written assignments of workload. Each member will be provided with a written assignment of their workload duties on an annual basis which includes the member's percentage appointment and details (including respective weightings) of teaching and service <u>or, in the case of librarians, professional practice</u>, and service <u>no later than June 30th</u>. All written assignments for each Unit will be collected in the Office of the Unit Head and made readily available for review</p>	<p>2.164 Written assignments of workload. Each member will be provided with a written assignment of their workload duties on an annual basis which includes the member's percentage appointment and details of teaching and service <u>or, in the case of librarians, professional practice, and service normally no later than June 30th. Where, due to special circumstances, there is a significant variation from the workload norms, standards or ranges in the</u></p>

<p>at the request of any member of the Unit or the Association. <u>Provided it is technologically practical to do so, the University and UTFA will discuss in Joint Committee and endeavour to agree on copies being posted on a unit internet site or other password-protected website, accessible to UTFA and its members in the applicable unit, subject to any confidential accommodation agreements, with a target implementation date of January 1, 2020.</u></p>	<p><u>assignment of an individual's workload, the variation and the reason for it should be identified in the written assignment of workload, subject to any confidential accommodation agreements.</u> All written assignments for each Unit will be collected in the Office of the Unit Head and made readily available for review at the request of any member of the Unit or the Association. <u>Provided it is technologically practical to do so, the University and UTFA will discuss in Joint Committee and endeavour to agree on copies being posted on a unit internet site or other password-protected website, accessible to UTFA and its members in the applicable unit, subject to any confidential accommodation agreements, with a target implementation date of January 1, 2020.</u></p>
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389. The language in UTFA's first disputed amendment to this article of the WLPP which the University Administration did not accept referenced UTFA's proposal to reference "respective weightings" of teaching and service in the case of faculty members or professional practice in the case of librarians.

390. UTFA's insistence that each individual's written assignment of workload needed to include "respective weightings" of these workload components was connected to the second proposed amendment to the WLPP that remained in dispute. UTFA had proposed a cap on the amount of teaching that faculty members in the teaching stream could be assigned, through the following proposed amendment to the WLPP, with the disputed language again highlighted in yellow.

UTFA's Proposal	University Administration's Proposal
<p>7.2 <u>Scholarship in the Teaching Stream.</u> Scholarship refers to any combination of discipline-based scholarship in relation to or relevant to the field in which the faculty member teaches, the scholarship of teaching and learning, and creative professional activities. <u>Normally, scholarship and/or pedagogical/professional development accounts for no less than the service component of a Teaching Stream faculty member's workload; each Teaching Stream faculty member are is</u> entitled to reasonable time for <u>scholarship and/or pedagogical/professional development</u> in determining workload as set out in paragraph 30(x)(b) of the PPAA *.</p> <p>* e.g. discipline-based scholarship in relation to, or relevant to, the field in which the faculty member teaches; participation at, and contributions to, academic conferences where sessions on pedagogical research and technique are prominent; teaching-related activity by the faculty member outside of his or her classroom functions and responsibilities; professional work that allows the faculty member to maintain a mastery of his or her subject area in accordance with appropriate divisional guidelines.</p>	<p>7.2 <u>Scholarship in the Teaching Stream.</u> Scholarship refers to any combination of discipline-based scholarship in relation to or relevant to the field in which the faculty member teaches, the scholarship of teaching and learning, and creative/professional activities. Teaching stream faculty are entitled to reasonable time for pedagogical/professional development in determining workload as set out in paragraph 30(x)(b) of the PPAA *.</p> <p>* e.g. discipline-based scholarship in relation to, or relevant to, the field in which the faculty member teaches; participation at, and contributions to, academic conferences where sessions on pedagogical research and technique are prominent; teaching-related activity by the faculty member outside of his or her classroom functions and responsibilities; professional work that allows the faculty member to maintain a mastery of his or her subject area in accordance with appropriate divisional guidelines.</p>

391. UTFA sought to equalize the “scholarship and/or pedagogical/professional development” component of a Teaching Stream faculty member’s workload with the service component of their workload such that twenty percent of their workload would be attributed to service and another twenty percent of their workload would be attributed to “scholarship and/or pedagogical/professional development”. This would leave no more than sixty percent of Teaching Stream faculty members’ workload for teaching. It had the effect of imposing a cap on the teaching workload that could be assigned to Teaching Stream faculty members, based on a workload formula of 60% teaching, 20% “scholarship and/or pedagogical/professional development” and 20% service.

392. In responding to the proposed amendments to the WLPP that UTFA had put before Arbitrator Kaplan, the University Administration delivered an Arbitration Brief that set out its history of successfully opposing any formulaic cap on the teaching workload of Teaching Stream faculty members. These submissions are found at pages 13 through 19 of the University Administration’s May 20, 2020 Arbitration Brief. In these submissions, the University Administration took the position that UTFA’s most recent proposed amendments to the WLPP sought to achieve this same formulaic cap by different means.¹¹⁰

393. UTFA’s proposed amendments to the WLPP were connected with its proposed amendments to the AAPM which were put before Arbitrator Kaplan for final and binding determination without prejudice to the University Administration’s position that the provisions of the AAPM remained inarbitrable. The parties’ respective positions on these proposed amendments to the AAPM are set out in the table below, with the disputed language highlighted in yellow.

UTFA’s Proposal	University Administration’s Proposal
<p>The Balance of Teaching, Research and Service</p> <p>The PTR scheme allows each unit to determine the balance amongst the three principal components of a faculty member's activities: teaching, research and service. This flexibility is important for recognizing the unique missions of units and the differences in agreed upon activities of individuals.</p> <p>Normally, for non-teaching stream professorial faculty, the portion of the total PTR allocated to teaching, and research/scholarship (which can also take the form of creative professional activity) is approximately equal, but in a limited number of cases, an argument might be made that an atypical weighting of all three areas of activity for the individual concerned is appropriate.</p>	<p>The Balance of Teaching, Research and Service</p> <p>The PTR scheme allows each unit to determine the balance amongst the three principal components of a faculty member's activities: teaching, research and service. This flexibility is important for recognizing the unique missions of units and the differences in agreed upon activities of individuals.</p> <p>Normally, for non-teaching stream professorial faculty the portion of the total PTR allocated to teaching, and research/scholarship, (which can also take the form of creative professional activity) is approximately equal, but in a limited number of cases, an argument might be made that an atypical weighting of all three areas of activity for the individual concerned is appropriate.</p>

¹¹⁰ May 20 2020 University’s Arbitration Brief submitted to Arbitrator Kaplan, pp. 13-19 with documents appended as Tabs 12-20 included. **Tab 60**

<p>A separate weighting of teaching, service and scholarship (which may take the form of creative professional activity and includes pedagogical/professional development and/or discipline-based scholarship in relation to, or relevant to, the field in which they teach) should be made for teaching-stream faculty.</p>	<p>A separate weighting of teaching, pedagogical/professional work and service should be made for teaching-stream faculty. A teaching stream faculty member who engages in pedagogical and/or discipline-based scholarship in relation to the field in which they teach and/or creative/professional work that allows the faculty member to maintain a mastery of their subject area (1), shall be evaluated on that activity and this evaluation will be appropriately weighted in the PTR assessment.</p> <p>(1) See PPAA section 30(x)(b): "...e.g. discipline-based scholarship in relation to, or relevant to, the field in which the faculty member teaches; participation at, and contributions to, academic conferences where sessions on pedagogical research and technique are prominent; teaching-related activity by the faculty member outside of his or her classroom functions and responsibilities; professional work that allows the faculty member to maintain a mastery of his or her subject area in accordance with appropriate divisional guidelines."</p>
<p>Weighting of faculty on research and study leave should reflect the research/scholarship and service duties undertaken during their leave.</p> <p>Librarians should be assessed on the variety of activities undertaken (professional practice including teaching, if applicable; research and scholarly contributions; and service).</p> <p>A change of the balance in duties requires the approval of the unit and division heads. Such an adjustment must be made at least a year in advance of the application of a modified weighting of responsibilities to the person's Annual Activity Report. In no circumstances should a tenure stream faculty member be fully relieved of either teaching or research activities and there should always be a service component for each individual. Such arrangements should be for a fixed period with a review of their appropriateness at the end of the period.</p>	<p>Weighting of faculty on research and study leave should reflect the research or pedagogical/professional work and service duties undertaken during their leave.</p> <p>Librarians should be assessed on the variety of activities undertaken (professional practice including teaching, if applicable; research and scholarly contributions; and service).</p> <p>A change of the balance in duties requires the approval of the unit and division heads. Such an adjustment must be made at least a year in advance of the application of a modified weighting of responsibilities to the person's Annual Activity Report. In no circumstances should a tenure stream faculty member be fully relieved of either teaching or research activities and there should always be a service component for each individual. Such arrangements should be for a fixed period with a review of their appropriateness at the end of the period.</p>

Point Systems and the Evaluation

Some units have employed a ten-point scheme as a model, based, for the non-teaching stream professorial faculty, on four points for teaching, four points for research (and scholarship, which can also take the form of creative professional activity), and two for service. This point scheme will be varied for teaching stream faculty. A rating scale will be used for librarians, whose evaluation criteria will be different.

While a point scheme has a number of positive aspects there have been some untoward effects of the scheme on awards. An arithmetic evaluation of a positive score where an individual is not meeting his or her responsibilities is inappropriate. The range of points awarded should use the full scale.

For example, the award of 2 on a 0 to 4 scale for teaching performance that is barely acceptable by the standards of the unit would be an inappropriate evaluation. While a score of zero points is expected to be rare, use of the full 0 to 4 scale is equally as appropriate in the evaluation of teaching as it is in the evaluation of research. It is important to use the full range of scores so that the application of the scale does not inadvertently bias the recognition of one activity over another.

While point schemes are useful indicators, they should not replace the judgment of the Dean or appropriate administrative head on the overall performance of the individual. If a point system is used, it should be indicative of a relative level of performance, not an absolute value that is translated arithmetically into the PTR award. If a point system is not used, the appropriate administrative head, must still document the criteria for evaluation.

Point Systems and the Evaluation

Some units have employed a ten-point scheme as a model, based, for the non-teaching stream professorial faculty, on four points for teaching, four points for research (and scholarship, which can also take the form of creative professional activity), and two for service. Point schemes will be varied for teaching stream faculty. A rating scale will be used for librarians whose evaluation criteria will be different.

While a point scheme has a number of positive aspects there have been some untoward effects of the scheme on awards. An arithmetic evaluation of a positive score where an individual is not meeting his or her responsibilities is inappropriate. The range of points awarded should use the full scale. For example, the award of 2 on a 0 to 4 scale for teaching performance that is barely acceptable by the standards of the unit would be an inappropriate evaluation. While a score of zero points is expected to be rare, use of the full 0 to 4 scale is equally as appropriate in the evaluation of teaching as it is in the evaluation of research. It is important to use the full range of scores so that the application of the scale does not inadvertently bias the recognition of one activity over another.

