

# **MEMORANDUM OF AGREEMENT**

between

the Faculty Association  
of the University of Waterloo

and

the University of Waterloo

Adopted May 1, 1998  
Revised June 6, 2000  
Revised April 2, 2002  
Amended June 16 2003

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## **ARTICLE 1: PREAMBLE**

- 1.1 The Parties to this Agreement are the Faculty Association of the University of Waterloo (FAUW) and the University of Waterloo (UW), hereinafter referred to as the Association and the University, respectively.
- 1.2 The University recognizes the Association as representing the University employees (Members) as defined under Article 2.1.1. Recognition of the Association under this Agreement does not constitute voluntary recognition equivalent to certification.
- 1.3 This Agreement is a “special plan” agreement negotiated between and ratified by the Parties.
- 1.4 The Parties recognize that the objective of the University is the attainment of high standards of academic excellence in the pursuit and dissemination of knowledge for the benefit of students and of the academic and wider communities. Further, the Parties agree that the goals of the University include the following:
- (a) the attainment of high standards of excellence in teaching, scholarship, research, and creativity;
  - (b) the development of skills and attitudes essential for scholarly study and scientific investigation, and for the effective sharing of the results of these activities with students and fellow scholars and with the community at large;
  - (c) the encouragement of the pursuit of truth by individuals and groups through teaching, research, free enquiry, and criticism, in order to extend the frontiers of knowledge and understanding; and
  - (d) the provision of an environment which will support the intellectual, cultural, and physical development of the University community.
- 1.5 This Agreement has the following purposes:
- (a) to set out terms and conditions of employment for Members, and to describe procedures for developing and revising Policies concerning terms and conditions of employment; and
  - (b) to define and describe the relationship between the University and the Association, to provide for regular communication and consultation between the University and the Association, and to provide means for resolving differences which may arise between them.
- 1.6 The University and the Association agree:
- (a) to encourage within the University community a climate of freedom, collegiality, responsibility and mutual respect;
  - (b) to foster harmonious relations and a working environment that enables individual Members to achieve the goals and objectives of the University; and

- (c) to ensure the equitable treatment of individual Members through fair procedures and practices.
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## **ARTICLE 2: RECOGNITION AND RIGHTS OF THE ASSOCIATION**

### **2.1 Recognition**

2.1.1 The University recognizes the Association as the sole representative of the following groups of University employees (hereinafter referred to as Members) with regard to terms and conditions of employment:

- (a) all regular faculty members (Policy 76, II.A) who hold definite term, probationary, tenured, or continuing appointments, on either a full-time or fractional-load basis; and
- (b) all part-time faculty members (Policy 76, II.B) who hold definite term appointments of one year or more with FTE of at least 50% (as specified in the letter of appointment).

2.1.2 For added clarity, the Parties agree that the following are not Members and are not represented by the Association under this Agreement:

- (a) faculty members who hold senior administrative positions at the level of dean or above;
- (b) faculty members with visiting appointments, research appointments, unpaid adjunct appointments, special appointments, or part-time faculty members who hold definite term appointments of one year or more with FTE less than 50% (as specified in the letter of appointment) (Policy 76, II.B);
- (c) persons registered as full-time graduate students at the University; and
- (d) postdoctoral fellows, research assistants, and research associates.

2.1.3 Should the Parties agree at any time that a group or groups other than those defined in 2.1.1 will be represented by the Association, and it is determined by a majority of those voting in a secret ballot vote conducted in a manner acceptable to both the Association and the University among the members of such group or groups that all members of the group or groups agree to be represented by the Association and to be bound by the terms of this Agreement, the Agreement shall be opened for the sole purpose of incorporating a clause similar to 2.1.1 in regard to each such group and making such other amendments as may be necessary.

### **2.2 Association Facilities**

2.2.1 The University shall provide the following to the Association, without charge: a centrally-located office, suitably serviced and maintained; use of the University's internal postal service; and meeting rooms booked through the room-booking procedures applicable to academic departments.

2.2.2 The University shall provide the Association with reasonable access, on the same basis and at the same rates as for academic departments, to other internal services such as telephone, computing, reproduction, and audio-visual services.

### **2.3 Rights of the Association**

2.3.1 The Association shall be entitled each salary year to allocate release time equivalent to five one-term undergraduate courses at the discretion of the Board of Directors. The Association shall inform the University of the allocation not later than June 1. The costs of replacement teaching shall be borne by the University.

2.3.2 Additional teaching release is subject to negotiation on an individual basis between the Association and the University. The University shall be reimbursed by the Association at a rate equivalent to the cost of replacement teaching.

2.3.3 The University agrees that service to the Association shall be considered as service to the University in assessing a faculty member's academic and professional activities for the purposes of annual performance reviews, tenure, and promotion. The Association agrees to make written assessments available to the appropriate Department Chairs in a timely manner.

2.3.4 The University agrees that the Association Board of Directors has sole responsibility for assessing the Association President's service to the Association. The Board of Directors shall provide a written assessment to the Association President's Department Chair in a timely manner for incorporation into the Chair's assessment of service in the annual performance review. The University agrees that the Association President's service component shall carry a substantial weight in the overall assessment.

2.3.5 The University agrees that the Association President shall accrue sabbatical service and administrative credits in the same manner as a Faculty Dean.

2.3.6 The University recognizes that the Association has the right to call upon the assistance of duly authorized representatives of the Canadian Association of University Teachers (CAUT) and of the Ontario Confederation of University Faculty Associations (OCUFA). Such representatives shall have access to University premises to consult with Association officials and Members.

2.3.7 The University agrees to make this Agreement available electronically on the web, and to provide a printed copy to each Member, and to each new Member appointed during the life of this Agreement.

### **2.4 Association Membership**

2.4.1 Every Member shall have the right to join the Association and, as a member of the Association, to participate in its activities. The University shall not interfere with the participation of FAUW members in Association meetings or other Association business, provided that such participation does not interfere with the performance of a member's teaching and other responsibilities to the University.

2.4.2 No person shall be required to be a member of the Association as a condition of employment.

## **2.5 Association Dues and Payroll Deduction**

- 2.5.1 The University agrees that, effective January 1, 1999, it shall be a condition of employment of each Member that, subject to 2.5.2, he/she pay by the end of each month to the Association an amount equal to the Association's membership dues fixed in accordance with its Constitution. The University shall deduct that amount from the Member's salary and, subject to 2.5.2, shall remit that amount to the Association.
- 2.5.2 A Member may, by January 1, 1999, or within one month of appointment, file with the University and the Association a sworn affidavit explaining that he/she has a bona fide religious objection to paying to the Association an amount equal to its dues, and apply for an exception on those grounds. The application shall be considered jointly by the President of the Association and the Vice-President Academic & Provost. If they are unanimously in favour, the exception is granted; otherwise, the application is rejected. A negative decision may be appealed by the Member to an external arbitrator, jointly appointed by the University and the Association, whose decision to grant or refuse the exception shall be final. The cost of the external arbitrator shall be shared equally by the Member, the University and the Association. Where the exception has been granted, the University shall remit the amount deducted to a registered Canadian charity mutually agreeable to the Association and the Member.
- 2.5.3 The University shall similarly deduct each month from the salary of any employee who is a member of the Association but is not a Member, dues as may be authorized from time to time by the Association.
- 2.5.4 The Association shall advise the University in writing of the amount of its fees, dues, or assessments, and shall provide the University with at least one month's written notice of any change to such amounts.
- 2.5.5 The University shall remit any amount deducted in accordance with this Article no later than the last day of the month in which the deduction was made. At the same time, the University shall inform the Association in writing of the name of each employee from whose salary an amount was deducted, the dollar value of that amount, and to whom the amount is being remitted.
- 2.5.6 Notwithstanding 2.5.5, if the amounts deducted would enable individual salaries to be determined, then the University shall report the amounts deducted in aggregate form by rank.

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## **ARTICLE 3: CORRESPONDENCE AND INFORMATION**

- 3.1 The University and the Association recognize that both Parties require access to information for the proper administration of this Agreement, and agree to use professional discretion in dealing with such information.
- 3.2 Correspondence between the Association and the University related to this Agreement shall pass between the President of the Association and the President of the University. Where written notice is specified, the University's internal mail may be used.

- 3.3 The University undertakes to provide the following information to the Association in a timely manner:
- (a) an annual list of Members as of May 1, including name, rank, department, appointment category and dates, FTE, and approved leaves of absence during the salary year for each Member;
  - (b) a monthly update giving the same data as in (a) for new Members and listing terminations of Members;
  - (c) the names and new ranks of Members who have received promotions, and the effective dates of such promotions;
  - (d) during the first month of the salary year and within one month of any changes to benefit plans, a list and detailed description of all benefit plans applicable to Members, and the rates charged to Members for these plans;
  - (e) public agenda materials and minutes of the Senate, Senate Finance Committee, Senate Long Range Planning Committee, Board of Governors, Board Pension and Benefits Committee;
  - (f) agenda materials and minutes of the Faculty Relations Committee;
  - (g) a copy of the latest University budget and budget reports when circulated to the Board;
  - (h) names and professional addresses of members of the Board of Governors and Senate, and of Board and Senate committees, together with the terms of reference of such committees; and
  - (i) such other information as the Parties agree from time to time.
- 3.4 The University agrees to provide the report of the Pension Plan Actuary, and audited and other reports concerning the pension and benefits plans to the Association on request.
- 3.5 The Association undertakes to provide the following information to the University in a timely manner:
- (a) a copy of each *FAUW Forum*, newsletter, or other public communication to all Members at the time of distribution;
  - (b) an up-to-date copy of the Association's Constitution and Bylaws within one month of their revision;
  - (c) an up-to-date list of the Association's Board of Directors and Executive within one month of any changes; and
  - (d) such other information as the Parties agree from time to time.

#### **ARTICLE 4: FACULTY RELATIONS COMMITTEE**

- 4.1 The Faculty Relations Committee (FRC) is a consultative committee with equal representation from the University administration and the Association Board of Directors.
- 4.2 The President of the Association and the Vice-President Academic & Provost shall alternate from meeting to meeting as Chair of the FRC. The additional members shall be four senior administrators appointed by the University President and four members of the Association Board of Directors appointed by the Association President.
- 4.3 The Parties confirm as part of this Agreement that the practices and procedures followed by the FRC are as described in Policy 1 and in Appendix A to Policy 1. In particular, no formal decision may be made by the FRC except by agreement of the “double majority” comprised of majority support from each of the two groups of members appointed to the FRC by the University and Association Presidents. The Parties agree that for the purposes of this Agreement the content of Appendix A to Policy 1 shall be regarded as part of Policy 1.
- 4.4 The FRC provides a regular forum for discussion of issues affecting faculty members, including matters arising from the application of this Agreement (but excluding any individual or group grievance which is at that time being resolved under the grievance and arbitration procedures set out in Article 9).
- The FRC also has responsibility for the development and approval of Class F and Class A Policies, and shared responsibility with the Staff Relations Committee for the development and approval of Class FS Policies.
- 4.5 The FRC shall meet on a regular basis, usually every two weeks from September through June, although meetings may be held more or less frequently by mutual agreement of the two Chairs. It is expected that the FRC will operate in a collegial manner, with most decisions made by consensus rather than by formal vote.
- 4.6 The University Secretariat shall provide a Secretary for meetings of the FRC. Minutes of meetings are confidential to the Committee.
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#### **ARTICLE 5: MEMORANDUM OF AGREEMENT AND POLICIES**

##### **5.1 Agreement and Policies**

- 5.1.1 The relations between the Parties, and between the University and the Members, are defined partly in this Agreement and partly in University Policies.
- 5.1.2 The Faculty Relations Committee has responsibility for the development and approval of Class F and Class A Policies, and shared responsibility for the development and approval of Class FS Policies. Class F Policies deal exclusively with the terms and conditions of employment of faculty members, Class A Policies deal with the appointment of academic administrative officers, and Class FS Policies deal with terms and conditions of employment of faculty and other employees. The policy classifications and development and approval process are described in Policy 1.