While point schemes are useful indicators, they should not replace the judgment of the Dean or appropriate administrative head on the overall performance of the individual. If a point system is used, it should be indicative of a relative level of performance, not an absolute value that is translated arithmetically into the PTR award. Where a point system is not used, the Dean or appropriate administrative head must still document the criteria for evaluation.

394. UTFA's first disputed amendment to the AAPM described the "scholarship" of Teaching Stream faculty members in an expansive and inaccurate way which was different from the language used in the PPAA. The University Administration's proposal on this subject was more closely-linked to the language that described Teaching Stream faculty members' pedagogical/professional work under the PPAA.

395. UTFA's second disputed amendment to the AAPM intersected with its proposed amendments to the WLPP, as both sets of amendments aimed at imposing a rigid weighting system on the workload components that apply to Tenure Stream and Teaching Stream faculty members. In opposing UTFA's proposed changes to the WLPP and the AAPM, the University Administration emphasized that UTFA had confused and conflated the workload assignment process in the WLPP with the PTR assessment process set out in the AAPM.

396. The University Administration described the WLPP as the procedures that are used to assign the teaching and service components of a faculty member's workload in advance of each academic year in accordance with each academic unit's Unit Workload Policy. It described the separate PTR assessment process in the AAPM as one that assessed each faculty member's achievements in teaching and service, but which also required an assessment of each Tenure Stream faculty member's self-directed research and scholarship and each Teaching Stream faculty member's discipline-based scholarship in relation to, or relevant to, the field in which they teach. The University Administration emphasized that there was no overlap or intersection between the assignment of workload under the WLPP and the assessment of merit under the PTR process as described in the AAPM.

397. In its proposals to amend the AAPM, UTFA sought to superimpose the 10-point rating scale used by some units to assess the achievements of Tenure Stream Faculty whereby four points were attributed to teaching achievement, four points were available for research and scholarship achievement and the remaining two points were available for service achievement onto Teaching Stream faculty members, so that Teaching Stream faculty would be assessed using the same 10-point scale, but with six points

allocated to teaching achievement, two points allocated to pedagogical and/or discipline-based scholarship in relation to the field in which they teach and/or creative/professional activity that allows the faculty member to maintain a mastery of their subject area, and the remaining two points allocated to service achievement.

398. In this way, UTFA's proposed amendments to the AAPM dovetailed with its proposed amendments to the WLPP, which sought to place a formulaic cap on the teaching component of workload that could be assigned to Teaching Stream faculty members, such that their workload would be subject to a rigid quantification of 60 percent teaching, 20 percent pedagogical and/or discipline-based scholarship in relation to the field in which they teach and/or creative/professional activity that allows the faculty member to maintain a mastery of their subject area, and 20 percent service. The University Administration opposed all of UTFA's proposed modification to the AAPM.

399. In his interest arbitration award, Arbitrator Kaplan awarded amendments to Article 2.18 of the WLPP which were similar to those proposed by the University Administration. Arbitrator Kaplan determined that each faculty member and librarian was entitled to receive a written assignment of their workload duties by June 30 of each year. He also determined that instances "where an individual member's assignment is materially different from the unit's workload norms, standards or ranges, the variation and the reason for it should be identified in the individual member's written assignment of workload, subject to any accommodation agreements." Arbitrator Kaplan determined that this amendment, coupled with modifications to this same provision that had been agreed to by the parties "will provide full transparency on individual and relative workloads."¹¹¹

¹¹¹ 2020 Kaplan Article 6 Award, *supra* Tab 8 at p. 6

400. Outside of the Article 6 process, Arbitrator Kaplan ordered a minor change to the part of the AAPM which addressed the weighting of teaching, pedagogical/professional development and service that should be made for Teaching Stream faculty. The changes to the AAPM awarded by Arbitrator Kaplan were also similar to the modification that the University Administration had proposed.¹¹² The University Administration's proposed modification to this section of the PPAA was closely aligned with the language regarding the Teaching Stream faculty included in the PPAA.

401. None of UTFA's proposed amendments to the WLPP or the AAPM were awarded. Arbitrator Kaplan described UTFA's proposed amendments as advocating a "rigid workload formula" and "limitations on the teaching of teaching stream members."¹¹³ He described UTFA's proposals as follows:

As the Association observes in its brief, the workload of faculty and librarians is inherently fluid and cannot be rigidly quantified or measured according to units of time. It evolves within a year and over years. Experience indicates that faculty have a very clear idea of expectations, especially for PTR evaluation.

Consistent with the replication principle, this award attempts to achieve the outcome that would have been arrived at had this dispute run its course and that does not encompass awarding these Association proposals. **Moreover, while the Association describes its proposals as modest and gradual, the changes sought are major. They are just the sort of significant changes that the parties should reach voluntarily.** Demonstrated need, an effective counterpoint to gradualism, and a factor that can lead to a breakthrough, has also not been established. Approximately 3400 faculty workload assignments are made annually. Since 2011, there have only been two complaints referred to the Workload Adjudicator under The WLPP. While there is survey evidence in the Association's brief pointing to problems, the conclusion is inescapable that this is not a pressing issue requiring arbitral attention. This remains an issue best left to the parties to resolve. Accordingly, the Association's proposals for major change are rejected.¹¹⁴

[Emphasis added]

¹¹² 2020 Kaplan Article 6 Award, *supra* Tab 8 at p. 8.

¹¹³ *Ibid.*, at p. 6.

¹¹⁴ 2020 Kaplan Article Award, *supra* Tab 8 at 6-7.

WORKLOAD ISSUES IN THE 2023 GEDALOF ARTICLE 6 AWARD

402. In his 2023 Article 6 award, Arbitrator Gedalof reaffirmed that absent evidence of demonstrated need, significant changes to the WLPP are to be reached through mutual agreement and not by arbitral determination. UTFA had advanced nine proposed amendments to the WLPP to interest arbitration. In addressing UTFA's high number of proposed amendments to the WLPP, Arbitrator Gedalof observed that:

The guiding principle in assessing the outstanding workload proposals is of course replication, no less so than in determining monetary issues. The principles of gradualism and demonstrated need are also of particular significance. These parties have a mature bargaining relationship, dating back to 1977. In this context, interest arbitrators are reluctant to award "breakthrough" proposals, altering a long-established *status quo*, absent a demonstrated need to address a real and pressing problem. Interest arbitrators have long reasoned that where parties have agreed to long-standing terms that are fundamental to their bargain, it is only in the face of a very compelling demonstrated need that they ought to unilaterally alter those terms over the objection of one of the parties.¹¹⁵

403. One incremental change to the WLPP that was supported by the principle of demonstrated need was UTFA's proposal to add the "level and/or hours of technical and/or pedagogical support for online teaching" to the list of factors that could be considered, if relevant, when determining the teaching component of normal workload. Online teaching had become more prevalent during the COVID-19 pandemic. In a statement released on August 12, 2021¹¹⁶, the University Administration acknowledged the parties had reached an agreement on the COVID LOU. In the provisions of the COVID LOU that addressed workload, the parties agreed that:

3.2 Workload will be assigned in a fair, reasonable and equitable distribution based on Unit workload policies and the Workload Policies and Procedures (WLPP). The factors enumerated in section 4.2 will be taken into account to recognize the work needed to make changes to the approach to teaching or mode of course delivery to online delivery in the context of the COVID-19 pandemic.

¹¹⁵ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 123

¹¹⁶ August 12 2021 Statement of the University Administration regarding COVID-19 Letter of Understanding. **Tab 61**.

404. As online teaching continued, there was a demonstrated need to recognize the potential relevance of the level and/or hours of teaching and/or pedagogical support provided for online teaching. The parties agreed that an appropriate response was to apply the principles in section 3.2 of the COVID LOU to Article 4.2 of the WLPP.

405. Consistent with the principle of gradualism and the parties' own history of continuing to move toward greater transparency in the assignment of workload¹¹⁷ Arbitrator Gedalof's modifications of the WLPP were narrow in scope. He ordered one of UTFA's proposals: a requirement that each unit prepare an Annual Workload Document. The language that Arbitrator Gedalof awarded is now found in Article 3.3 of the WLPP and is reproduced below:

3.3 Annual workload documents. Each Unit shall prepare, on an annual basis, a Unit Workload Document setting out:

- The assigned teaching and assigned service workload for each member in the Unit;
- For each course that a member teaches, the assigned teaching credit, the mode of delivery, the class size, and the level and/or hours of TA support, and any other factor which the Unit Workload Committee determines is a reasonable factor for comparison;
- For each member any teaching release and the reason for it (e.g., pre-tenure course reductions), subject to any confidential accommodation agreements.

The Unit Workload Documents will be provided to all members of the Unit and to UTFA by June 30 of each year.

406. In awarding this language, Arbitrator Gedalof focused on increasing the level of transparency around the assignment of teaching and service workloads in each unit. He determined that certain information needed to be included in an Annual Workload Document would enable the faculty members and librarians in each unit to obtain a broader and deeper understanding of how teaching and service workload and teaching releases had been distributed amongst the members of the unit.

¹¹⁷ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 136.

407. Arbitrator Gedalof's focus on the connection between his awarding of the above-referenced WLPP language and an interest in increasing the level of transparency in the assignment of the teaching component of workload is reflected in the following paragraph of his award.

The focus of the provision, as the Association argues, is to promote transparency, not to dictate what a unit may or may not consider relevant, or how it may balance relevant considerations. In my view, Arbitrator Kaplan correctly identified the importance of full transparency "particularly where it is asserted that workload distribution has a negative impact on members of equity-seeking groups." The proposal awarded represents a further and incremental move toward greater transparency, while maintaining the overall structure of the parties' agreement. Should increased transparency shed light on a problem, that problem can be addressed as a demonstrated need in future rounds of bargaining.¹¹⁸

408. Arbitrator Gedalof rejected the remainder of UTFA's workload proposals.¹¹⁹ He found that each of these remaining proposals "would constitute a significant alteration to the status quo" which, if awarded, would "constitute major structural changes to the parties' agreement." that were unaccompanied by much if any evidence that there was a demonstrated need for any such changes.¹²⁰ In addressing the clear lack of demonstrated need for its remaining workload proposals, Arbitrator Gedalof emphasized that:

The existing WLPP already contains provisions directed toward establishing a "fair, reasonable and equitable distribution of "workload". It also contains a mechanism for binding dispute resolution where a member complains that their workload does not comply with the policy. The Association asserts that the WLPP has been ineffective. But prior to the last round of interest arbitration, there had only ever been two such complaints. Since then, I have been advised of none. It is difficult to square the lack of any complaints under the existing provisions with the asserted crisis that the Association asserts is reflected in its survey of its membership.

¹¹⁸ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 138.

¹¹⁹ The full text of UTFA's remaining workload proposals are included in Schedule A of the January 25 2022 MOS.

¹²⁰ 2023 Gedalof Article 6 Award, *supra* Tab 9 at paras. 132-133.

Addressing similar proposals in the prior round of arbitration between these parties, Arbitrator Kaplan addressed the same problem with the Association's proposals that I find here. His reasons are apposite and for that reason I will set them out at some length (pp. 4-7):

The Association makes two proposals to amend *The WLPP* and two proposals to amend *The AAPM* relating to the Progress Through the Ranks Policy (hereafter "The PTR Policy"). These proposals are informed by its view that change is required to address significant and well-established problems of both over-work and inequitable distribution of work. In the Association's submission, clear and transparent workload norms are necessary to address the myriad problems identified and discussed in detail in its written submissions. Excessive and inequitable workload, the Association argues, affects everyone but disproportionately impacts Association members who identify as women or who are racialized and especially as it is experienced by members of the Teaching Stream. Pre-tenure status and employment precarity, not to mention an overall lack of workload transparency, inhibit and discourage filing of workload complaints, formal and informal. In the Association's view, its proposals are fully justified when all of the criteria are examined: its proposals reflect university norms across the country, are justified by evidence of demonstrated need and, considered in the overall, are incremental, conforming to the gradualism principle and cannot properly be fairly characterized as breakthrough. Moreover, the Association observes, the University of Toronto has staked and maintained a position at the top of the market in salaries, and a corollary of that is that working conditions need to catch up.

For its part, the University submits that when the outstanding Association proposals are seen through the lens of the governing interest arbitration criteria, none of them are justified or should be awarded. It was inconceivable that more than two thousand tenured and tenure track faculty and librarians would go on strike when three of the four outstanding issues relate exclusively to the teaching stream. The case could be, and should be, justified, the University submitted, on the basis of replication alone with the Award incorporating the University's proposals. Application of the other factors confirmed this conclusion. The Association's WLPP proposal – through mandatory inclusion of respective weightings and a cap on the assignment of teaching to teaching stream members – in other words, rigid workload formulas, was not gradual; rather it represented a fundamental change to the long-standing status quo, and it was a proposal made with scant evidence, at best, of demonstrated need.

Reasons for Decision

Having carefully considered the submissions of the parties, along with the relevant criteria, it is my view that some changes are in order, particularly with respect to workload transparency. Association members should have their workload written down and available for review and comparison, subject to confidentiality requirements such as, for example, where an accommodation plan is in place. It is only fair that faculty members know how workload is distributed, particularly where it is asserted that workload distribution has a negative impact on members of equity-seeking groups. The change awarded here, together with what was agreed upon at mediation for electronic access to all written assignments within an academic unit (subject to any confidential accommodation agreements), will provide full transparency on individual and relative workloads.

The evidence, however, does not make out a case for the Association's proposed rigid workload formula, or for limitations on the teaching of teaching stream members. As the Association observes in its brief, the workload of faculty and librarians is inherently fluid and cannot be rigidly quantified or measured according to units of time. It evolves within a year and over years. Experience indicates that faculty have a very clear idea of expectations, especially for PTR evaluation.

Consistent with the replication principle, this award attempts to achieve the outcome that would have been arrived at had this dispute run its course and that does not encompass awarding these Association proposals. Moreover, while the Association describes its proposals as modest and gradual, the changes sought are major. They are just the sort of significant changes that the parties should reach voluntarily. Demonstrated need, an effective counterpoint to gradualism, and a factor that can lead to a breakthrough, has also not been established. Approximately 3400 faculty workload assignments are made annually. Since 2011, there have only been two complaints referred to the Workload Adjudicator under The WLPP. While there is survey evidence in the Association's brief pointing to problems, the conclusion is inescapable that this is not a pressing issue requiring arbitral attention. This remains an issue best left to the parties to resolve. Accordingly, the Association's proposals for major change are rejected...

I adopt the same approach and reasoning here and come to a similar conclusion. The parties have a history of bargaining incremental change to the terms of the MOA. It is reasonable to conclude that had the parties reached a freely bargained outcome here, they would have continued to move toward greater transparency in workload assignment, as they have in prior rounds. But the evidence before me does not support the conclusion that they would have agreed to the more substantial, top-down changes sought by the Association. My award below is intended to strike this balance.¹²¹

409. In addressing the workload proposals that UTFA has referred to arbitration as part of the current Article 6 process, the University Administration submits that the focus must remain on the principles of gradualism and demonstrated need. The reasoning that was advanced and the conclusions that were adopted by Arbitrators Kaplan and Gedalof in addressing earlier iterations of many of the proposals that have resurfaced in this current process should be followed once again.

UTFA'S PURSUIT OF "DISTRIBUTION OF EFFORT" FORMULAS IN UNIT WORKLOAD POLICIES AND WRITTEN WORKLOAD ASSIGNMENTS

UTFA'S PROPOSAL

4.0 Establishing the Teaching Component of Normal Workload

The assigned proportion of a faculty member's work will include teaching and preparation for teaching, and the necessary administrative tasks associated with the operation of a collegial environment. The remainder of a faculty member's working time is self-directed and may consist of research, scholarly, creative, or professional work consistent with the type of appointment the faculty member holds. Subject to any requirements in Article 8 of the MOA and the WLPP, individual units shall determine the balance amongst the three principal components of a faculty member's activities: teaching, research, and service, **and state the determined balance in the Unit Workload Policy. If the determined balance is not stated in the Unit Workload Policy, the default balance shall be forty percent (40%) teaching, forty percent (40%) research, scholarly, creative, or professional work, and twenty percent (20%) service for tenure steam faculty members; and sixty percent (60%) teaching, twenty percent (20%) research, scholarly, creative, or professional work, and twenty percent (20%) service for teaching steam faculty members.**

...

¹²¹ 2023 Gedalof Article 6 Award, *supra* Tab 9 at paras. 134-136.

8.0 Librarians: Additional Provisions

8.1 Librarian workload is a combination of tasks assigned and tasks determined through collegial interaction and self direction. While the pattern of a librarian's professional activity may vary from individual to individual, the following three activities constitute a librarian's principal responsibilities:

(a) Professional practice for the Library, including teaching that has been requested or approved by a Librarian's **supervisor(s)manager**. In considering the teaching component of normal workload for librarians, relevant factors include the factors set out in Article 4.2, if applicable.

(b) Research and scholarly contributions **and creative professional activities**, including academic, professional and pedagogical contributions or activities.

(c) Service, which should be broadly understood to include service to the University, Library, and the profession.

If the determined balance amongst the three principal components of workload is not stated in the Librarian Unit Workload Policy, the default balance shall be eighty percent (80%) professional practice, ten percent (10%) research, and ten percent (10%) service.

2.17 **Written assignments of workload.** Each member will be provided with a written assignment of their workload duties on an annual basis that includes the member's percentage appointment and details of teaching and service or, in the case of librarians, professional practice and service, by no later than June 30th.

For faculty members, each written assignment of workload shall include the expected distribution of effort (DOE) percentages for each member, which is the balance amongst the three principal components of a member's activities: teaching, research, and service (e.g. 40%/40%/20%; 60%/20%/20%). The expected DOE shall rationally correspond to the member's details of teaching and service. A change to a member's DOE during the term of the workload assignment will only be made with the consent of the member. Any agreed-to change to a member's DOE during the term of the workload assignment shall be added to the written assignment as an addendum and co-signed by the member and their Unit Head.

Where an individual member's assignment is materially different from the unit's workload norms, standards, or ranges, the variation and the reason for it **should shall** be identified in the individual member's written assignment of workload, subject to any accommodation agreements.

All written assignments for each Unit will be collected in the Office of the Unit Head and made readily available for review at the request of any member of the Unit or the Association. ~~Provided it is technologically practical to do so, the University and UTFA will discuss in Joint Committee and endeavour to agree on e~~Copies will be being posted on a unit internet site or other password-protected website, accessible to UTFA and its members in the applicable unit, subject to any confidential accommodation agreements, ~~with a target implementation date of January 1, 2020.~~

...

8.5 **A librarian's written assignment of workload under 2.17 will include the librarian's expected workload distribution, which is the percentage balance amongst the three principal responsibilities of a librarian under 8.1: professional practice, research, and service (e.g. 80%/10%/10%).** The workload distribution of a librarian will be taken into account at the time of the annual performance review and a written record will be retained.

UNIVERSITY ADMINISTRATION'S RESPONSE

No DOE Formulas should be Imported into the WLPP

410. The WLPP has always enabled each unit to “determine the balance amongst the three principal components of a faculty member’s activities: teaching, research and service”¹²² and allowed each librarian’s principal responsibilities of professional practice, research and scholarly contributions, and service to be “determined through collegial interaction and self direction”¹²³ through the formulation of Unit Workload Policies that include “workload norms, standards and ranges appropriate to the unit and consistent with the MOA and the WLPP.”¹²⁴

411. UTFA’s proposals represent another attempt to insert rigid and quantitative “Distribution of Effort” (“DOE”) formulas into a process that is characterized and built upon the principles of unit autonomy, flexibility, collegiality, transparency and accountability. UTFA’s proposals incorrectly presuppose that each academic unit must express its determination of the balance amongst the three principal components of

¹²² WLPP, *supra* Tab 56 Article 4.0.

¹²³ *Ibid.*, at Article 8.1.

¹²⁴ *Ibid.*, at Article 2.1.

faculty members' and librarians' activities using a DOE framework, despite the fact that a significant amount of workload has always been entirely self-directed and has therefore remained incompatible with any type of quantitative formula. That concept has never been accepted as an appropriate way to measure or address workload under the WLPP. Certain academic units may have decided to use a 10 point scoring system to make PTR determinations for Tenure Stream faculty where 4 points are assigned for achievements in teaching, 4 points are assigned for achievements in research and 2 points are assigned for achievements in service. This type of PTR scoring system is incompatible with the processes used to determine workload under the WLPP.

412. In the PTR process, each Tenure Stream faculty member's teaching, research and service activities are assessed to determine eligibility for merit-based compensation using policies and procedures developed collegially within each unit. Teaching Stream faculty members and librarians undergo a similar assessment of all of their activities during a PTR assessment period. In contrast, the assignment of the teaching¹²⁵ and service components of workload under the WLPP seeks to ensure that these two components of workload are distributed in a fair and equitable manner within each unit.