5.1.3 The current list of F, A and FS Policies at the date this Agreement comes into effect or as amended during the life of this Agreement is given in Appendix A to this Agreement.

## **5.2 Policy Development and Amendment**

5.2.1 Nothing in this Agreement is intended to prevent the development, amendment or review of any University Policies in accordance with Policy 1 during the term of this Agreement.

5.2.2 Where there are differences between this Agreement and any Policy other than a Class F, A, or FS Policy, the provisions of this Agreement shall prevail.

5.2.3 Where there are differences between this Agreement and any existing Class F, A, or FS Policy at the date this Agreement comes into effect, the provisions of this Agreement shall prevail, and the Parties agree to revise the existing Policies to harmonize them with this Agreement.

5.2.4 If a Class F, A, or FS Policy is revised or a new Class F, A, or FS Policy is developed in accordance with Policy 1 and goes forward for approval, the Parties agree to a limited opening of this Agreement at the request of either Party for the sole purpose of negotiating revisions to this Agreement to harmonize it with the new or revised Policy. The Parties agree to make all reasonable efforts to negotiate these revisions before the new or revised Policy is submitted to the Board of Governors for final approval.

5.2.5 Amendments to this Agreement made as a consequence of 5.2.4 shall not require ratification by the Parties to take effect.

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## **ARTICLE 6: ACADEMIC FREEDOM**

6.1 Academic freedom provides the possibility of examining, questioning, teaching, and learning, and involves the right to investigate, speculate, and comment without deference to prescribed doctrine. As such, it entails the freedom of individuals to practise their professions of teacher, researcher and scholar, the freedom to publish their findings, the freedom to teach and engage in open discussion, the freedom to be creative, the freedom to select, acquire, disseminate, and use documents in the exercise of their professional activities, and the freedom to criticize the University and the Association. Academic freedom also entails freedom from institutional censorship.

6.2 The University and the Association recognize that the provision of academic freedom is particularly vital to those whose approaches to teaching, scholarship, and research result in criticism of and challenge to established, conventional beliefs and practices.

6.3. The academic freedom of any person shall not be infringed upon or abridged in any manner. As academic freedom will wither and die unless the university community as a whole is committed to it, the University and the Association agree to support and defend academic freedom at the University of Waterloo.

6.4 As the common good of society depends upon an unhampered search for knowledge and its free expression, and as academic freedom in universities is essential to the attainment of each of these purposes in the teaching function of the university as well as in the pursuit

of its scholarship and research, those who are guaranteed academic freedom have also a responsibility in exercising it not to infringe upon the academic freedom and rights of other members of the university community. Indeed, academic freedom carries with it the duty to use that freedom in a manner that is consistent with the scholarly obligation to base research and teaching on an honest and ethical quest for knowledge.

Academic freedom does not require neutrality on the part of the individual; rather, academic freedom makes commitment possible.

- 6.5 As the censorship of information is inimical to the free pursuit of learning, the creation, collection, organization, and dissemination of knowledge shall be done freely and without bias in support of the research, teaching, and study needs of the university community. No censorship shall be exercised or allowed against any material relevant to the pursuit of learning which a faculty member desires to be placed in the library collections of the University.

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## **ARTICLE 7: NON-DISCRIMINATION**

- 7.1 The Parties agree that all Members have a right to equal treatment with respect to employment and that there shall be no discrimination, interference, restriction or coercion exercised or practised towards any Member in respect to appointment, benefits, dismissal, promotion, rank, reappointment, salary, tenure or any other terms or conditions of employment by reason of age (except for retirement), ancestry, citizenship, clerical or lay status, colour, creed, ethnic origin, family status, gender, language (except where competence in the language is a bona fide occupational requirement), marital status, membership or non-membership in the Association, physical or emotional ill health or disability (except where the Member refuses to seek medical treatment and/or where the physical or emotional ill health or disability would clearly prevent the carrying out of the required duties of the position), place of origin, political or religious affiliation or belief, pregnancy, race, sexual orientation, or any activity pursuant to the principles of academic freedom and responsibilities set out in Article 6.
- 7.2 Policies, practices, or acts which create, intentionally or unintentionally, a sustained negative working climate which can clearly be attributed to any of the prohibited grounds in 7.1 will be considered discrimination.
- 7.3 This Article shall not preclude the Parties agreeing to any equity measures.

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## **ARTICLE 8: DISCIPLINE**

- 8.1 A Member may be disciplined only for just cause and only in accordance with the provisions of this Article. Disciplinary processes are not to be used to inhibit free inquiry, discussion, exercise of judgement, or honest criticism within or without the University. Disciplinary action shall be reasonable, commensurate with the seriousness of the violations, and consistent with accumulated practice under this Article. The Parties recognize the value of

promoting corrective action through guidance and progressive discipline, although this will not always be appropriate.

- 8.2 In all matters of discipline, a Member has the right to seek advice from the Association and to be accompanied by an academic colleague for advice and support (including, if necessary, aid in presenting the Member's position) during any meetings attended to discuss such matters. All disciplinary measures are grievable under Article 9.
- 8.3 The University bears the onus of proving that a disciplinary action was taken for just cause.
- 8.4 The only disciplinary measures which may be taken by the University against a Member are the following:
- (a) A letter of warning or reprimand. Such letters must be specific and must be clearly identified as disciplinary measures.
  - (b) Suspension with pay. Suspension is the act of relieving a Member, without her/his consent, of some or all university duties and/or privileges.
  - (c) Suspension with partial pay, or without pay, or a fine in lieu thereof, where appropriate.
  - (d) Dismissal for cause. For Members with tenure or continuing lecturer appointments, dismissal means the termination of appointment without the Member's consent prior to the latest retirement date. For all others, dismissal means termination of appointment without the Member's consent before the end of the contract. Non-renewal of definite term or probationary appointments and denial of tenure do not constitute dismissal.
- 8.5 Just cause for the dismissal of a tenured Member includes, but is not limited to, the persistent and serious neglect of the normal duties of a faculty member, particularly with respect to teaching and scholarship, or the failure to carry out such duties as are reasonably assigned by the appropriate academic authorities. In a case of persistent neglect, the action for dismissal must have been preceded by letters of warning from the Member's Chair or Dean. Warnings shall not only state the nature of the alleged deficiencies and make constructive suggestions for improvement, but also shall be followed by a reasonable period in which to make improvements.
- 8.6 Just cause for dismissal also includes but is not limited to: a serious breach of criminal law; violent behaviour or threats of violence against a member of the University community; a serious breach of ethical behaviour; violations of ethics in respect of scholarship, teaching, or collegiality. Any of the above must be of such a serious nature as to render the Member clearly unfit to continue to hold a tenured appointment at the University of Waterloo.
- 8.7 Disciplinary processes must be kept distinct from academic assessments associated with annual performance reviews and consideration for tenure, promotion, and probationary reappointment. The fact that a disciplinary measure has been imposed or is contemplated cannot be considered in an academic assessment, but the facts which resulted or may result in the imposition of discipline can be considered, if relevant to that assessment.
- 8.8 The Member's Dean shall promptly investigate any concerns or allegations about a Member if the Dean reasonably believes that a situation warranting disciplinary measures may exist. The Dean shall inform the Member as soon as may reasonably be possible both of the nature of the allegation and if an investigation is being undertaken. The conduct of all or part of

such investigations may be delegated to appropriate persons, including the Member's Department Chair. The investigation itself is not a disciplinary measure, and an investigation which has not yet been completed is not a matter for grievance.

- 8.9 The Dean shall take reasonable steps to maintain the Member's privacy and the confidentiality of the investigation and its findings until the imposition of discipline, if any. However, some disclosure of concerns and allegations may be necessary, either in order to conduct the investigation or if the Dean has reasonable grounds to believe that such confidentiality may place a person or persons at risk of significant harm. In the event that it is determined that there shall be no disciplinary action, the Dean must inform each individual to whom concerns and allegations were disclosed that there is no basis for disciplinary action.
- 8.10 When the investigation has been completed, and if disciplinary action is being considered, the Dean shall notify the Member in writing of the results of the investigation and of the proposed disciplinary action. The notice shall provide the specific details of the alleged cause for the discipline, including all names, places, and dates of the alleged incidents, and shall either be hand-delivered to the Member, or delivered by registered mail to the Member's last known address. The date of notice is defined to be either the date on which a registered letter has been signed for or the date on which the notice is hand-delivered to the Member.
- 8.11 The Dean shall convene a meeting within twenty-five working days of the date of notice to afford the Member an opportunity to make oral and/or written submissions before any disciplinary measures are imposed. The Member shall be given at least seven working days notice of the time and place of the meeting. The Dean may invite the person or persons who have carried out the investigation to attend. At this meeting an attempt shall be made to resolve the matter in a manner satisfactory to all concerned. For the purposes of this clause, days during which the Member is on pre-scheduled vacation, as well as Saturdays and Sundays, other holidays, days during which the University is officially closed, and days during which the Member is absent on pre-scheduled official University business shall not be treated as working days.
- 8.12 If no satisfactory solution is reached at the meeting referred to in 8.11, within two weeks the Dean shall notify the Member in writing of the disciplinary decision with reasons.
- 8.13 The Dean shall make every reasonable effort to notify the Member of the meeting referred to in 8.11. If the Dean is unable to contact the Member, or if the Member is notified and chooses not to attend, the meeting shall be dispensed with, and the Dean may give notice of discipline as in 8.12 above.
- 8.14 Where the disciplinary decision in 8.12 is dismissal for cause and where the Member chooses to contest the decision, a formal grievance shall be submitted to the Vice-President, Academic & Provost (VPA&P) in accordance with Article 9. The VPA&P shall act as a committee of one to decide the matter on behalf of the Board of Governors. The decision of the VPA&P may be taken to external arbitration under 9.6.
- 8.15 Where the disciplinary action is dismissal for cause, suspension with reduced pay or a fine in lieu thereof, the Member shall retain full salary and benefits until the time limit for filing a grievance under Article 9 has expired. If the disciplinary action is grieved, the Member shall retain full salary and benefits for a period of one year from the date of the disciplinary decision in 8.12, or until the grievance and arbitration procedures set out in Article 9 have

been completed, whichever is earlier. In the event that the Tribunal or Arbitrator finds in favour of the Member, any lost compensation shall be restored.