413. The WLPP does not address the research and scholarly contributions components of workload, except to acknowledge that this work is entirely self-directed as part of Article 4.0. The WLPP addresses only the teaching and service components of workload and recognizes that the remainder of a faculty member's working time is self-directed, and that this self-directed working time "may consist of research, scholarly, creative, or professional work consistent with the type of appointment the faculty member holds." A plain and ordinary review of the language in Article 4.0 of the WLPP and how it has been operationalized since the WLPP's inception does not support any interpretation or suggestion that it contemplates or requires the adoption of any workload formula or any approach that includes an apportionment of the time or effort that faculty members must spend on self-directed work.

¹²⁵ For librarians, the teaching component of workload forms part of their professional practice responsibilities under Article 8.1(a) of the WLPP and an assessment of the teaching component of a librarian's workload, relevant factors include those enumerated in Article 4.2 of the WLPP, if applicable.

414. On this basis alone, UTFA's proposal that each Unit Workload Policy must include a precise quantification of all three components of workload for faculty members and librarians is an unwarranted expansion of the WLPP's ambit. It constrains the self-directed nature of the research and scholarly contributions component of workload and the WLPP's emphasis on unit autonomy. This constraint on unit autonomy is not loosened in any material way by UTFA's suggestion that the numerical components of the newly-required and all-encompassing DOE could be adjusted within each unit.

415. Awarding UTFA's proposal would also impose new and significant constraints on the autonomy of individual faculty members to determine how they spend their time and effort. Implementing any type of formula that prescribes how much time or effort a faculty member must spend on each of the three principal components of workload implies that there should be a limit on the time or effort they may spend on self directed research, scholarly, creative, or professional work. Any such implication is antithetical to the WLPP and to faculty members' overall approach to their work. Faculty members are required to complete their teaching and service assignments, but a key feature of the WLPP and the University Administration's longstanding approach to workload is that the remainder of each faculty member's time is self-directed. A faculty member may use this self-directed time to focus on whatever components of work they wish. UTFA's proposal disregards this fundamental workload norm.

416. The rigidity of UTFA's DOE concept is also incompatible with the continuously changing nature of workload, as confirmed in the WLPP's preamble, which states that:

Workload is a combination of tasks assigned and tasks determined through collegial interaction and self-direction. Units vary in their contributions to the University mission and so it is understood that what constitutes workload will vary from one unit to another. **At the same time, unit members will experience different demands from year to year in the balancing of domains of workload, and so an individual's workload may vary from year to year and from a colleague's workload within a year. This flexibility is important for recognizing the unique nature of units and the differences of agreed upon activities of individuals within units.**

[Emphasis added]

417. In rejecting an earlier iteration of these proposals, which also proposed a Tenure Stream DOE of 40/40/20 and a Teaching Stream DOE of 60/20/20 into the WLPP, Arbitrator Kaplan recognized that “the workload of faculty and librarians is inherently fluid and cannot be rigidly quantified or measured according to units of time. It evolves within a year and over years.”¹²⁶ When UTFA advanced similar proposals regarding the concrete quantification of workload before Arbitrator Gedalof, he accepted Arbitrator Kaplan’s analysis rejected UTFA’s attempts to fundamentally alter the WLPP.¹²⁷

418. Arbitrator Gedalof also found that UTFA’s attempts to “dictate the manner in which workload must be assessed or expressed at the local level” would have caused “major structural changes to the parties’ agreement.”¹²⁸ UTFA’s most recent workload proposals are aimed squarely at altering the way that workload is assessed or expressed at the unit level. UTFA’s shift from pursuing University-wide workload standards to requesting a DOE structure in each unit is not a shift from rigidity to flexibility. UTFA has simply taken the same DOE concept that has twice been rejected and sought to impose this same concept on a unit-by-unit basis. UTFA’s suggestion that an individual unit might decide to alter the percentage allocations within its own DOE formula cannot and should not be equated with the flexible approach to assigning workload that has always been central to the WLPP. As Arbitrator Gedalof accurately observed, “the existing WLPP already contains provisions directed toward establishing a “fair, reasonable and equitable distribution of workload.”¹²⁹

419. Arbitrator Kaplan made similar points in his 2020 award. He observed that faculty members and librarians have a clear and broad understanding of their professional expectations under the current WLPP.¹³⁰ In the five years since Arbitrator Kaplan’s award his observation remains accurate. Faculty members and librarians have maintained a clear and broad understanding of their professional expectations,

¹²⁶ 2020 Kaplan Article 6 Award, *supra* Tab 8 at p. 6.

¹²⁷ 2023 Gedalof Article 6 Award, *supra* Tab 9 at paras. 135-136.

¹²⁸ *Ibid.*, at para. 133.

¹²⁹ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 134.

¹³⁰ 2020 Kaplan Article 6 Award, *supra* Tab 8 at p. 6.

including the expectations set by and through the Unit Workload Policies under the current WLPP. These circumstances have continued without the prescriptive DOE framework that UTFa now seeks to make mandatory in each and every Unit Workload Policy, and for which it has prescribed the “default DOEs” of:

- (a) Forty percent (40%) teaching, forty percent (40%) research, scholarly or professional work, twenty percent (20%) service for Tenure Stream faculty;
- (b) Sixty percent (60%) teaching, twenty percent (20%) research, scholarly and professional work, and twenty percent (20%) service for Teaching Stream faculty; and
- (c) Eighty percent (80%) professional practice, ten percent (10%) research and ten percent (10%) service for librarians.

420. Since the WLPP was first agreed to in 2010, in addition to accepting a commitment to “a fair, reasonable and equitable treatment of workload”, as Arbitrator Gedalof had noted, the University Administration and UTFa have committed to:

- (a) flexibility in workload allocation that reflects the missions of units and is consistent with the type of appointment members hold and the diversity of their research and scholarship and assigned teaching and service responsibilities and activities; and
- (b) Criteria for workload allocation that have been developed in accordance with collegial governance, including the opportunity for members of the unit to contribute reasonably to their development and review. In this regard, workload allocation should respect academic freedom and a reasonable degree of professional autonomy.¹³¹

¹³¹ WLPP, *supra* Tab 56 at Article 1.2

421. When individual workload assignments are made, the WLPP requires that individual circumstances must be considered. Unit-wide DOE structures are not contemplated. This is evidenced by the following provisions of the WLPP:

3.1 After consultation with the member, the Unit Head, or in the case of a librarian, the person to whom the librarian reports, shall assign workload to individuals in accordance with the provisions of the WLPP, the Unit Workload Policy, **and other factors relevant to the individual.**

7.1 The duties of faculty members in the Teaching Stream normally consist of teaching students who are in degree programs or access programs, and related professional and administrative activities. Teaching stream faculty may have independent responsibility for designing and teaching courses within their department and divisional curricula. **While the patterns of these duties may vary by individual to individual,** these duties, namely: Teaching and related Administrative Responsibilities; Scholarship, and Service, constitute the principal obligations of faculty members in the Teaching Stream.

7.3 **Teaching in the Teaching Stream.** Consistent with Article 4, in determining the teaching component of normal workload both teaching and related administrative responsibilities will be taken into account.

8.1 Librarian workload is a combination of tasks assigned and tasks determined through collegial interaction and self direction. **While the pattern of a librarian's professional activity may vary from individual to individual,** the following three activities constitute a librarian's principal responsibilities:

- (a) Professional practice for the Library, including teaching that has been requested or approved by a Librarian's manager. In considering the teaching component of normal workload for librarians, relevant factors include the factors set out in Article 4.2, if applicable.
- (b) Research and scholarly contributions, including academic, professional and pedagogical contributions or activities.
- (c) Service, which should be broadly understood to include service to the University, Library and the profession.

[Emphases added]

422. These parts of the WLPP, and the ways in which the teaching component of workload for all Tenure Stream faculty, Teaching Stream faculty and librarians is subject to the individualized factors listed in Article 4.2 of the WLPP, are incongruent with UTFA's request to insert a compulsory DOE framework into all Unit Workload Policies.

423. In summary, UTFA's request to impose a DOE-type structure into every Unit Workload Policy (including the "default DOEs" proposed by UTFA) is antithetical to the need for flexibility in workload allocations that not only recognizes the unique nature of individual academic units, but also the different types of appointments that individuals within these units hold, and the broad spectrum of work that they perform year to year and within a given year. The notion that each academic unit at the University must adopt a particular method of quantifying individuals' workloads or face the imposition of the applicable "default DOE" is a marked departure from the current approach of allowing each academic unit to set workload criteria in a way that properly recognizes academic freedom and professional autonomy.

424. Academic units should not be compelled to determine each of the three principal components of workload using the DOE concept that UTFA prefers. The WLPP enables each academic unit to ascertain for itself the appropriate "workload norms, standards or ranges appropriate to the unit."¹³² It does not mandate that these workload norms, standards or ranges take a particular form or be expressed using a specific methodology.

¹³² WLPP, *supra* Tab 56 at Article 2.1.

UTFA's Proposals are Unsupported by the Replication, total compensation, Gradualism and Demonstrated Need Principles

425. None of the applicable interest arbitration criteria support an awarding of the latest repackaging of the DOE framework that UTFA has proposed. From a replication perspective, the University Administration has and continues to adamantly oppose this approach to workload quantification and classification. The suggestion that because UTFA has sought the mandatory imposition of this framework at the unit level instead of at the University level has in no way diluted the University Administration's opposition to this approach. These are proposals that would not be agreed to even if an ordinary process of collective bargaining would run its full course.

426. It is widely recognized that other universities have chosen to use a DOE framework in pursuit of what Arbitrator Gedalof described as more "standardized approaches to workload."¹³³ This approach to workload has been in place at other universities for long periods of time. It has been open to the parties to agree to include this same approach into the WLPP. The University Administration has made no such agreement. At no time has the University Administration expressed any interest in doing so and no interest arbitrator has mandated that such an approach be taken. UTFA's attempt to require the adoption of a DOE framework into each Unit Workload Plan in one form or another, with a "default DOE" as the universal fallback option is not a material change to UTFA's general approach to workload issues, nor has the form of UTFA's latest proposals on this issue diluted the University Administration's opposition thereto. The stalemate that has occurred throughout the last two Article 6 processes regarding these types of proposals is ongoing. That stalemate should not now be broken by an awarding of these proposals at interest arbitration.

427. A primary objective of these "Default DOEs" is to establish a limit on the teaching workload that can be assigned to Teaching Stream faculty relative to the teaching workload assigned to Tenure Stream faculty. Then, as now, UTFA's pursuit of this objective is completely unsupported by the replication principle. The awarding of any

¹³³ 2023 Gedalof Article 6 Award, *supra* Tab 9 at para. 132.

limitation on the teaching work assigned to Teaching Stream faculty would provide no benefit whatsoever to any of the Tenure Stream faculty, who account for approximately 70% of UTFA's membership. In this context, there is no reasonable basis to conclude that a proposal of this nature would be pursued to the point of impasse.

428. From a total compensation perspective, UTFA's insistence that a "Default DOE" of 60% teaching, 20% "research, scholarly or professional work" and 20% service be applied to any Unit Workload Policy that did not otherwise comply with UTFA's new DOE-based quantification of workload would have significant financial implications as well. UTFA's pursuit of this 60% teaching, 20% research, scholarly or professional work, and 20% service "Default DOE" is an indirect attempt to limit the teaching work that Teaching Stream faculty members can perform to 150% of the "Default DOE" that would apply to Tenure Stream Faculty members of 40% teaching, 40% research and 20% service.

429. There is no material dispute between the University Administration and UTFA that many academic units in the University have assigned teaching workloads to Teaching Stream faculty members that exceed 150% of the teaching workload assigned to Tenure Stream faculty members in the same academic unit. There is no material dispute that if UTFA's proposed "Default DOE" were applied to any such academic unit, the teaching workload of these Teaching Stream faculty members would be reduced. Any teaching assignments currently performed by Teaching Stream faculty members that exceeded the newly-imposed "Default DOE" would need to be performed by others, which would require the University to hire additional Teaching Stream faculty members.

430. In the prior Article 6 interest arbitration proceeding, the financial implications of limiting the teaching work performed by Teaching Stream faculty members was addressed in detail. The same concerns that were raised by the University in the prior Article 6 proceeding apply to UTFA's current workload proposal. In units where the "Default DOE" for Teaching Stream faculty members is imposed, if any Teaching Stream faculty members in that unit had performed teaching work in excess of the limit set by the "Default DOE", that part of their teaching work would need to be performed by

newly hired Teaching Stream faculty. As the University Administration noted in its August 19, 2022 Arbitration Brief:

The University's hiring of additional Teaching Stream faculty to teach the courses that were once taught by its current complement of Teaching Stream faculty, but which would need to be assigned to newly hired faculty due to the Association's restrictive workload proposals would not be a cost neutral event. The University estimates that its hiring costs in these circumstances would require the expenditure of approximately \$9.9 million in new compensation. This would be a direct cost to the University; one that would be incurred as a direct result of the Association's proposed rigid workload formula and its proposed cap on the teaching workload of Teaching Stream faculty members.¹³⁴

431. UTFA may assert that under the latest iteration of its workload proposals, these costs may not be incurred in full, since under its current proposal, "individual units shall determine the balance amongst the three principal components of a faculty member's activities" and it would be open to each individual unit to set a different DOE for their Teaching Stream faculty members. The University Administration submits that such an assertion still contravenes the principles of replication and total compensation, because any such result would still create a benefit that was localized only to Teaching Stream faculty members, and any corresponding monetary cost would restrict the monies that might be spent elsewhere.

432. A review of the WLPP's evolution over the past 15 years shows that UTFA's proposals bear no resemblance to the gradual and incremental changes that have been agreed to or awarded in earlier Article 6 processes. Without the introduction of DOE architecture into Unit Workload Plans, workload transparency is already a hallmark of the WLPP. Each year, every faculty member and librarian receives a written assignment of their workload duties that includes their percentage appointment and the details of their teaching (or professional practice, in the case of librarians) and service. If an individual's teaching or service assignment is materially different from their unit's workload norms, standards or ranges, the current language in the WLPP states that "the

¹³⁴ August 19 2022 University Administration's Article 6 Arbitration Brief, paras. 65-66 **Tab 62**

variation and the reason for it should be identified.”¹³⁵ Both the University Administration and UTFA have proposed that this specific component of the WLPP should be strengthened to require the identification and explanation of such variations.

433. The principle of transparency in the WLPP does not end with the information conveyed to each individual regarding their own workload. All written assignments of workload within a unit (except for accommodation agreements) can be reviewed by other members of the unit and by UTFA. Extensive details about all of the teaching and service assignments made within a unit are disseminated to each member of that unit and to UTFA in the Annual Workload Document, required by Article 3.3 of the WLPP.

434. There continues to be no demonstrated need for UTFA’s proposals. The observations made by Arbitrators Kaplan and Gedalof on this point remain apposite. In his 2020 decision, Arbitrator Kaplan noted that at that time, only two complaints regarding the setting of expectations under the WLPP had been filed. That fact tolled against the aspirational modifications that UTFA had sought to achieve at interest arbitration.¹³⁶ Three years later, Arbitrator Gedalof noted that no additional complaints had been filed under the WLPP’s dispute resolution procedure. Arbitrator Gedalof acknowledged that it was “difficult to square the lack of any complaints under the existing provisions with the asserted crisis that the Association asserts is reflected in its survey of its membership.”¹³⁷ In the additional time that has passed since Arbitrator Gedalof’s award, there have been no material changes to these circumstances. There are still approximately 3,400 workload assignments made each year, and there is still no evidence that supports any facet of UTFA’s DOE proposals.

¹³⁵ WLPP, *supra* Tab 56 Article 2.7.

¹³⁶ 2020 Kaplan Article 6 Award, *supra* Tab 8 at 6-7.

¹³⁷ 2023 Gedalof Award, *supra* Tab 9 at para. 134.

UTFA's "Default DOEs" are based on Flawed, Inaccurate Assumptions about Workload

435. UTFA's pursuit of the "default DOEs" of 40% teaching, 40% research, scholarly, creative or professional work, 20% service for Tenure Stream faculty members, 60% teaching, 20% research, scholarly, creative or professional work, 20% service for Teaching Stream faculty and 80% professional practice, 10% research and 10% service for librarians is not new. It has made similar proposals in the last two Article 6 arbitration proceedings. The assumptions on which UTFA's pursuit of these formulas are based remain flawed and inaccurate.

436. The University Administration has already highlighted that UTFA's assertion that Tenure Stream faculty members have or ought to have a workload of 40% teaching, 40% research and 20% service is not a workload concept, but a methodology used in the PTR process by some academic units. In addition, the University Administration's response to UTFA's continued pursuit of "default DOEs" is threefold:

(a) UTFA's attempt to draw equivalencies between the workload of Tenure Stream faculty and Teaching Stream faculty overlooks key differences in expectations regarding the performance of what UTFA inaccurately describes in both of its "default faculty DOEs" as "research, scholarly, creative or professional work."

(b) UTFA's attempt to draw a direct quantitative comparison between the teaching work performed by Tenure Stream faculty and Teaching Stream faculty overlooks the fact that graduate student supervision is included in the teaching work that Tenure Stream faculty perform. This facet of teaching work is not and cannot be measured using the "full course equivalent" methodology on which UTFA's DOE concept is based.

(c) "Default DOEs" are not required to establish "protected time" for Teaching Stream faculty members to engage in pedagogical and professional development.

(d) UTFA's pursuit of an 80% professional practice, 10% research, 10% service "default DOE" for librarians disregards the diverse nature of librarian appointments and the established practice of determining workloads flexibly, using individual annual discussions to do so.

UTFA's Proposal disregards important distinctions between the Workload of Tenure Stream and Teaching Stream Faculty Members

437. In describing the components of the "Default DOEs" for Tenure Stream and Teaching Stream faculty, UTFA uses the phrase "research, scholarly or professional work" in both instances. This is inconsistent with how the responsibilities of Tenure Stream and Teaching Stream faculty are described in the PPAA.

438. Section 13(a) of the PPAA states that Tenure Stream faculty are required to engage in and are evaluated on "research and creative professional work". This same section of the PPAA describes how the research and creative professional work of Tenure Stream faculty members is to be evaluated in the tenure review process:

13(a) Achievement in research or creative professional work is evidenced primarily, but not exclusively, by published work in the candidate's discipline; in this context, published work may include books, monographs, articles and reviews and, where appropriate, significant works of art or scholarly research expressed in media other than print. It may also be evidenced by various other types of creative or professional work, including community service, where such work is comparable in level and intellectual calibre with scholarly production and relates directly to the candidate's academic discipline. Research also encompasses unpublished writings and work in progress. Scholarly achievement may be demonstrated by consideration of theses or other material prepared or written under the candidate's direct supervision. In some exceptional cases, weight should be given to "unwritten scholarship" of the type displayed in public lectures, formal colloquia and informal academic discussions with colleagues.

439. For a Tenure Stream faculty member to be awarded tenure, they their research and creative professional work must meet a certain standard. If their teaching meets the standard of demonstrated excellence, they must still show that their research and creative professional work meets at least the standard of clearly established competence. If they meet the standard of clearly established competence in teaching,

they must meet the higher standard of demonstrated excellence in research and creative professional work. In both cases, a Tenure Stream faculty member must show that they have clear promise of future intellectual and professional development, which requires a forward-looking assessment of their teaching and research capabilities. Consequently, the establishment and execution of a research program during a Tenure Stream faculty member's probationary appointment is essential to their pursuit of tenure.

440. These same requirements do not apply to the appointment or assessment of Teaching Stream faculty. The PPAA describes the responsibilities of Teaching Stream members as follows:

30(i)a The ranks of Assistant Professor Teaching Stream (Conditional); Assistant Professor, Teaching Stream; Associate Professor, Teaching Stream; and Professor, Teaching Stream **are to be held by faculty members whose duties normally consist of teaching students who are in degree programs or the Transitional Year Programme, and other professional and administrative activities related to teaching.** Faculty members in the Teaching Stream may have direct responsibility for the administration of one or more large undergraduate courses or for the co-ordination of undergraduate programs at both the department level and in College-based programs. The expectation of faculty members in the teaching stream is that they bring a dimension of teaching excellence and educational innovation that enhances undergraduate or graduate education and adds significantly to the quality of the student experience. Where the position requires graduate teaching, an appointment to a University graduate department will also be made. Other cross-appointments to departments on other campuses may also be made, with or without salary, where appropriate.

[Emphasis added]

441. Instead of requiring an assessment of a Tenure Stream faculty member's research and creative professional work, section 30(vi) of the PPAA states that the performance of a Teaching Stream faculty member:

will be assessed on teaching effectiveness and pedagogical/professional development related to teaching duties, in accordance with approved divisional guidelines on the assessment of teaching. Administrative service will be considered, where such service is related to teaching duties or to curricular and professional development.

442. Under section 8 of the PPAA, Tenure Stream faculty members are asked to submit an account of the research and creative professional activity that they have undertaken or completed during their probationary appointment. In addition, the probationary appointment of a Tenure Stream faculty member may be extended for compelling academic reasons, such as the need to set up new research facilities. These same provisions do not apply to the probationary appointments of Teaching Stream faculty members.¹³⁸ Instead, Teaching Stream faculty members are required to prepare a teaching dossier and an account of the pedagogical/professional activity that they have undertaken or completed during their probationary appointment.