- 8.16 Notwithstanding 8.15, eligibility for salary and benefits shall not extend beyond the Member's latest retirement date, nor beyond the termination date for a definite term or probationary appointment terminated in accordance with Policy 76. Furthermore, the University may terminate salary and benefits if, during the period referred to in 8.15, the Member accepts outside employment in excess of the normal guidelines as specified in Policy 49.
- 8.17 Where the disciplinary action is dismissal for cause or suspension, at the request of either the Member or the Dean, the VPA&P may relieve the Member of her/his duties during the period of full salary and benefits as specified in 8.15. If this action is taken the Association shall be informed. If the disciplinary action is suspension with pay, such suspension shall count towards the period of suspension in the event that the grievance is unsuccessful.
- 8.18 Failure of a Member to grieve a letter of reprimand or warning at the time of receipt of the letter shall not be deemed an admission of the validity of the reprimand or the warning.
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## **ARTICLE 9: GRIEVANCE AND ARBITRATION**

### **9.1 General**

- 9.1.1 The parties to a grievance shall be the Grievor and the University. The Grievor may be an individual Member, a group of Members, or the Association.
- 9.1.2 The University and the Association agree to use every reasonable effort to encourage informal and prompt resolution of grievances. There shall be no discrimination, harassment, coercion, or reprisals of any kind practised against any person involved in the grievance process.
- 9.1.3 Members who are party to a grievance, or are likely to be, are entitled to seek assistance from the Association at both informal and formal stages of the grievance. Members are entitled to be accompanied by a UW colleague provided by the Association or of their own choosing for advice and assistance at all stages in the grievance process.
- 9.1.4 No minor violation or irregularity due to clerical, typographical or similar technical error in the grievance process shall prevent the substance of a grievance from being heard and judged on its merits, nor shall it affect the jurisdiction of the Arbitrator or Tribunal as the case may be.

### **9.2 Individual and Group Grievances**

- 9.2.1 An individual grievance is a grievance against the University initiated by an individual Member. A group grievance is a grievance against the University initiated by two or more Members and involving the same dispute with the University; if an affected Member does not wish to be party to a group grievance, that shall not preclude the remaining Members from proceeding.

- 9.2.2 A dispute arising out of the interpretation, application, administration, or alleged violation of UW Policies and established practices, this Agreement, or other agreements between the University and the Association may be the subject of an individual or group grievance and, subject to the terms of this Article, may be taken to arbitration.

Established practices are those practices which are identifiable, certain, known and in force as at September 1, 1997, or such other practices as the Parties may identify. The onus to show that such a practice exists rests upon whomever seeks to rely upon that practice.

- 9.2.3 An allegation that a Member (or group of Members) has been disciplined without just cause, or treated in a manner which is arbitrary, unreasonable, discriminatory or in bad faith, may be the subject of an individual (or group) grievance and, subject to the terms of this Article, may be taken to arbitration.

- 9.2.4 Notwithstanding 9.2.2 and 9.2.3, no matter which may be the subject of procedures set out in either Policy 76 (Faculty Appointments) or Policy 77 (Tenure and Promotion of Faculty Members) concerning promotion, tenure, or probationary-term reappointment may be the subject of grievance or arbitration under this Article, except that an alleged failure by the Tenure or Promotion Appeal Tribunal or the FTPC (in the case of probationary-term reappointment) to comply with such procedures may be the subject of an individual grievance and, subject to the terms of this Article, may be taken to arbitration (see 9.6.7).

- 9.2.5 Annual performance evaluations and selective increments, and denial of sabbatical leaves are not normally grievable except under 9.2.2 or 9.2.3.

- 9.2.6 Failure to reappoint a Member with a definite term appointment is grievable only with respect to the notice period.

### **9.3 Association Grievances**

- 9.3.1 An Association grievance is a grievance against the University initiated by the Association. The grievance shall be authorized by the Board of Directors of the Association and shall be presented by the Association President (or her/his delegate).

- 9.3.2 The Association shall be entitled to grieve the interpretation, application, administration or an alleged violation by the University of UW Policies and established practices, this Agreement, or other agreements between the University and the Association, insofar as it directly affects the Association as an organization or the Association's role as defined in this Agreement.

### **9.4 Grievance Process**

- 9.4.1 **Pre-Grievance Stage.** Member(s) should first present a potential grievance orally and informally at the lowest administrative level having the authority to dispose of it. This will usually be the Department Chair or equivalent. Members are encouraged to seek the assistance of the Association and/or the Office of Ethical Behaviour and Human Rights in an attempt to settle the potential grievances informally. For potential Association grievances, the Association President should discuss the issues with the Vice-President, Academic and Provost and, when mutually agreeable, bring the issues to the Faculty Relations Committee, in an attempt to settle them informally. The use of informal means to resolve a dispute does not, without the written consent of the potential grievor and the Vice-President, Academic & Provost (VPA&P), extend the time available to commence the formal grievance process.

- 9.4.2 A formal grievance must be submitted within two months from the date of the event on which the grievance is based, or from the date on which the Grievor knew or should have known of the event, whichever is later. The grievance shall be in writing, signed by the Grievor, and shall specify the matters in dispute, the Policies or Articles alleged to have been violated, and the remedy sought.
- 9.4.3 Formal grievances shall be submitted to the VPA&P (Stage 1, see 9.5) except that, where the grievance is against a direct decision or administrative action of the VPA&P, the Vice-President, University Research or the President, the grievance shall proceed directly to arbitration (Stage 2, see 9.4.5 and 9.6).
- 9.4.4 Grievances not resolved at Stage 1 may be taken to arbitration. At the sole choice of the Grievor, the grievance may be taken to an internal Tribunal (see 9.7) or to an external Arbitrator (see 9.8), except that, grievances under 9.2.4, Association grievances and grievances against dismissal for cause shall be heard by an external Arbitrator. The choice between an internal Tribunal and external Arbitrator shall be irrevocable, and in no case shall a grievance be taken to both.
- 9.4.5 For grievances which proceed from Stage 1 to Stage 2, the written notice of intent to proceed to arbitration must be submitted within one month of the receipt of the written decision terminating Stage 1 (see 9.5.2). For grievances which proceed directly to arbitration, submission of a formal grievance serves as the written notice of intent to proceed to arbitration, and the submission deadline of 9.4.2 applies.
- 9.4.6 Notice of intent to proceed to arbitration is submitted to the Chair of the Faculty Grievance Committee (FGC), who shall ensure that the VPA&P and the Association President have copies. The FGC Chair shall establish a Tribunal or arrange, in accordance with 9.8, for an Arbitrator to hear the grievance.
- 9.4.7 For individual and group grievances, the internal Tribunal or external Arbitrator may grant Intervenor status to the Association at its request.
- 9.4.8 The parties may agree in writing to waive any step in the grievance procedure and/or to extend any specified time limits.

## **9.5 Formal Grievance – Stage 1: Administrative Review**

- 9.5.1 Not later than one month after receipt of a formal grievance, the VPA&P or delegate shall meet with the Grievor and shall attempt to resolve the grievance. If a settlement is reached, it shall be put in writing and signed by the VPA&P and the Grievor, and with the permission of the Grievor, a copy shall be sent in confidence to the Association President. Such a settlement shall not constitute a precedent to be used against the University, the Association, or individual Members.
- 9.5.2 If no settlement is reached within two months after receipt of the grievance, the VPA&P shall provide the Grievor with a written decision and reasons within the following two weeks. The written decision shall either be hand-delivered to the Grievor, or delivered by registered mail to the Grievor's last known address(es). On receipt of the written decision, the Grievor becomes entitled to proceed to arbitration (Stage 2). For an individual or group grievance, the decision shall be promptly sent to the Association President.

## 9.6 Formal Grievance – Stage 2: Arbitration

- 9.6.1 Notwithstanding the report of any committee or other body, all grievances taken to arbitration shall be heard *de novo* by the Arbitrator or Tribunal.
- 9.6.2 The arbitration hearing normally will be held within one month after the appointment of a Tribunal, or within two months after the appointment of an Arbitrator. Internal and external arbitration hearings and decisions will be open to the public unless one of the parties requests otherwise, in which case the Tribunal or Arbitrator shall decide. For arbitrations in which the Association is not directly involved, the Association shall be allowed to send an observer to any *in camera* proceedings if the Grievor does not object.
- 9.6.3 The internal Tribunal shall determine its own rules of procedure and evidence, which shall be in accord with principles of natural justice and the *Ontario Statutory Powers Procedure Act*. At a Tribunal hearing, the parties may be accompanied by a UW colleague for advice and assistance. Assistance in this respect means that a colleague may assist in presenting a case, if necessary, but in no way will supplant the Grievor's responsibility to participate in her/his own grievance hearing. The parties may present arguments and submissions, and may call, examine, and question witnesses. A complete audio recording of the hearing shall be kept and made available to both parties.
- 9.6.4 The external Arbitrator shall determine her/his own rules of procedure and evidence which shall be in accord with principles of natural justice. The powers of the Arbitrator are as defined under the *Ontario Labour Relations Act*, as amended from time to time. At a hearing before the Arbitrator, the parties may be represented by counsel, the Association, or a UW colleague. The parties may present arguments and submissions, and may call, examine, and question witnesses.
- 9.6.5 Witnesses shall be informed of their legal rights under the *Canada Evidence Act* and the *Ontario Evidence Act*.
- 9.6.6 The Tribunal or Arbitrator shall not have authority to amend, modify, or act inconsistently with this Agreement or with UW Policies. The Tribunal or Arbitrator shall not award punitive damages.
- 9.6.7 For a grievance under 9.2.4 where the Arbitrator finds for the Grievor, the case shall be sent back to the President for directed reconsideration. Notwithstanding 9.6.6, where a negative tenure or probationary-term reappointment decision is involved, the end-date of the Member's probationary contract shall be extended to not less than one year from the date of the Arbitrator's decision.
- 9.6.8 The external Arbitrator's fees and expenses shall be shared equally between the parties to the arbitration, except that in the case of a grievance against dismissal for cause, these costs shall be paid entirely by the University. Costs of presenting a case shall be borne by the respective parties to the arbitration. The University shall provide meeting space on the University campus if such space is available and is requested by the Arbitrator.
- 9.6.9 If the grievance is settled without a formal decision by the Tribunal or Arbitrator, the settlement shall be put in writing and signed by the Grievor and the VPA&P. For an individual or group grievance, the VPA&P shall promptly forward a copy to the Association President in confidence. Such a settlement shall not constitute a precedent to be used against the University, the Association, or individual Members.

- 9.6.10 The final decision of the Tribunal or Arbitrator shall be in writing, supported by reasons. The decision and reasons shall be provided to the Grievor, the University, and the Association within a reasonable time, normally not more than two months after the close of hearings. The decision shall be binding on the Grievor and the University.

## **9.7 Faculty Grievance Committee and Internal Tribunals**

- 9.7.1 The Faculty Grievance Committee (FGC) is composed of a Chair and six Members with tenured or continuing appointments, appointed jointly by the Association and University Presidents. Normally, the Chair shall be appointed for a two-year term and the other six members for overlapping three-year terms. All may be reappointed for additional terms, to a maximum of six consecutive years. The FGC shall agree annually upon an ordered list of its members.
- 9.7.2 Where a grievance is to be heard by an internal Tribunal, the FGC Chair normally shall chair the three-person Tribunal, and shall select the other two members in order from the ordered list of FGC members. In the event that the FGC Chair is not available to serve, or is disqualified, the FGC shall appoint another member to chair the Tribunal.
- 9.7.3 The FGC Chair shall inform the Grievor of the composition of the Tribunal. The parties may object to any member of the Tribunal on grounds of bias, reasonable apprehension of bias, or conflict of interest. The FGC (excluding the member challenged) shall consider and rule on such objections. If the challenge is upheld, another Tribunal member shall be selected.
- 9.7.4 The FGC and its Tribunals shall have access to independent legal advice paid for by the University, subject to reasonable limits on total costs. Counsel to the Committee shall not have represented or advised the University, the Association or the Grievor at any time.