443. When a Teaching Stream faculty member undergoes a continuing status review, they are not expected to have developed or advanced a research program independent of their teaching duties. Instead, the pedagogical and professional activities on which they are assessed are to be related to the teaching duties that are at the centre of their appointment. In order for continuing status to be awarded to a Teaching Stream faculty member, two criteria must be met. First, the Teaching Stream faculty member must meet the standard of excellence in teaching. It is insufficient for a Teaching Stream faculty member to be a competent teacher. Second, a Teaching Stream faculty member must present evidence of demonstrated and continuing future pedagogical/professional development. In meeting this second criterion, a Teaching Stream faculty member may choose to submit evidence of “discipline-based scholarship in relation to, or relevant to, the field in which the faculty member teaches.”¹³⁹ However, that is not the only way in which this second criterion can be met. Moreover, evidence that a Teaching Stream faculty member has displayed demonstrated and continuing future pedagogical/professional development cannot be used to overcome any failure to meet the standard of excellence in teaching. These requirements are made clear in the opening paragraph of section 30(x) of the PPAA:

¹³⁸ PPAA, *supra*, Tab 25 section 30(vii).

¹³⁹ *Ibid.*, at section 30(x)(b).

30(x) A positive recommendation for continuing status will require the judgment of excellence in teaching and evidence of demonstrated and continuing future pedagogical/professional development.

(a) Excellence in teaching may be demonstrated through a combination of excellent teaching skills, creative educational leadership and/or achievement, and innovative teaching initiatives in accordance with appropriate divisional guidelines.

(b) Evidence of demonstrated and continuing future pedagogical/professional development may be demonstrated in a variety of ways e.g. discipline-based scholarship in relation to, or relevant to, the field in which the faculty member teaches; participation at, and contributions to, academic conferences where sessions on pedagogical research and technique are prominent; teaching-related activity by the faculty member outside of his or her classroom functions and responsibilities; professional work that allows the faculty member to maintain a mastery of his or her subject area in accordance with appropriate divisional guidelines.

444. UTFAs proposed DOE concept overlooks the important differences between how the requirement to engage in research and creative professional work applies to Tenure Stream faculty members and how Teaching Stream faculty members are required to show demonstrated and continuing future “pedagogical/professional development related to teaching duties”. These requirements are not the same. UTFAs attempt to describe these separate requirements using the same terms “research, scholarly and professional work” in both instances is intentional. It is the same approach that UTFAs has taken over the past two Article 6 proceedings in seeking to establish incorrect and inaccurate qualitative descriptions of faculty workload. Its latest attempt to do so should be met with the same arbitral response and result as its earlier efforts.

The Teaching Work of Tenure Stream Faculty is not quantified in the same manner as the Teaching Work of Teaching Stream Faculty

445. Not only does UTFA's DOE concept overlook important differences between the research and creative professional work of Tenure Stream faculty versus the pedagogical/professional development related to teaching duties performed by Teaching Stream faculty, its comparison and quantification of the teaching work performed by Tenure Stream and Teaching Stream faculty members is also incomplete and inaccurate.

446. UTFA's DOE concept is premised on the assumption that all teaching work performed by faculty members in the Tenure Stream and Teaching Stream can be measured using full course equivalents ("FCEs"). This is the unit of measurement that applies to the scheduled courses that all faculty members are assigned to teach. However, this component of teaching does not fully account for the teaching that Tenure Stream faculty members are expected to perform.

447. Tenure Stream faculty members are often expected to supervise graduate students, including doctoral students, through the completion of their degrees, which is not the case for most Teaching Stream faculty members. In disciplines where the Tenure Stream faculty regularly pursue and receive research grants and supervise multiple graduate students, there is often a wider gap between teaching assigned to Tenure Stream faculty members that is measured in FCEs and the teaching assigned to Teaching Stream faculty that is measured in FCEs. Where these gaps exist, they are regularly filled with the teaching work associated with Tenure Stream faculty members' supervision of graduate students.

448. UTFA's DOE concept does not properly account for the graduate student supervisory work that Tenure Stream faculty members perform to a much greater degree than Teaching Stream faculty members. This DOE concept seeks to perpetuate a comparison of teaching workload between Tenure Stream and Teaching Stream faculty that is not based on a full and proper assessment of the full scope teaching work that is performed.

Teaching Stream Faculty Members have sufficient time for Pedagogical and Professional Development related to Teaching Duties

449. In prior Article 6 proceedings, UTFA has also sought to justify its proposed “default balance” of 60% teaching, 20% pedagogical/professional development related to teaching duties and 20% service for Teaching Stream faculty members by claiming that this workload structure is necessary to ensure that Teaching Stream faculty are afforded sufficient “protected time” for their pedagogical/professional development. This argument does not withstand scrutiny.

450. The WLPP already includes two key provisions that hold space for the pedagogical/professional development and service components of a Teaching Stream faculty member’s workload. First, section 7.2 of the WLPP confirms that:

Teaching stream faculty are entitled to reasonable time for pedagogical/professional development in determining workload as set out in paragraph 30(x)(b) of the PPAA*.

*e.g., discipline-based scholarship in relation to, or relevant to, the field in which the faculty member teaches; participation at, and contributions to, academic conferences where sessions on pedagogical research and technique are prominent; teaching-related activity by the faculty member outside of his or her classroom functions and responsibilities; professional work that allows the faculty member to maintain a mastery of his or her subject area in accordance with appropriate divisional guidelines.

451. The WLPP also protects against Teaching Stream faculty being assigned an unreasonable amount of service work, in comparison with the service work performed by Tenure Stream faculty. Section 7.5 of the WLPP states that:

The amount of service that a teaching stream faculty member will be expected to do will be reasonable and shall not, in general, exceed that which the majority of tenure and tenure stream faculty in the same unit are expected to do.

452. In addition the WLPP prohibits units from implementing unit-wide reductions in the norms, standards and ranges to the teaching performed by Tenure Stream faculty alongside corresponding unit-wide increases to the teaching component of workload performed by Teaching Stream faculty.¹⁴⁰ This is another way that the WLPP ensures that Teaching Stream faculty are permitted to have a reasonably balanced workload within their units.

453. Overall, a holistic reading of the WLPP, including the provisions in Article 7 that apply specifically to Teaching Stream faculty, demonstrates that proper regard has already been paid to the pedagogical/professional development and service components of workload performed by Teaching Stream faculty. Workload assignments made under the current iteration of the WLPP afford Teaching Stream faculty sufficient time to engage in a reasonable amount of pedagogical/professional development without burdening them with an excessive amount of work overall.

454. As set out in greater detail below, the teaching component of workload assigned to Teaching Stream faculty members already leaves ample room for pedagogical and professional development work.

455. There are three terms in the University's academic year. They are:

- (a) the fall term (September – December)
- (b) the winter term (January – April)
- (c) and the summer session (May – August)

456. Each of these terms is either 13 or 14 weeks in length. Article 8 of the MOA provides that no faculty member can be required to teach formal scheduled courses in more than two terms in any academic year. Therefore, faculty members, including those in the Teaching Stream, can be assigned formal scheduled teaching work for a maximum of 28 weeks in a 52-week academic year. Faculty members are entitled to 4

¹⁴⁰ WLPP, *supra* Tab 56, at Article 7.5.

weeks' vacation each academic year. In the remaining 20 weeks of the academic year, faculty members are not responsible for performing any scheduled teaching. This period of time accounts for 38% of the academic year.

457. A normative teaching workload for a Teaching Stream faculty member consists of 3 half-courses per term. Each of these half-courses generally involves 3 hours of classroom time per week, for a total of 9 classroom hours per week. Using a 40-hour work week, the performance of in-class teaching for this normative Teaching Stream workload accounts for less than 25% of a 40-hour work week. This arrangement would allow a Teaching Stream faculty member 31 hours in each work week to prepare for in-class teaching, hold office hours, complete their administrative service relating to teaching duties or curricular and professional development, and to engage in pedagogical/professional development, including what the PPAA describes as “discipline- based scholarship in relation to, or relevant to, the field in which the faculty member teaches”, as well as their service work.

458. If a Teaching Stream faculty member is assigned a teaching workload of 4 half-courses in a term, that work would generally account for 12 hours per week of in-class teaching time, which would account for 30% of the hours in a 40-hour work week. A Teaching Stream faculty member with this assigned teaching workload would have 70% of a 40-hour work week to perform the other facets of their workload.

459. During the two terms in which a Teaching Stream faculty member is assigned to teach scheduled courses, and in the remaining term, which must remain free from such work, there is – both in term-specific and aggregate ways – ample time for Teaching Stream faculty to engage in pedagogical/professional development and service. There is no demonstrated need for any related amendments to the WLPP.

UTFA’s Proposed “Default DOE” for Librarians disregards Key Realities regarding Librarian Appointments and related Workload Determinations

460. The University Administration agrees that the term “manager” in Article 8.1(a) of the WLPP can be changed to “supervisor.” It also agrees that the phrase “and creative professional activities” can be added to Article 8.1(b) of the WLPP. These changes mirror the language in the *Policies for Librarians* and are accepted on that basis.

461. The remainder of UTFA’s proposal to amend Article 8.1 of the WLPP is based on the inaccurate presumption that there must be a standard balance amongst the three activities that constitute a librarian’s professional responsibilities, namely:

- (a) Professional practice for the Library, including teaching that has been requested or approved by a Librarian’s manager. In considering the teaching component of normal workload for librarians, relevant factors include the factors set out in Article 4.2, if applicable.
- (b) Research and scholarly contributions, including academic, professional and pedagogical contributions or activities.
- (c) Service, which should be broadly understood to include service to the University, Library and the profession.

462. UTFA’s presumption is at odds with the *Policies for Librarians* and the Librarian Workload Policy¹⁴¹, which apply to all librarians across the University. The *Policies for Librarians* cannot be unilaterally amended by the University Administration or UTFA¹⁴². The Librarian Workload Policy is the product of extensive collegial consultation. The committee that developed the Librarian Workload Policy included 13 librarians (8% of all librarians employed by the University at that time), and the University Chief Librarian. All librarians had the opportunity to engage with members of this committee and to submit formal suggestions regarding the subject of librarian workload.

¹⁴¹ Librarian Workload Policy dated December 6, 2020, **Tab 63**.

¹⁴² MOA, *supra* Tab 1 at Article 3.