## **9.8 External Arbitrator Pool and Selection**

- 9.8.1 An external arbitrator pool, consisting of an ordered list of at least six persons, shall be jointly appointed by the University and Association Presidents. The individuals normally are appointed for overlapping three-year terms, and may be reappointed for additional terms.
- 9.8.2 The individuals in the arbitrator pool shall serve as single arbitrators in rotation according to the order in which they are listed. If an arbitrator is unable to agree to the conditions below, the next person on the list shall be selected, and so on until one is available. Contact with members of the Arbitrator Pool shall be arranged through the FGC Chair. The person who appears on the list immediately after the last arbitrator selected shall be the next in the sequence of selection. However, by mutual consent in writing between the Grievor and the University President, a listed arbitrator may be selected out of turn.

The appointment of an Arbitrator shall be conditional upon the arbitrator agreeing that:

- (a) the arbitration shall commence within sixty (60) days;
- (b) the Arbitrator's final decision shall be delivered within sixty (60) days of the completion of the evidence unless the Parties agree that the complexity of the evidence or issue(s), or other circumstances, warrants an extension of time; and
- (c) no bill shall be presented for payment by the Arbitrator until the final decision has been delivered.

- 9.8.3 If none of the arbitrators in the Pool can or will act within the required time, an arbitrator not in the Pool may be selected by mutual agreement of the University and Association Presidents. If they are unable to agree on another arbitrator, the Presidents shall, within three weeks, ask the Ontario Minister of Labour to appoint a single arbitrator.
- 9.8.4 No person who is an employee or student of the University or a member of the University's Senate or Board of Governors, or who was so at the time the grievance was initiated, shall be appointed as an arbitrator.
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## **ARTICLE 10: COMPENSATION NEGOTIATIONS**

- 10.1 Annual compensation changes for Members, other than selective increments as defined in Article 13, are as specified in the Memorandum of Settlement describing the results of compensation negotiations between the Association and the University.
- 10.2 The Memorandum of Settlement shall specify the annual scale change. Each year the Compensation Negotiation Teams shall use the annual change in the Canada Consumer Price Index as a starting figure for the discussion of the scale adjustment. Adjustments in the salary scale are influenced by economic factors, relevant salary trends and by the University's financial position. Scale changes, expressed as a percentage change, apply to the salary structure and to all salaries. Other items that may be specified include changes in the salary structure (see Article 13), anomalies and other special salary increases, and changes in the Faculty Professional Expense Reimbursement Plan (see 11.5) and other benefits specific to Members. The Memorandum of Settlement may also include an amount for proposed changes in benefits defined in University Policies and/or administered by the Pension and Benefits Committee. If the proposed benefit changes are not approved, the negotiated amount shall be awarded as a scale change.
- 10.3 The Memorandum of Settlement shall be for one year, two years, or three years. In the absence of agreement between the Parties on a longer period the Memorandum of Settlement shall be for one year. The years in the Memorandum of Settlement shall begin on May 1 and end on April 30, coincident with the salary year for Members.
- 10.4 The Memorandum of Settlement shall be part of this Agreement, and shall be binding on the Board of Governors, the Association, and individual Members.
- 10.5 Start of Compensation Negotiations**
- 10.5.1 Prior to June 15th in any year in which compensation changes are to be negotiated the President of the Association and the President of the University shall begin the process of establishing lists of possible mediators and arbitrators as specified in 10.9. These lists are to be completed prior to the commencement of negotiations.
- 10.5.2 By the November 15th immediately preceding the expiry date of the Memorandum of Settlement, each Party shall inform the other of the names of its Chief Negotiator and the other two members of its Negotiating Team.
- 10.5.3 Negotiations shall commence as soon as can be arranged by the two Chief Negotiators, and at the latest by December 1st. The Chief Negotiator and at least one other member of each Negotiating Team shall be present at each negotiation session.

10.5.4 By mutual agreement, the Parties may alter any of the dates specified in this Article.

**10.6 Stage 1 Negotiations**

The Parties agree to negotiate in good faith and to make every reasonable effort to reach an agreement in Stage 1. If the Parties reach agreement, a Memorandum of Settlement shall be prepared and signed by the Chief Negotiators and at least one other member of each Negotiating Team.

**10.7 Stage 2 Negotiations – Mediation**

10.7.1 If the Parties have not reached agreement by February 1st, an external mediator shall be appointed unless both Parties agree to waive mediation. Mediation shall commence not later than February 15th. If mediation is waived, Stage 1 negotiations may continue.

10.7.2 The role of the mediator is to assist the Parties in reaching a negotiated agreement. The procedure for appointing the mediator is specified in 10.9. The cost of the mediator shall be shared equally by the Parties.

10.7.3 Mediation shall terminate by the earliest of March 1st, the date on which an agreement is reached, or the date on which either the mediator or both Parties decide that further mediation would not be useful.

10.7.4 If an agreement is reached, a Memorandum of Settlement shall be prepared and signed by the Chief Negotiators and at least one other member of each Negotiating Team.

**10.8 Stage 3 Negotiations – Arbitration (Final Offer Selection)**

10.8.1 If an agreement has not been reached by March 1st, an arbitrator shall be appointed. The role of the arbitrator is to select between the final positions of the two Parties. The procedure for appointing an arbitrator is specified in 10.9. The cost of the arbitrator shall be shared equally by the Parties.

10.8.2 The arbitration hearing shall commence not later than March 15th. One week prior to the arbitration hearing, each Party shall submit its proposed Memorandum of Settlement to the arbitrator with a copy to the other Party.

10.8.3 Within three weeks after the arbitration hearing, the arbitrator shall provide each Party with a copy of her/his report, indicating which Party's proposed Memorandum of Settlement has been selected and the reasons for selecting it.

**10.9 Selection of Mediator and Arbitrator**

10.9.1 In accordance with 10.5.1, the Association and University Presidents shall begin the process of establishing a list of at least three possible mediators and a second list of at least three possible arbitrators by the June 15th prior to the start of negotiations. These individuals must be external to the University and acceptable to both the Association and the University.

10.9.2 In the event that a mediator or arbitrator is required, names shall be drawn at random from the agreed list until one of them is available to serve. By mutual agreement in writing, the two Presidents may select a listed mediator or arbitrator out of turn, or may select a

mediator or arbitrator not on the list. No individual shall serve as both mediator and arbitrator in the same year.

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## **ARTICLE 11: PENSION AND BENEFITS**

### **11.1 UW Pension Plan and Shared Benefit Programs**

- 11.1.1 The University of Waterloo has a common pension plan for all eligible employees, including eligible Members. The UW Pension Plan is administered by the Board of Governors Pension and Benefits Committee. Membership of this committee is determined by Board of Governors Bylaw #2, which specifies that the Board of Governors shall appoint three faculty members to the committee on the recommendation of the Association President.
- 11.1.2 The UW Pension Plan is a defined benefit plan integrated with the Canada Pension Plan, with costs shared by employees and the University. Specific details are contained in the official Pension Plan text (available from Human Resources) which is approved by the Board of Governors and registered with federal and provincial pension authorities.
- 11.1.3 UW also has a number of common benefit programs for all eligible employees, including eligible Members. These programs are administered by the Board of Governors Pension and Benefits Committee, and include extended health care, dental plan, sick leave and long term disability, and group life insurance. Several government programs are also applicable (e.g. OHIP, Workers' Compensation, Employment Insurance, Canada Pension Plan; details are available from Human Resources).
- 11.1.4 The Parties agree that the Association shall receive notice of, and have input into, any proposed changes to the common benefit programs in so far as they affect Members.

### **11.2 Vacation Entitlement**

- 11.2.1 The annual vacation entitlement for Members with appointment duration of one year or more shall be one month during each of the first ten years of employment. The annual entitlement shall increase to one month plus one week in the earlier of the eleventh year of employment or the fifth year prior to normal retirement date.
- 11.2.2 Vacation entitlement normally shall be used during the contract year in which it is earned. In exceptional circumstances with the prior written permission of the Department Chair, vacation entitlement may be carried forward for a maximum of one year. All vacation entitlement must be used prior to termination or retirement.
- 11.2.3 Vacation shall be scheduled at a time or times which are mutually satisfactory to the Member and the Department Chair.

### **11.3 Retirement**

- 11.3.1 The normal retirement date for University employees is the first day of the month following or coincident with the 65<sup>th</sup> birthday.

11.3.2 A Member has the right to postpone her/his retirement date to the beginning of the contract year following or coincident with her/his 65<sup>th</sup> birthday.

11.3.3 A Member continuously employed by the University of Waterloo from a date prior to January 1, 1969, has the right to postpone her/his retirement date to the beginning of the contract year following or coincident with her/his 68<sup>th</sup> birthday.

#### **11.4 Conversion of Vacation Entitlement Prior to Retirement**

11.4.1 Under the conditions set out below, a Member within three years of retirement may opt to convert one week of annual vacation entitlement into a 2% salary increase based on the Member's salary in the immediately preceding salary year.

11.4.2 The eligibility date for such conversion shall be the date on which the Member is within three years of her/his latest retirement date, or within three years of such earlier retirement date as the Member shall declare in writing to the University. Such eligibility date shall be not later than April 30, 2009, with retirement on or before May 1, 2012.

11.4.3 Where the Member notifies the University prior to the eligibility date, the 2% salary increase shall take effect on the eligibility date. Where the member notifies the University after the eligibility date, the 2% salary increase shall take effect without retroactivity on the first day of the month following such notification.

#### **11.5 Faculty Professional Expense Reimbursement Plan**

11.5.1 Every regular faculty member shall be entitled to a Faculty Professional Expense Reimbursement (FPER) in each salary year. The maximum FPER shall be prorated for Members with fractional-load appointments or who are employed by the University for only a portion of the salary year.

11.5.2 The FPER provides reimbursement for expenses related to the performance of teaching, research, and professional duties. All goods purchased under this Plan are the property of the University. Eligible expenditures include but are not limited to:

- (a) membership fees for professional associations or learned societies (but not including Association dues);
- (b) books, journals, subscriptions, and other similar professional publications;
- (c) purchase of supplies, equipment, software or services; and
- (d) travel to attend relevant scholarly conferences or conduct scholarly work (allowable expenses as per Policy 31).

11.5.3 Members pay the professional expense costs themselves and obtain reimbursement from the University by submitting an FPER Plan claim form with appropriate receipts attached. For a given salary year, the claim form must be submitted in the two-month period (March 1 to April 30) which includes the end of the salary year.

11.5.4 An unspent FPER balance cannot be carried forward. However, effective May 1, 1997, allowable expenses that exceed the maximum FPER in a particular year may be carried

forward for up to three years, provided that they are documented on the FPER Plan claim form for the year in which the expenses were incurred.

- 11.5.5 Effective May 1, 2002, the maximum annual amount of the FPER shall be \$1,394. On each subsequent May 1<sup>st</sup>, the FPER shall be indexed by the annual average percentage change (January to December) in the Canada Consumer Price Index for the immediately preceding year.