463. The preamble to the *Policies for Librarians* begins by acknowledging that the UTL is “an administratively complex component of the academic community [that consists] of library units of varying size and with various relationships and reporting structures [which have] grown in response to the evolving academic needs of the University.” Section 1 of the *Policies for Librarians* enumerates a librarian’s three principal responsibilities, while also recognizing that:

Librarian responsibilities are a combination of tasks assigned and tasks determined through collegial interaction and self-direction. While **the pattern of a librarian’s activity may vary from individual to individual...**

[Emphasis added]

464. Section 2 of the *Policies for Librarians* recognizes that the principal responsibilities of professional practice, research and scholarly contributions, and service are not water-tight compartments. Instead, “the same activity may reasonably fall into more than one area of responsibility.”¹⁴³ Taken together, these provisions of the *Policies for Librarians* contrast sharply with UTFA’s attempt to impose a DOE-based architecture around the workload of librarians on a University-wide basis.

465. Within the Librarian Workload Policy, there is even more language that is diametrically opposed to the type of uniform quantification of workload that UTFA seeks to introduce. The purpose of the Librarian Workload Policy is described as follows:

Flexibility in workload allocation reflects the mission of the library and is consistent with the diverse nature of librarian appointments and the diversity of their scholarship and assigned professional practice, and service responsibilities and activities.

466. A librarian may be appointed to practice within a specific discipline, such as Engineering & Computer Science or Chinese Studies. They may focus on a particular aspect of a library’s collections or operations. Their appointment may focus on providing specialized services to a particular constituency, such as a Faculty Liaison

¹⁴³ The Librarian Workload Policy, *supra* Tab 63 states that the overlapping nature of librarians’ activities “may be taken into account in determining the appropriate balance of workload.”

and Instruction Librarian or an Outreach & Engagement for Black Studies Librarian. The wide variety of librarian appointments necessarily means that matters of workload determination must be specialized and individualized.

467. The Librarian Workload Policy also explains that although all librarians have the same principal responsibilities:

Librarians' responsibilities will vary according to their assigned duties and collegially determined activities. Responsibilities and goals for librarians will be normally discussed and determined in the collegial process of consultation that occurs between each librarian and the unit head or supervisor(s) at the time of annual reviews. Workload plans, normally a combination of responsibilities in the three areas of professional practice, service, and scholarship, are discussed, reviewed and documented as part of the annual performance review.

Librarian workload should be developed through consultation between individual librarians and their managers or supervisors resulting in agreed-upon individual goals and responsibilities that meet each unit's operational requirements and goals. Workload will be consistent with each librarian's position within a unit and the Library's overall strategic goals and priorities.

468. This individualized, specialized and flexible approach to the workload assignment process is firmly rooted in the WLPP. Rather than prescribing one "balance among the three principal components of workload" as UTFA has proposed, section 8.2 of the WLPP requires a workload assigning process that is based on annual consultations that occur between each librarian and the appropriate unit head or senior administrator. Section 8.2 of the WLPP states that:

8.2 Appointed librarians will have the opportunity to discuss with the appropriate unit head or senior administrator, the distribution of their duties, taking into account the need for adequate time to fulfil the three principal responsibilities of librarians for the next academic year, at the time of the annual performance review.

469. Section 8.3 of the WLPP also recognizes that a librarian's workload may need to be adjusted within a particular year if unforeseen circumstances arise. The need for individual discussions regarding workload, and the recognition that further in-year adjustments may arise are not recognized by UTFA's workload proposal in any way.

These determinations are not entirely abstract. Rather, the existing Librarian Workload Policy states that:

Librarians will normally spend approximately 10% - 20% of their time on a combination of service, research and scholarly contributions. The remaining workload (80% - 90%) will consist of professional practice for the Library. In assigning these responsibilities, the unit head will take into account the expectation that librarians will have time to engage in research and scholarly contributions and service.

470. Not only is there already a sufficiently clear structure regarding matters of workload assignment within the existing Librarian Workload Policy, there is also a recognition that a librarian's workload assignments may vary over the course of a librarian's career, just as the precise application of the promotion criteria listed in the *Policies for Librarians* change depending on a librarian's rank, the Librarian Workload Policy recognizes that:

In assigning workload to pre-permanent status librarians, the unit head or supervisor(s) will take into account the needs and time of the librarian to achieve the criteria and expectations required for permanent status in accordance with the *Policies for Librarians*. Consideration should also be given to the workload of those librarians who are CLTA.

The needs of Library users, the operating unit, and colleagues must also be considered in setting the goals and allocating the time to the three principal areas of responsibility. The individual interests, expertise, and professional needs of each librarian must also be considered in the distribution of workload. Librarians at different career stages, ranks, and levels of administrative responsibility may wish to allocate time differently, in consultation with the department head/supervisor(s).

471. These important variables and nuances are not addressed in UTFA's proposal. As with its proposed treatment of the workload assigned to Teaching Stream faculty members, the replication principle does not support the awarding of this proposal. It is simply not a realistic outcome of a free collective bargaining process within which strikes or lockouts could be engaged. Similarly, there is no demonstrated need to alter the ways in which librarians' workloads are currently determined by forcing the UTL to adopt UTFA's quantitative approach which includes a "Default DOE" that is fundamentally incompatible with UTL's existing workload guidelines.

472. UTFA cannot point to a large number of workload complaints amongst librarians that would be necessary to drive the type of changes that UTFA now seeks. Changes of this nature are manifestly different from the minor modifications that have been made to Article 8 of the WLPP and the Librarian Workload Policy over time.

473. Overall, UTFA's proposal appears to limit a librarian's autonomy around the amount of time they may choose to spend on research and scholarly contributions and service by imposing quantitative limits on each aspect of a librarian's workload. As noted above, this approach is at odds with the longstanding approach that has been adopted with regard to the determination and assignment of workload to librarians.

474. In the final analysis, UTFA's latest repackaging of its requests for DOE-based quantitative calculations of the workload of Tenure Stream faculty, Teaching Stream faculty and librarians is very similar to its earlier proposals on these same subjects, which have been correctly dismissed as being aspirational in nature and unsupported by any of the established principles of interest arbitration. UTFA's attempt to impose these same standards at the unit level instead of across the University does not change these realities and should not result in a departure from how proposals of this nature have been addressed in past Article 6 interest arbitration proceedings.

UNIVERSITY ADMINISTRATION'S PROPOSED CHANGES TO THE CONTENT AND DISSEMINATION OF WORKLOAD DOCUMENTS

UNIVERSITY ADMINISTRATION'S PROPOSAL

2.17 **Written assignments of workload.** Each member will be provided with a written assignment of their workload duties on an annual basis that includes the member's percentage appointment and details of teaching and service or, in the case of librarians, professional practice and service, by no later than June 30th. Where an individual member's assignment is materially different from the unit's workload norms, standards, or ranges, the variation and the reason for it ~~should~~ **shall** be identified in the individual member's written assignment of workload, subject to any **confidential** accommodation agreements. All written assignments for each Unit will be ~~collected in the Office of the Unit Head and~~ made readily available ~~for review at the request of any~~ **to** members of the Unit. ~~**Workload letters will be provided to UTFA by August 31 of each year. or the Association. Provided it is technologically practical to do so, the University and UTFA will discuss in Joint Committee and endeavour to agree on copies being posted on a unit internet site or other password-protected website, accessible to UTFA and its members in the applicable unit, subject to any confidential accommodation agreements, with a target implementation date of January 1, 2020.**~~

...

3.3 Annual workload documents. Each Unit shall prepare, on an annual basis, a Unit Workload Document setting out:

- **The percentage appointment of each member within the unit;**
- The assigned teaching and assigned service workload for each member in the Unit;
- For each course that a member teaches, the assigned teaching credit, the **anticipated** mode of delivery, the **anticipated** class size, and the **anticipated** level and/or hours of TA support, and any other factor **(as set out in Articles 4.2 and 5.3 of the WLPP)** which the Unit Workload Committee determines is a reasonable factor for comparison;
- For each member any teaching release and the reason for it (e.g., pre-tenure course reductions), subject to any confidential accommodation agreements.

The Unit Workload Documents will be provided to all members of the Unit **by June 30 of each year** and to UTFA by **August 31** ~~June 30~~ of each year.

475. The University Administration proposes minor and needs-based amendments to the language that addresses the content and dissemination of written assignments of workload and Annual Workload Documents. There are two proposed changes to the content of the written assignments of workload under Article 2.17 of the WLPP. First the University Administration proposes that when an individual member's workload assignment is materially different from the workload norms, standards and ranges established in their unit, the details of that variation and the reasons for its imposition be made a mandatory component of that individual's written assignment of workload. At present, the WLPP requires only that such details "should be identified" in this manner. Second, the University Administration proposes to expressly describe accommodation arrangements that are excluded from disclosure under Article 2.17 as "confidential." These proposed changes are both modest and incremental.

476. The technology that is used to disseminate written assignments of workload has changed. The language of Article 2.17 should be updated accordingly. Written assignments of workload are no longer "collected in the Office of the Unit Head and made readily available for review at the request of any-member of the Unit." Secure technology such as SharePoint is now used to make this same information available to faculty and librarians within a unit.

477. Within Article 3.3, the University Administration proposes that within each unit, each member's percentage FTE appointment be identified on the Annual Workload Document. This information provides important context to other information that must be included in the document, including teaching and service assignments. The University Administration also proposes that since the class size, mode of delivery and level and/or hours of TA support are not usually determined by June 30, the term "anticipated" should be used to more accurately describe their status at that juncture. It is also important for Article 3.3. to reference back to the factors listed in Articles 4.2 and 5.3 of the WLPP when identifying the other factors that a Unit Workload Committee may consider to be reasonable factors for workload comparison.

478. Finally, in both Article 2.17 and Article 3.3, the University Administration proposes a minor change to when written assignments of workload and Annual Workload Documents are disseminated. The University Administration proposes no change to the June 30 dissemination date of these documents within each unit. It requests that extended time be provided to have these same documents delivered to UTFa. 2023 was the first year that the Annual Workload Document was required. Multiple technological difficulties were experienced when these documents were forwarded to UTFa. Some SharePoint links were inaccessible to UTFa because it resides outside of the University's Microsoft 365 environment, which caused confusion and unnecessary work.

479. By allowing additional time for written workload assignments and Annual Workload Documents to be sent to UTFa separately, these technological issues will hopefully be avoided. Under this proposal, faculty members and librarians will still be able to review their written workload assignments and Annual Workload Documents with UTFa within the same timeframe. The timing of any related complaints under Article 10 will not be impacted. Allowing for additional time before this information is sent directly to UTFa will allow for these documents to be collected centrally and sent to UTFa at once, instead of in a unit-by-unit piecemeal fashion which was difficult to monitor and fraught with unnecessary technological complexities. If additional time is provided to allow for the central collection of these documents before they are disseminated to UTFa, it is anticipated that this process should proceed more effectively than it has to date.

PART VII – INARBITRABLE PROPOSALS

480. Several of UTFA’s proposals fall outside the jurisdictional boundaries set by Article 6 of the MOA. The University’s preliminary objection to the arbitrability of each of these proposals is set out in more detail below.