#### **11.6 Additional Benefits**

A number of additional benefit programs are described in University policies, for example:

- Policy 3: sabbatical and other leaves of absence
- Policies 4 and 24: tuition benefits
- Policy 14: pregnancy, adoption and parental leaves
- Policy 28: moving expenses
- Policy 31: travel
- Policy 38: paid holidays
- Policy 67: employee assistance program

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### **ARTICLE 12: TERM OF AGREEMENT – DURATION**

- 12.1 This Agreement shall come into effect upon ratification by the Parties, shall be binding on both Parties, shall remain in effect until April 30, 2000, and may not be opened prior to that date except by mutual consent of the Parties or as provided in 12.2 below.

- 12.2 Irrespective of the provisions of 12.1 the Parties agree to undertake additional negotiations as follows:

- (a) regarding the proposed inclusion of librarians as Members for the purposes of this Agreement, as defined under 2.1.1, starting no later than November 1, 1998;
- (b) regarding the proposed addition of an article on Fraud and Misconduct in Academic Research and an article on Member Evaluation and Selective Increments, starting no later than May 1, 1999; and
- (c) regarding the proposed addition of articles on Program Redundancy, Financial Exigency, and Layoffs, starting no later than January 1, 2000 or such other date as the Parties may agree.

Except by mutual consent of the Parties no other matters shall be addressed in these negotiations. Should these negotiations result in an agreement on new Articles, or changes to existing Articles, the Chief Negotiators shall recommend them for ratification by their respective Parties. Upon ratification this Agreement shall be opened for the sole purpose of incorporating the new Articles or changes to existing Articles into the Agreement.

- 12.3 As of April 30, 2000, this Agreement shall automatically renew itself for successive one-year periods unless either Party provides written notice to the other that it wishes to terminate or revise the Agreement.

- 12.4 If such written notice is given, the following rules and practices shall govern exchanges between the Parties:
- (a) written notice of termination must be received in the period from May 1 to May 31, inclusive, prior to the expiry date;
  - (b) if either Party serves notice to terminate, this Agreement shall terminate as of the April 30 following;
  - (c) written notice by one Party of intent to renegotiate this Agreement, provided that the other Party has not already given notice to terminate the Agreement as in 12.4 (a) above, must be received in the period from June 1 to September 30, inclusive, prior to the expiry date;
  - (d) notice from either Party regarding renegotiation shall include the names of its Chief Negotiator and two additional persons who will be members of its Negotiating Team, a list of the Articles that it wishes to revise, and the subject matter of new Articles that it wishes to negotiate; and
  - (e) within one month of the notice referred to in 12.4 (d) above or by September 30, whichever is later, the other Party shall reply with the names of its Chief Negotiator, the two additional members of its Negotiating Team, a list of the Articles that it wishes to revise, and the subject matter of new Articles that it wishes to negotiate.
- 12.5 Negotiations shall begin as soon thereafter as can be arranged by the Chief Negotiators and, except by mutual agreement at any time, shall address only those Articles listed by one or other of the Parties as above. All other Articles shall be incorporated unchanged into a revised Agreement. The notice periods may be waived by mutual agreement of the Parties.
- 12.6 Subject to the agreement of both Parties a mediator may be appointed at any time to assist in settling any outstanding issues in the negotiations. The mediator shall be selected by the procedure in 10.9. The costs of the mediator shall be borne equally by the two Parties.
- The mediator shall hear representations from the Parties, shall mediate between the Parties, and shall encourage them to resolve the outstanding issues. Mediation shall continue for as long as both Parties agree that it is helpful.
- 12.7 If negotiations under 12.5 and 12.6 do not for whatever reason result in a new and ratified Agreement by the April 30 following the start of negotiations, the current Agreement shall renew automatically for one year.
- 12.8 If a revised Agreement has been negotiated, the Chief Negotiators shall recommend it for ratification by their respective Parties. Upon ratification by the Parties the revised Agreement shall replace the current Agreement.
- 12.9 If the Agreement is not re-opened under the provisions of this Article, but compensation negotiations occur under Article 10, a new Agreement consisting of the Articles in the current Agreement and the new Memorandum of Settlement shall be deemed to come into effect on the date that the Memorandum of Settlement comes into effect.

**ARTICLE 13: FACULTY SALARIES, ANNUAL SELECTIVE INCREASES AND MEMBER EVALUATION PROCEDURES**

13.1 This Article states the principles governing the determination of salaries for faculty members holding regular appointments. These principles include the establishment of a salary structure for these purposes, the procedures used to establish the extent of annual selective increases, and the rules that have been developed to direct the annual evaluation process in each Faculty used to determine individual selective increases.

**13.2 Faculty Salary Structure**

13.2.1 The salary structure for regular faculty members shall consist of a salary floor and two thresholds for each of the four ranks and for Clinical Lecturers in Optometry, together with the Selective Increase Unit (SIU). The values shown in the table below shall apply effective May 1, 2002.

	Floor	Threshold (T1)	Threshold (T2)
Lecturer	\$37,745	\$70,099	\$86,275
Clinical Lecturer (Optometry)	\$48,529	\$86,275	\$102,452
Assistant Professor	\$48,529	\$97,060	\$124,020
Associate Professor	\$60,932	\$97,060	\$124,020
Professor	\$78,187	\$97,060	\$124,020
Selective Increase Unit (SIU)	\$2,686		

13.2.2 Effective May 1 of each year, the annual scale change as specified in the Memorandum of Settlement shall be applied to the salary floors, thresholds, and Selective Increase Unit. Otherwise, changes in these amounts shall require the mutual agreement of the Association and the University.

**13.3 Selective Salary Increases**

13.3.1 Selective salary increases are intended to move a Member through the salary structure at a rate determined by her/his achievements in the profession and contributions to the University, measured by annual performance ratings undertaken as specified in 13.5. In order to ensure orderly career progress consistent with long-range academic goals, the commitment of funds required for this purpose shall have the highest priority in the preparation of the annual budget.

13.3.2 Within each Faculty, the Selective Increase Pool for Members shall be determined as follows:

- 0.25 SIU for each FTE Member, plus
- 0.25 SIU for each FTE Member with salary below T2, plus
- 0.5 SIU for each FTE Member with salary below T1.

For these purposes the value of the SIU shall be its value as of May 1 of the salary year in which the selective increases are to take effect, adjusted from year to year as specified in 13.2.2.

- 13.3.3 (a) A Member's selective salary increase depends both on her/his annual performance rating (actual R) and on the position of the Member's salary relative to the thresholds T1 and T2 for her/his rank. Thus the annual performance rating (adjusted R) for purposes of calculating a Member's selective increase amount may not be the same as the annual performance rating (actual R) determined as specified in 13.5.5. The appropriate values for the adjusted annual performance rating shall be determined in the following way:

If salary is less than T1 then adjusted R is actual R

If salary is equal to or greater than T1 but less than T2 then adjusted R is actual R less 0.75

If salary is equal to or greater than T2 then adjusted R is actual R less 1.25

The value of adjusted R shall never be less than 0

- (b) The actual dollar value in any one year associated with an adjusted R of 1.0 in each Faculty is calculated by adding all individual adjusted ratings in that Faculty together, and dividing the resulting number into the total value of that Faculty's Selective Increase Pool as determined by 13.3.2 and 13.3.3 (d). All other adjusted R values are assigned a selective increase dollar value by multiplying the adjusted R value by the dollar value of an adjusted R of 1.0.
- (c) Where a selective salary increase as determined in 13.3.3 (a) and (b) would result in a salary which crosses a threshold, that increase shall be "feathered". That is to say, that part of the increase which would bring a Member's salary up to a threshold shall be received by the Member, but the part of the increase which would cause the salary to exceed the threshold shall be adjusted to make it commensurate with the selective increase to which she/he would be entitled with a salary at or above that threshold.
- (d) Up to five percent of each Faculty's Selective Increase Pool may be awarded as special increases to correct individual salary anomalies. Special increases require the approval of the Vice President Academic and Provost (VPA&P) who shall consult with the President of the Association.
- (e) Effective 1 May 2004, the University will provide annually an Outstanding Performance Fund for each Faculty equal in value to ten percent of that Faculty's Selective Increase Pool, to provide special permanent salary increases as described below.

Members in each Faculty unit (department or school) whose annual performance rating for the current year is within the top twenty percent of ratings within the unit may be considered for a special permanent salary increase. Members who have received a special increase in either of the previous two years are not eligible to receive a special increase, and are excluded for purposes of determining the top twenty percent and those within it.

All Members identified by the process above will form a single Faculty-wide pool. The Dean of the Faculty, in consultation with the Vice-President, Academic & Provost, will review the performance of all Members in this pool, and make special salary increase awards equal in value to one Selective Increase Unit (SIU) to a subset of them. The

primary criteria will be outstanding performance in teaching and in scholarship. Consideration also should be given to dispersing the awards across Faculty units, ranks, and to both women and men. The number of awards made will be such that, in the aggregate, they will differ from ten percent of each Faculty's Selective Increase Pool by less than one SIU, and any unspent amount in the Fund of a given Faculty will be carried forward to the next salary year. The Vice-President, Academic & Provost will publicly announce the award recipients.

#### **13.4 Miscellaneous**

- 13.4.1 In every case, scale and selective increases shall be applied to the Member's nominal full-time salary.
- 13.4.2 For Members on approved pregnancy, adoption or parental leave: the full scale and selective increases shall apply.
- 13.4.3 For Members newly appointed within the evaluation year, or who are on full or partial unpaid leave for part of the evaluation year: the full scale increase shall apply, but the Merit Increase will be prorated by the fraction of the year served at the University.

#### **13.5 Member Evaluation**

- 13.5.1 Each Faculty shall have Faculty Performance Evaluation Guidelines setting out the evaluation criteria for that Faculty. The Guidelines shall be consistent with this Agreement and with the evaluation criteria in Policy 77, and shall be made available to all Members prior to the commencement of the calendar year being evaluated. If there is a conflict between the Guidelines and this Agreement (or the criteria in Policy 77), the provisions in the Agreement (or the criteria in Policy 77) shall take precedence.
- 13.5.2 Each Member shall receive an annual performance evaluation based upon documentation provided by the Member, submitted in the format and by the deadline specified in the Faculty Performance Evaluation Guidelines. A Member who does not submit the required documentation by the specified deadline normally will receive an overall rating of at most 0.5 as specified in 13.5.3.
- 13.5.3 Each Member shall receive one of the following seven numerical performance ratings in each of teaching, scholarship and service:
  - 2.0 Outstanding
  - 1.75 Excellent
  - 1.5 Very Good
  - 1.25 Good
  - 1.0 Satisfactory
  - 0.5 Needs Improvement
  - 0.0 Unsatisfactory
- 13.5.4 (a) Performance ratings shall pertain to the portion of the evaluation year during which the Member was a paid employee of the University, including sabbatical leave, but excluding pregnancy, adoption, parental, or sick leave.
  - (b) For newly appointed Members, and for Members on paid or unpaid leave, it may not be possible to assess performance in all three categories during the evaluation year. In these cases only, the practices described in 13.5.1, 13.5.2, and 13.5.3 may be amended as follows: (1) A newly appointed Member shall receive a rating of 1.0 (satisfactory) in any category where assessment is not possible; and (2) A continuing

Member who has been on leave shall receive the average of up to the three previous years' ratings in any category where assessment is not possible as a result of the leave.

- 13.5.5 (a) The overall rating (R) for each Member shall be computed as the weighted average of the individual ratings in teaching, scholarship and service for that year. The weight for each area shall be as specified in the member's letter of appointment. In the absence of specified weights, the normal weights shall be deemed to be 40 percent for teaching, 40 percent for scholarship, and 20 percent for service.
- (b) Weightings and duties may be adjusted in a formal agreement between the Member and the Chair with the approval of the Dean. The weights shall be at least 20 percent in every category. Weight redistribution does not modify performance standards expected in any of the three areas.
- (c) Any such formal agreement under 13.5.5 (b) shall be by mutual consent and shall be for a period of up to 5 years but no less than 2 years. Such an agreement may be renewed by mutual consent.
- 3.5.6 The Chair\* has the responsibility for annual performance evaluations of all members in the Department. The Members in the Department\* shall decide by majority vote whether to elect an advisory committee of no more than five Members to assist the Chair in carrying out this responsibility. The Chair shall inform the Dean of the proposed ratings in the three categories and overall.
- 13.5.7 The Dean shall review the ratings proposed by the Chair, and may establish an advisory committee to assist with this review. The Dean may modify the ratings for a Member or Members of a Department, if necessary, to maintain consistency of standards across the Faculty. The Dean shall inform the Chair in writing of the final individual and overall ratings, together with reasons for any changes.
- 13.5.8 The Chair shall inform the Member in writing of her/his final individual and overall ratings, and shall provide an opportunity for the Member to discuss her/his performance evaluation.
- 13.5.9 The Dean shall evaluate the performance of Department Chairs and Associate Deans, and shall forward proposed performance ratings in the three categories and overall to the VPA&P for approval. The VPA&P shall inform the Dean and the Chair or Associate Dean in writing with reasons of any changes in the recommended ratings.
- 13.5.10 (a) A Member who disagrees with her/his performance evaluation should proceed first to the Department Chair, and then, if not resolved, to the Dean of the Faculty for disposition.
- (b) A Department Chair or Associate Dean who disagrees with her/his performance evaluation should proceed first to the Dean, and then, if not resolved, to the VPA&P for disposition.
- (c) Annual performance evaluations and selective salary increases are not normally grievable except under Article 9.2.2 or 9.2.3 of this Agreement.
- 13.5.11 Histograms showing the distribution of final overall ratings in the Department, and by rank in the Faculty, shall be made available for perusal in the Offices of the Dean and Chair. Ratings histograms for small departments may be combined to preserve confidentiality.

## **13.6 Implementation**

- 13.6.1 Effective May 1, 2001, this Article shall replace University of Waterloo Policy 11 (Faculty Salaries), which shall be cancelled effective the end of April, 2001.
- 13.6.2 Article 13.5 (Member Evaluation) shall be in effect for evaluations pertaining to the 2000 calendar year. Otherwise, Policy 11 shall continue to be in effect until the end of April, 2001, and shall apply to salary increases which take effect in the 2000-2001 salary year.
- 13.6.3 The new rank floors (Article 13.2, with 2000-2001 scale adjustment) shall be implemented effective April 30, 2001. Where necessary, for purposes of calculation only (for example, the determination of scale increases), base salaries will be presumed to have been increased to the new rank floors.

\* Chair also means Director; Department also means School.

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#### **ARTICLE 14: INTEGRITY IN SCHOLARLY RESEARCH**

14.1 The University and the Association are committed to promoting ethical practices in scholarly research. This Article defines what actions do and do not constitute research misconduct, specifies the research record keeping obligations of Members, and sets out the procedures to be followed when the University receives an allegation of research misconduct by a Member.

##### **14.2 Definition**

14.2.1 Factors intrinsic to the process of scholarly research such as honest error, conflicting data, or differences in interpretation or assessment of data or of experimental design do not constitute either misconduct or a lack of integrity.

14.2.2 Misconduct in scholarly research means a violation of the principles of intellectual honesty, including the misappropriation of writings, research and discoveries of others. This includes:

- (a) fabrication, falsification, or plagiarism;
- (b) failure to recognize by due acknowledgement the substantive contributions of others, including students, or the use of unpublished material of others without permission, or the use of archival materials in violation of the rules of the archival source;
- (c) failure to obtain the permission of the author before making significant use in any publication of new information, concepts or data obtained through access to manuscripts or grant applications during the peer review process;
- (d) intentional acceptance of authorship by persons other than those who have participated sufficiently in the work to take public responsibility for its intellectual content;
- (e) submission for publication of articles originally published elsewhere except where it is clearly indicated in the published work that the publication is intended to be a republication;
- (f) unauthorized and intentional diversion to other purposes of the research funds of the University, federal or provincial granting councils or other sponsors of research;

- (g) material failure to comply with relevant federal or provincial statutes or regulations for the protection of researchers, participants in human research, the health and safety of the public, and/or for the welfare of laboratory animals;
- (h) material failure to meet other relevant legal requirements that relate to the conduct or reporting of research;
- (i) failure to reveal any material conflict of interest to sponsors or to those who commission work, or when asked to undertake reviews of research grant applications or manuscripts for publication, or to test products for sale or for distribution to the public;
- (j) in accordance with Policy 69 (Conflict of Interest) failure by those involved in a research project to reveal to the University any significant financial interest in a company that contracts with the University to undertake research, particularly research involving the company's products or those of its direct competitors, or to provide research-related materials or services. Significant financial interest includes ownership, substantial stock holding, a directorship, significant honoraria or consulting fees but does not include routine stock holding in a large publicly traded company.

### **14.3 Retention of Research Record**

- 14.3.1 For the purposes of this section of Article 14 the term research record refers to any data, document, computer file, computer diskette, or any other written or non-written account or object that reasonably may be expected to provide evidence or information regarding the proposed, conducted or reported research that constitutes the subject of an allegation of scientific misconduct. A research record includes, but is not limited to, grant or contract applications, whether funded or unfunded; grant or contract progress and other reports; laboratory notebooks; notes; correspondence; videos; photographs; X-ray film; slides; biological materials; computer files and printouts; manuscripts and publications; equipment use logs; laboratory procurement records; animal facility records; human and animal research protocols; consent forms; medical charts; and client research files.
- 14.3.2 Members shall only be responsible for providing access to research records which are in their possession and not for research records which may be stored in archives, libraries or other institutions which the University may consult at its expense and according to the rules of the host institution. Ownership of such records is governed by Policy 73, Intellectual Property Rights.
- 14.3.3 Normally, for the purposes described in 14.3.2, Members shall retain research records that are within their personal control for as long as may be reasonable, but in any case for no less a time than is required by the relevant professional association or discipline. Members shall be indemnified by the University for any material loss relating to their research records in the course of any investigation, inquiry, or arbitration.

### **14.4 Procedures**

- 14.4.1 Any oral or anonymous allegation of misconduct in research by a Member received by a Chair, Dean, Vice-President or other administrative officer of the University may be investigated informally by that officer to determine whether the allegation may have substance. In all such inquiries, care must be taken to ensure that those contacted understand that the process is both informal and confidential, and that no inference should be made concerning the validity of the allegation. If there is no evidence that an allegation has substance, the University shall destroy all documentation concerning it.

- 14.4.2 (a) If there is evidence that an allegation may have substance, the Member shall be informed promptly in writing of the allegation, the circumstances leading to its receipt and whether the University will launch a formal investigation of the allegation.
- (b) A formal investigation of allegations against a Member for misconduct in research shall be based only on written allegations accompanied by documented evidence which are signed, dated and submitted to the Dean of the Member's Faculty. Oral or anonymous allegations shall not constitute a sufficient basis either for a formal investigation or for disciplinary action.
- 14.4.3 (a) Any formal investigation of allegations against a Member for misconduct in research shall be carried out by the Dean of the Faculty in accordance with the provisions of Article 8 of this Agreement. The Dean is responsible for reporting on the progress of the investigation to the Vice-President, University Research.
- (b) Any discipline imposed on a Member for misconduct in research shall be grievable under the provisions of Article 9 of this Agreement.
- (c) In addition, the provisions of 14.4.4 to 14.4.10 of this Article shall also apply.
- 14.4.4 No person consulted by the University concerning the case shall be appointed an arbitrator in any subsequent arbitration dealing with these allegations.
- 14.4.5 A statement from the University that a Member was guilty of misconduct in research constitutes discipline.
- 14.4.6 Any finding of misconduct in research shall be based only on clear, compelling, written, and documented evidence.
- 14.4.7 The University shall take such steps as may be necessary and reasonable to:
- (a) not make public or allow to be made public by its officers, employees or other persons within its control any statement suggesting that a Member is guilty of misconduct in research as well as refute publicly any statements so made, unless an arbitrator has upheld the University's right to impose discipline upon that Member, or any grievance process in connection with such discipline has been concluded;
- (b) protect the reputation and credibility of Members wrongfully accused of misconduct in research, including written notification of the decision to all agencies, publishers, or individuals who were informed by the University of the investigation;
- (c) protect the rights, position, and reputation of any Member who, in good faith, makes an allegation of research misconduct, or whom it calls as a witness in an investigation or arbitration hearing, including the provision of legal counsel and the payment of other reasonable legal and related costs should the Member be sued for her/his participation in any such investigation or arbitration proceedings,
- (d) minimize disruption to the scholarly activities of the Member making the allegation and of any third party whose research may be affected by the securing of evidence relevant to the allegation during the course of the investigation, and
- (e) ensure that any disruption in research, teaching and community service resulting from allegations of misconduct in research does not adversely affect future decisions concerning the careers of those referenced in (b), (c), and (d) above.

- 14.4.8 If the University investigation or the arbitrator sustains an accusation of misconduct in research, and if that research is funded by an outside agency or has been published or submitted for publication, the President shall inform the agency or publisher concerned of the decision, as well as the Association and the complainant and respondent before the arbitration report becomes public. In any event, if the outside agency or publisher has been informed of the proceedings before a judgment has been rendered, the President shall send a copy of the decision of the University to the agency or publisher concerned.
- 14.4.9 The University shall, where practicable, take disciplinary action against employees or students who make unfounded allegations of misconduct in research which are reckless, malicious, or not in good faith.
- 14.4.10 If the University decides after investigation not to take disciplinary action against the Member named in the allegations or if an arbitrator decides in her/his favour, the University shall remove and destroy all documentation concerning the allegations from the Member's Official File, except for any arbitration report which is a public document.
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## **ARTICLE 15: PROGRAM REDUNDANCY**

**15.1 Preamble.** The University and the Association recognize the importance of sound academic planning in establishing or changing academic priorities. They further recognize the powers and responsibilities of Senate in such matters and, in particular, they recognize that Senate has responsibility for approving and recommending to the Board of Governors all plans and policies pertaining to academic development of the University.

### **15.2 Definitions**

- (a) An *academic program* consists of:
- a group of courses offered by the University which may lead to a diploma, certificate, or degree;
  - a designated sub-discipline within a Department or Faculty;
  - some combination of the above.
- (b) In the context of this Article, Program Redundancy refers only to direct termination of an academic program by Senate, whether or not it is accompanied by amalgamation, merger, reorganization, or full or partial closure of academic units, that may lead either to the lay-off of Members or to the transfer of Members into other academic units such that retraining will be required. Termination of an academic program for which neither lay-off nor transfer requiring retraining of Members is contemplated is not subject to this Article.

### **15.3 Declaration of Program Redundancy**

- (a) An academic program may be declared redundant by the University upon a recommendation from Senate, either solely for *bona fide* academic reasons or for academic reasons in the context of a confirmed declaration of financial exigency under Article 16, to the Board of Governors to do so. In either case, should the lay-off of Members be proposed under the declared redundancy or result as a direct consequence of the declared redundancy, the declaration by the University of a Program Redundancy shall cause this Article to be invoked.