UTFA’S REQUEST FOR MANDATORY INFORMATION DISCLOSURE ON HOUSING

UTFA’S PROPOSAL

Consistent with the principles of full and rational discussion enshrined in the MoA, the parties recognize the importance of housing assistance to faculty and librarians and the continuation of meaningful consultation and dialogue on this significant benefit for UTFA members. The parties are committed to ensuring that affordable and accessible housing is available to members, and to addressing systemic issues in this regard.

The University Administration appreciates UTFA’s ongoing role in raising housing-related concerns on behalf of faculty members and librarians. To that end, the University Administration will meet with UTFA no fewer than three times per year to seek, consider, and meaningfully respond to UTFA’s input and. The Administration will share information with UTFA as follows:

- The Administration will seek UTFA’s review and make meaningful efforts to incorporate UTFA’s feedback on any housing surveys conducted for faculty and librarians;
- The Administration will share anonymized results of any such surveys with UTFA, including each participant’s unique identifier that links to self-ID equity survey data;
- The Administration will share updated housing stock information, which includes the number of applications and the number of units available, with UTFA on an annual basis, i.e. on October 15th capturing data ending September 30th, in a new annual IR #21;
- The Administration will share updated housing loan data, including the unique identifier that links to self-ID equity survey data for each member who requested and/or received a loan, and the date, amount, purpose (e.g. recruitment, retention) and terms of each loan received, with UTFA on an annual basis, i.e. on October 15th capturing data ending September 30th;
- The Administration will share updated information with UTFA regarding demand for new and existing faculty & librarian housing, including the number of applications submitted and/or approved, and the unique identifier that links to self-ID equity survey data for each member who applied for and/or received faculty & librarian housing, and any other related data derived from surveys, consultations and other fora;

- The Administration will **provide an update to UTFA at each meeting** with respect to progress on Site 1 and other housing initiatives related to faculty members and librarians. UTFA will have an opportunity to ask questions during **each** meeting and will submit any questions or topics that it wishes the Administration to address, **normally 2** weeks in advance of the scheduled meeting date.
- Where UTFA submits housing-related questions or concerns in writing, the Administration will respond to those questions or concerns in writing, with reasons.

UTFA'S PROPOSAL IS INARBITRABLE

481. UTFA seeks to compel the disclosure of information regarding housing surveys, applications for and the utilization of current housing stock, the issuance of housing loans, and future housing infrastructure projects. This proposal conflicts with the MOA's jurisdictional limits in three ways.

482. First, if UTFA's proposal were awarded, it would impose a permanent disclosure obligation on the University Administration regarding its housing surveys, the state of its current and future housing infrastructure, and its provision of housing loans. Any written questions or concerns expressed by UTFA regarding these matters would require a fully particularized response from the University Administration. UTFA's proposed disclosure regime is untethered to any proposal regarding salary, benefits or workload. It is structured as a freestanding set of production requirements that are presumably intended to assist UTFA with proposals it may make in subsequent Article 6 processes.

483. Requests of this nature are not supported by the jurisprudence. In an earlier Article 6 award, UTFA sought a production order from Arbitrator Teplitsky covering information that UTFA sought to use in a future round of Article 6 negotiations. Arbitrator Teplitsky denied UTFA's production order, as it was not appropriate to make orders that would apply to proceedings with which he was not seized.¹⁴⁴ The same result should obtain in this case, for the same reason. Interest arbitrators appointed pursuant to Article 6 of the MOA do not have jurisdiction to issue forward-looking

¹⁴⁴ 2002 Teplitsky Article 6 Award, *supra* Tab 44 at 8-9.

production orders that do not pertain to proposals that are before them but instead pertain to proposals that might be made in future Article 6 proceedings.

484. UTFA's current proposal is more expansive than the production order that Arbitrator Teplitsky rejected in 2002. The request before Arbitrator Teplitsky was limited to information that UTFA requested for the next round of Article 6 negotiations. UTFA's proposal has no such limit. If awarded, it would require the University Administration to provide UTFA with continuous disclosure on an annual basis, whether or not any related proposals were made as part of the accompanying Article 6 process. Such a proposal is well beyond the ambit of the "unresolved matters relating to salary, benefits and workload" that can be adjudicated pursuant to Article 6(19).

485. Second, information concerning the utilization and expansion of the University's housing stock do not pertain to the salaries, benefits or workload of faculty members as these terms are used in Article 6 of the MOA. The University Administration currently uses some of its capital assets to provide housing to various members of the University community including faculty members and students. The terms on which it does so do not remain static and do not create any obligations under Article 6.

486. These parties have not treated information about the University's use of capital assets as "benefits" arbitrable under Article 6 of the MOA. A requirement that would subject the University Administration to an annual audit of:

- (a) the University's available housing stock, including the number of housing units available and the number of applicants for these units;
- (b) demands for new and existing housing for faculty members and librarians, including the number of submitted and approved applications;
- (c) the progress being made on current and future housing initiatives related to faculty members and librarians.

falls outside the scope of matters that can be addressed using the Article 6 dispute resolution procedure.

487. Third, UTFA's demand for "updated housing loan data" falls outside the jurisdictional boundaries of Article 6(4) and 11 of the MOA. Article 6(4) requires the parties to provide each other with "such data and documentation as may be reasonably requested to enable full and rational discussion of the matters in dispute." As the University Administration and UTFA have proceeded to interest arbitration, the scope of this obligation is clearly limited to the "unresolved matters regarding salary, benefits and workload" referenced in Article 6(19) of the MOA. There is no "unresolved matter" linked to UTFA's production proposal. The current data and documents that UTFA wants the University Administration to produce is linked only to the possibility that some related proposal might be made at some future date. Article 6(4) does not allow indefinite disclosure obligations of this nature to be included in an Article 6 award.

488. Article 11 of the MOA states that the time for requests of this nature to be made is during the negotiation phase of the Article 6 process.

The University of Toronto agrees to provide the Association such documents **as may be necessary for the negotiation of matters pursuant to this Agreement.**

[Emphasis added]

489. Article 11 does not contemplate that UTFA can make proposals that would transform a process that applies only to pre-negotiation production issues into final and binding production obligations that apply on a go-forward basis. In an earlier decision regarding the scope of the disclosure obligations under Article 11 of the MOA, Arbitrator Gedalof concluded that Article 11 does not impose unlimited disclosure obligations on the University Administration. Before the University Administration will be compelled to disclose documents pursuant to Article 11 of the MOA, there must be a connection between the disclosure being sought and the documents that "may be necessary for the negotiation of matters pursuant to this Agreement".¹⁴⁵ UTFA's proposal does not adhere to this limit. It includes various ongoing disclosure obligations that the University Administration would net to meet under any and all circumstances.

¹⁴⁵ *Governing Council of the University of Toronto and UTFA*, unreported, December 14, 2023 at paras. 13 and 16, Gedalof ["2023 Article 11 Production Award"]. **Tab 64**

490. UTFA's proposal also contravenes the limits on production prescribed by the third paragraph of Article 11, which states that:

It is understood that this Article shall not be construed to require the University of Toronto (a) to compile information and statistics in a particular form if such data are not already compiled in the form requested, or (b) to provide any information relating to any individual.

491. UTFA seeks to compel the University Administration to link housing survey results, updated housing loan data, and the demand for new and existing housing with the "unique identifier that links self-ID equity survey data" to each survey respondent, loan recipient, and each faculty member and librarian who has applied for and/or received housing from the University. By requesting that data be compiled and produced in this manner, UTFA is seeking to obtain data and documentation that it would not otherwise be entitled to receive pursuant to Article 11. As Arbitrator Gedalof noted in his earlier decision regarding the interpretation and application of Article 11 of the MOA, the University Administration is not required to compile information and statistics in a particular form if such data is not already compiled in the form requested.¹⁴⁶

¹⁴⁶ 2023 Article 11 Production Award, *supra* Tab 61 at para. 12.

UTFA'S NEW "HOUSEKEEPING" PROPOSAL FOR A SHARED ONLINE PLATFORM OF AGREEMENTS

UTFA'S PROPOSAL

Development of a shared and accessible online platform that is an archive (historical and active) of all agreements between UTFA and the Administration.

UTFA'S PROPOSAL IS INARBITRABLE

492. The proposed development of an online database for the parties' current and historical agreements is not a "unresolved matter relating to salaries and benefits that have been referred to by the parties." There are two requirements of Article 6(19) that have not been met. First, the subject matter of this new proposal is unconnected to any unresolved matter regarding salaries, benefits or workload. On this basis alone, the jurisdictional requirements of Article 6(19) have not been met.

493. Second, this new proposal is not one that has been "referred by the parties", pursuant to section 5(a) of the 2023-2026 MOA, which sets an express limit on the proposals that the University Administration and UTFA can advance to interest arbitration. It states that:

5(a) On Monday February 24, 2025 the parties will exchange and provide to mediator-arbitrator Gedalof their positions/proposals **from the without prejudice mediation process that they are taking to interest arbitration...**

[Emphasis added]

494. This language necessarily means that neither party is permitted to take proposals to interest arbitration that were not addressed in the without prejudice mediation. UTFA's proposal to require the "development of a shared and accessible online platform" to store all active and historical agreements between the parties was not a proposal made by UTFA at any time during the parties' without prejudice mediation. As such, it does not meet this threshold requirement established by paragraph 5(a) of the 2023-2026 MOA and cannot, therefore, be awarded at interest arbitration.

In the most recent Article 6 interest arbitration award, Arbitrator Gedalof was required to determine whether certain proposals were properly referred to him. In doing so, he paid close attention to the parties' agreement to define and limit the unresolved matters that were to be put before him. In this earlier proceeding, the parties had listed their respective interest arbitration proposals in an earlier Memorandum of Agreement. Arbitrator Gedalof determined that if a proposal was not included in the parties' earlier Memorandum of Agreement, then it could not be characterized as a matter that was properly before him, and he declined jurisdiction to address such proposals.¹⁴⁷

495. In the present proceeding, the parties agreed that section 5(a) of the 2023-2026 MOA sets clear limits on the proposals that can be referred to interest arbitration. These requirements must be given meaning, and this proposal does not meet them.

496. In the alternative, if it is determined that this proposal fits within the jurisdictional ambit of Article 6 of the MOA, which is not admitted and expressly denied, the University submits that this proposal should not be awarded. This proposal is not a minor "housekeeping" matter. It would require the University Administration to create and maintain an online archive on an ongoing basis. The University Administration should not be obligated to take on such tasks. There is no demonstrated need that supports the awarding of this proposal. Both parties can and do keep their own records of past and present agreements. No departure from this current approach is necessary.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

¹⁴⁷ 2023 Gedalof Award, *supra* Tab 9 at paras. 50-51.