- (b) In the event of a declaration of program redundancy the University shall as its first priority explore the possibility of voluntary arrangements for the transfer of affected Members to other academic units within the University. If the termination of an academic program solely for *bona fide* academic reasons by the University includes a proposal to lay-off Members, the University shall strike a Redundancy Committee (RC) under the terms set forth below.
- (c) Should a program redundancy result as a consequence of a confirmed declaration of financial exigency under Article 16, the assessment of the need for lay-off or transfer of Members shall be made by the FEC (Financial Exigency Commission) struck under Article 16, and no separate RC (see 15.4) shall be formed.

#### **15.4 Assessment of the Need for Lay-off or Transfer of Members**

An assessment of proposed lay-offs or faculty transfers arising from a Senate decision on the redundancy of a program in accordance with 15.3 above shall be carried out by a Redundancy Committee (RC).

- (a) The RC shall consist of three representatives appointed by the University, three representatives appointed by the Association, and a Chair selected jointly by the two parties. All members of the RC shall be tenured UW faculty members. No senior academic administrator at the level of dean or above, and no person who is a participant in the academic program(s) under consideration may be members of the RC.
- (b) The RC, whose reasonable administrative costs shall be borne by the University, shall determine its decision-making procedures.
- (c) The University agrees to full disclosure of available information that is pertinent to any proposed lay-off of members and deemed relevant by the RC.
- (d) The RC shall also consult with all Members of the academic unit(s) declared redundant who request to be heard, either individually, through the Association, or through representatives duly appointed by the academic unit(s) under consideration. More generally, the RC may consult as broadly as it deems necessary in order to arrive at its recommendations to the University.

#### **15.5 Within sixty days of being struck the RC shall prepare a report that shall:**

- (a) assess the extent and nature of the academic problems that gave rise to the declaration of redundancy and the extent and nature of the impact that the program closure(s) will have upon other academic programs at the University;
- (b) include detailed recommendations, as it sees appropriate, bearing in mind the possibility of transfer of Members within the same academic unit or to other academic units and the number of lay-offs deemed necessary on account of program closure(s). With regard to transfer of Members, the RC may recommend the creation of temporary complement positions in appropriate ongoing units: such a position may be filled only by a Member from a redundant unit and shall exist only until that Member's employment with the University has terminated.
- (c) include all reasons for its recommendations, together with all appropriate supporting documents.

The report of the RC shall be submitted to the President, with copies to the Association and Senate.

- 15.6 If the final report of the RC specifies that lay-off of Members is unavoidable, the University shall, within thirty days, prepare a detailed plan of action that it proposes to take, including both the names of any Members who are to be laid off and timelines for the lay-offs (see also Article 17). In the event the University chooses not to accept one or more of the recommendations contained in the RC report, reasons for not doing so must be presented in writing to Senate with a copy to the Association. The University shall provide a copy of its plan to the Association for comment, such comment to be received within twenty-one days. Within a further ten days following receipt of any comments from the Association, the University shall prepare a final plan of action and provide a copy of that plan to the Association. Should the University's decision be contrary to advice received from the Association, written reasons for rejecting that advice shall be included in the final detailed plan.
- 15.7 Any time limits under this Article may be extended by agreement of the Parties, in writing. Such agreement may not be unreasonably denied.
- 15.8 Given the academic nature of the University, the RC and the Board shall act to protect the primacy of the academic work of the University. Thus, prior to effecting any lay-offs, the University shall make every effort to offer each Member in the redundant program one of the following options:
- (a) transfer to another Department/School/administrative unit to an unfilled complement position for which the Member is (academically) qualified (or could become qualified with up to a maximum of two years of retraining), provided that permission of the unit has been obtained;
  - (b) transfer to another Department/School/administrative unit to a newly created temporary complement position for which the Member is (academically) qualified (or could become qualified with up to a maximum of two years of retraining).
- A Member who is offered either option (a) or option (b) shall have thirty days in which to accept or reject that offer. If a Member chooses not to accept either (a) or (b) that may be offered, or if the University cannot offer either option, then that Member may be laid off pursuant to Article 17.
- 15.9 A Member who accepts a transfer to another academic unit shall retain her/his rank, salary and benefits.
- 15.10 Lay-off is an exceptional action which shall not be taken until all reasonable alternative solutions (including reallocation of tasks within an academic unit) to the academic problems which have been proposed in the final report of the RC have been considered and implemented as far as is reasonably practicable. Lay-offs, if any, under this Article shall occur only in accordance with this Article and Article 17.
- 15.11 Individual and group grievances arising out of the procedures set out in this Article shall commence at Stage 2 of the grievance process as set out in 9.6 (see also 9.4.5).
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## **ARTICLE 16: FINANCIAL EXIGENCY**

- 16.1 **Preamble.** The University and the Association agree that the primary aims of the University are teaching, scholarship and research, and that the first duty of the University is to ensure that its academic priorities remain paramount, particularly with regard to the quality of instruction and research, and the preservation of academic freedom.
- 16.2 The term financial exigency denotes the extraordinary and rare condition in which substantial and recurring financial deficits in the total University budget have occurred or, on the basis of generally accepted accounting principles, are projected to be ongoing, thereby placing the solvency of the University as a whole in serious jeopardy. This article is invoked only in the event of a declaration of financial exigency in which lay-off of Members is proposed as a part of the resolution process.
- 16.3 In the event the President considers that a financial exigency exists within the meaning given above, he/she shall formulate a report, together with a preliminary plan to deal with the emergency. The President's report shall include both a specification of the precise nature of the problem faced by the University and accompanying information, including economies taken to date, to support his/her conclusion, and it shall document the reasons supporting the lay-off of faculty members, including the number of faculty lay-offs that are deemed by the President to be necessary. Further, the President shall:
- (a) provide the information identified above to the Board of Governors, to Senate and to the Association;
  - (b) impose a University-wide hiring freeze until the exigency has been resolved;
  - (c) within fifteen working days of declaring a financial exigency establish a five-member Financial Exigency Commission (FEC), with membership specified in 16.5(a) below to adjudicate his/her declaration of financial exigency.
- 16.4 The Association shall have the right to receive from the University additional relevant information as requested by the Association President and agreed to by the President, such agreement not to be unreasonably withheld.
- 16.5 Structure of the Financial Exigency Commission (FEC)**
- (a) The FEC shall be composed of three individuals who are at arm's-length from the University and the Association, plus two senior members of the UW professoriate. Of the three individuals at arm's-length, one shall be appointed by the University, one by the Association, and the third appointed jointly by the University and the Association. One of the two senior members of the UW professoriate shall be appointed by the University, the other by the Association.
  - (b) The jointly-appointed arm's-length member of the FEC shall serve as Chair and normally shall be a person familiar with university finances. Should no agreement be achievable on the appointment of the third member of the FEC, the Chief Justice of Ontario shall be asked to make the appointment.
  - (c) In the event program redundancies are proposed as part of the resolution of the financial exigency, there will be no separate Redundancy Committee (RC) formed under Article 15, as the FEC will undertake the review of the need for lay-off of faculty members generated by such program redundancies. See 15.4, 15.5.

- 16.6 The FEC shall determine its own terms of reference and decision-making procedures consistent with generally recognized principles of natural justice. All reasonable expenses of the FEC established under this Article shall be borne by the University.
- 16.7 The onus shall be on the President to establish to the satisfaction of the FEC that a state of financial exigency exists within the meaning of 16.2. To this end, the President shall disclose all information that is related to the claimed financial exigency and/or deemed relevant by the FEC. The FEC may consult with any person or group of persons, internal or external to the University. In particular, it will receive any preliminary input that Senate may choose to provide regarding proposed program redundancies.
- 16.8 The FEC shall, within forty days, prepare a report that analyzes both the extent and the nature of the financial problems identified by the President, as well as the potential impact of the plan on the academic programs of the University. The FEC report shall be submitted to the Chair of the Board of Governors, with copies to the Presidents of the University and the Association, and to Senate. If there are recommendations for program redundancies in the plan, Senate will then have a further fourteen days to determine as specified in Article 15, Section 15.3(a) what, if any, program redundancies for *bona fide* academic reasons in the context of a confirmed declaration of financial exigency it approves and recommends to the Board. A copy of the Senate report shall be sent to the FEC which shall have an additional ten days to prepare a supplementary report as a result. The FEC supplementary report shall be submitted to the Chair of the Board of Governors, with a copy to the Presidents of the University and the Association.

If the FEC supports the President's contention that faculty lay-offs are necessary, it will address in its report the proposed number of lay-offs in both the academic and academic-service components of the University with a view to ensuring that a balance between these two sectors is maintained.

Given the academic nature of the University, the Board of Governors in its actions shall ensure that the academic well being of the University is preserved to the maximum extent possible.

- 16.9 When preparing its report, the FEC shall consider all submissions on the University's financial condition. Specifically, it shall consider and respond (with reasons) to each of the following questions:
- (a) Is there indeed a substantial and ongoing financial crisis with respect to the total operating budget which threatens the financial viability of the University?
  - (b) In view of the primacy of academic goals at the University, is a reduction in the number of Members through layoff an operationally justifiable type of cost saving?
  - (c) Have all reasonable means of achieving cost saving in all areas of the University budget (short of the lay-off of Members) been explored and implemented? In particular, have all reasonable means been taken to reduce costs through Member's voluntary early retirement, voluntary resignation, voluntary transfer to reduced load status and redeployment?
  - (d) Have all reasonable means for improving the University's revenue position, including efforts to secure further assistance from the Provincial Government, been explored and taken into account?
  - (e) Is the number of proposed faculty lay-offs consistent with enrollment projections?

- 16.10 In its report, the FEC shall confirm or reject the declaration of financial exigency.
- (a) If the FEC finds that a state of financial exigency does not exist, no lay-off of Members or reduction in the faculty complement shall take place for budgetary reasons. The report shall specify the reasons for its finding, and shall recommend additional and/or alternate ways in which it believes that the University may resolve its financial problems.
  - (b) In the event that the FEC finds that a state of financial exigency does exist, its Report shall recommend the amount of reduction required, if any, in the budgetary allocation to Member salaries and benefits. The FEC shall also specify the number of Member lay-offs that may be required in order to effect the proposed reduction. If the number of lay-offs specified by the FEC differs from the number proposed by the President, reasons for the difference must be provided. Any reduction in the budgetary allocation for Member salaries and benefits shall be made conditional upon ongoing exploration of alternative cost-saving measures by the University.
- 16.11 The Board of Governors has the responsibility for implementing actions arising out of the FEC Report, and shall provide reasons why specific recommendations of the FEC were not carried out.
- 16.12 Any time limits under this Article may be extended by agreement, in writing, between the two Parties. Such agreement may not be unreasonably denied.
- 16.13 Lay-off is an exceptional action which shall be taken only after the University has exhausted all reasonable means to alleviate the financial exigency by applying rigorous economies in all areas of the University's present and projected expenditures, by using all reasonable means of improving its income, and by using all other means of making the necessary reductions in the employee groups in a manner which best maintains the academic viability of the University. Any lay-offs under this Article shall occur only to the extent necessary to alleviate the financial exigency, and shall not exceed the number that may be specified by the FEC.
- 16.14 Individual and group grievances arising out of the procedures set out in this Article shall commence at Stage 2 of the grievance process as set out in 9.6 (see also 9.4.5).

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## **ARTICLE 17: LAY-OFFS**

### **17.1 Preamble**

Under normal circumstances, no Member shall be dismissed, suspended, suffer employment contract termination, or otherwise be penalized with respect to terms and conditions of employment and/or rights and privileges relating to employment for budgetary reasons. Lay-off of Members who hold ongoing appointments (whether continuing, tenured, or probationary-term) or definite-term appointments (in advance of their normal expiry date) is an exceptional action which may occur only in accordance with Article 15 or Article 16 together with this Article.

Lay-off pursuant to this Article is not dismissal for cause, and shall not be recorded or reported as such.

All payments under this Article shall be based on a Member's nominal salary (or actual salary for Members on reduced load as defined in Policy 59 or on fractional-load appointments as

defined in Policy 76). However, in no case shall the number of months during which salary is paid under this Article exceed the time remaining until a Member's normal retirement date according to Article 11.3.2.

Members who are laid off in accordance with this Article remain Members as defined in Article 2 while not employed by the University for a period not to exceed three years or until they accept full-time employment elsewhere. The Association shall waive payment of membership dues or amounts equal to its membership dues for such Members during this period.

#### **17.2 Notice for Lay-Off Under Program Redundancy (Article 15) Without Financial Exigency**

The President of the University shall provide written notice to Members who are to be laid off under Program Redundancy, with copies of the individual notices to the Association, as much in advance of the date of lay-off as possible, but not less than:

- (a) six months in advance of the lay-off date for Members on definite-term appointments, and for Members holding either probationary-term or continuing appointments with fewer than three years of service;
- (b) twelve months in advance of the lay-off date for Members holding either probationary-term or continuing appointments with three to six years of service;
- (c) eighteen months in advance of the lay-off date for Members with tenure or holding continuing appointments with more than six years service.

By informing a Member and the Association in writing twenty days in advance, the University may lay off a Member with pay in lieu of notice or with a combination of notice and pay in lieu of notice totalling the appropriate notice period in (a) through (c) above.

#### **17.3 Severance Arrangements for Lay-Off Under Program Redundancy (Article 15) Without Financial Exigency**

Lay-off under program redundancy shall occur only if both options under 15.8 of Article 15 have been exhausted. A Member who is laid off under the terms of Article 15 shall be entitled to the following severance arrangements, in addition to the notice set out in 17.2:

- (a) one month's pay for each completed year of service from the initial time of appointment to the time of lay-off, with part years prorated, for Members on definite-term appointments, with a maximum total amount of twelve months' salary;
- (b) one month's pay for each year or partial year of service at the time of lay-off for Members holding continuing appointments with fewer than seven years of service or for Members holding probationary-term appointments;
- (c) one month's pay for each year or partial year of service at the time of lay-off, with a minimum total amount of nine months' salary and a maximum total amount of thirty months' salary, for Members with continuing appointments who have served longer than six years or for Members who have tenure.

#### **17.4 Criteria and Process for Lay-Off Under Financial Exigency**

When a declaration of financial exigency has been confirmed, and no satisfactory provision can be made by the University for the continued employment of all Members and, as a financial exigency may affect the ability of the University to carry on its mission, a plan for

reduction in the number of Members employed by the University shall be prepared by the President and the Vice-President Academic, and Provost in consultation with Faculty Deans, the Dean of Graduate Studies, the Vice-President Research and the President of the Association. This plan shall be structured so that the University may continue to operate as far as possible in accordance with its mission, and may propose vertical cuts (involving full or partial program redundancies as defined in Article 15), across-the-board cuts, or some combination of vertical and across-the-board cuts. Program redundancies will require the approval of Senate.

The plan shall also provide that faculty who are to be laid off other than through program redundancies shall be laid off in the order: all non-regular faculty members (as defined through UW Policy 76) before regular faculty members, and, among regular faculty members, definite-term (funded from base budget) before probationary-term, continuing, and tenured appointments.

The Faculty Deans, in consultation with their Department Chairs, shall prepare career-averaged performance ratings for all Members within their jurisdictions, and shall submit a ranked list of Members to the President and the Vice-President Academic, and Provost. This list, together with the data on which the lists are based, shall be made available to the President of the Association on a confidential basis by the President. The President, in consultation with the Vice-President Academic, and Provost, shall make the offers required to Members in redundant programs as specified in Article 15, Section 15.8, and, subsequently shall provide notice to those Members who are to be laid off under program redundancy. The President shall further select those Members who are to be laid off under any across-the-board provision on the basis of:

- reverse seniority, except that
- individuals with a minimum of three annual performance evaluations and a career-averaged annual performance rating within the top one-third of their Faculty will be exempted from lay-off.

Members who are selected for lay-off pursuant to this Article may grieve their selection (under Article 9) only on the grounds of procedural error.

#### **17.5 Notice of Lay-Off Under Confirmed Financial Exigency**

The President of the University shall provide written notice to Members who are to be laid off in accordance either with Article 15 or with Article 16 under a confirmed financial exigency, with copies of the individual notices to the Association, as much in advance of the date of lay-off as possible, but not less than:

- (a) six months in advance of the lay-off date for Members on definite-term appointments, and for Members holding either probationary-term or continuing appointments with fewer than three years of service;
- (b) nine months in advance of the lay-off date for Members holding either probationary-term or continuing appointments with three to six years of service;
- (c) twelve months in advance of the lay-off date for Members with tenure or holding either probationary-term or continuing appointments with more than six years of service.

By informing a Member and the Association in writing twenty days in advance, the University may lay off a Member with pay in lieu of notice or with a combination of notice and pay in lieu of notice totalling the appropriate notice period in (a) to (c) above.

## **17.6 Severance Arrangements for Lay-Off Under Confirmed Financial Exigency**

Lay-off under program redundancy in the context of a confirmed financial exigency shall occur only if both options under 15.8 of Article 15 have been exhausted. A Member who is laid off under the terms of Article 15 or Article 16 under confirmed financial exigency shall be entitled to the following severance arrangements, in addition to the notice set out in 17.5:

- (a) one month's pay for each completed year of service from the initial time of appointment to the time of lay-off, with part years prorated, for Members on definite-term appointments, with a maximum total amount of ten months' salary;
- (b) one month's pay for each year or partial year of service at the time of lay-off for Members holding continuing appointments with fewer than seven years of service or for Members holding probationary-term appointments;
- (c) one month's pay for each year or partial year of service at the time of lay-off, with a minimum total amount of nine months' salary and a maximum total amount of eighteen months' salary, for Members with continuing appointments who have served longer than six years or for Members who have tenure.

## **17.7 Rights of First Refusal, or Recall**

In the event that, within three years from the date at which lay-off begins, a position becomes available through retirement, resignation, death, or the cessation of the state of financial exigency, Members who have been laid off for reasons of financial exigency or program redundancy shall be informed of the vacancy in writing. A Member who chooses to apply shall have the right of first refusal for any position in her/his original Department for which that Member is qualified.

- (a) In the event there is no Member on the recall list who is qualified or if no Member accepts a recall, and if the Association agrees that the recall provision has been exercised properly, the University may proceed to fill a vacancy through normal recruiting and appointment procedures.
- (b) Laid-off Members shall be recalled in reverse order to the specific order of lay-offs determined by the University under 17.4.
- (c) Members who are recalled to service in the University shall retain all rights and entitlements that would be in place had the Member not been laid off. The salary of the recalled Member shall be that held at the time of lay-off, altered by any applicable scale changes.
- (d) A Member who is recalled to an area or position at UW other than in her/his original discipline retains the right of first refusal for any opening in the original discipline.
- (e) A Member being offered recall shall be notified in writing by registered mail sent to the Member's last known address, with a copy to the Faculty Association. The Member shall have twenty-five working days in which to respond to the recall offer and shall have up to six months from receipt of notice of recall to terminate other obligations and recommence employment at the University.
- (f) If a Member is offered a temporary recall (e.g. as a leave replacement) it may be refused by the Member without prejudicing recall rights. If a Member fails to respond

to a recall, or refuses a recall that is not specified as temporary, the Member's name will be removed from the recall list.

- (g) Members who have secured alternative ongoing full-time employment outside UW that is substantially equivalent to their duties at UW shall be removed from the recall list.

#### **17.8 Rights and Benefits During Recall Period**

- (a) Until a Member who has been laid-off has been recalled (in the case of a declaration of financial exigency), secured alternative full-time employment, or until three years have elapsed from the date of lay-off, whichever is earlier, that Member shall have the option of continuing to be covered by any of the University's benefit plans (including the University pension plan) for Members, at the same level, at her/his expense, and shall be entitled to retain any University loan. In the event that a Member is given salary in lieu of notice, full benefits, with the same sharing of costs as were in effect immediately prior to lay-off, shall apply for the normal notice period.
- (b) For the lay-off period during which a Member is eligible for recall, he/she shall continue to have full access to Library facilities on the same basis as on-site Members. In addition, Departments/Faculties shall endeavour to maintain a full range of collegial contacts with laid-off Members, and to provide them with access to office space, laboratory and computer facilities so that they may maintain their professional skills, provided laid-off Members continue to make use of these facilities in order to keep up with ongoing work in their fields.
- (c) Dependents of laid-off Members shall have the same rights to tuition assistance as dependents of Members who have not been laid off.
- (d) A Member on lay-off who is recalled shall repay any portion of the severance allowance specified in 17.5 that exceeds the entitlement that would have been obtained had he/she continued to occupy his/her position held prior to lay-off.
- (e) A Member who has already received the severance allowance referred to in 17.5 and who is recalled and laid off a second time shall receive that allowance again, minus any net amount received as a consequence of the first lay-off.

17.9 Disputes arising out of the failure to follow procedures are referable to grievance and arbitration processes as set out in this Agreement.

## **APPENDIX A: CLASS F, A, AND FS POLICIES**

by number and title – including effective date

### **Class F**

- 3 Leave of Absence for Faculty Members – June 5, 2001
- 49 Extra-University Activity (Faculty Members) – September 1, 1976
- 75 Official Employment Files of Regular Faculty Members – July 1, 1998
- 76 Faculty Appointments – June 6, 2000
- 77 Tenure and Promotion of Faculty Members – June 6, 2000

### **Class A**

- 40 The Chair – November 17, 1998
- 43 Special Conditions of Employment for Deans – April 11, 1972
- 44 The Dean of Graduate Studies – October 27, 1998
- 45 The Dean of a Faculty – October 27, 1998
- 48 The Vice-President, Academic and Provost – October 27, 1998
- 50 The President of the University – October 27, 1998
- 58 Director, Guelph-Waterloo Centre for Graduate Work in Chemistry – July 1, 1978
- 68 Vice-President, University Research – October 27, 1998

### **Class FS**

- 1 Initiation and Review of University Policies – July 1, 1991
- 4 Benefits to Faculty & Staff Undertaking Part-time Educational Programs – October 21, 1997
- 9 Teaching Resources, Exchange of – November 5, 1975
- 14 Pregnancy, Adoption and Parental Leaves – June 5, 2001
- 23 Eligibility for Pension and Benefits – June 6, 2000
- 24 Tuition Benefit for Children of Faculty and Staff – October 21, 1997
- 28 Moving Expenses/Travel Allowances to Newly-Appointed Faculty and Staff – October 4, 2000
- 33 Ethical Behaviour – May 31, 1999
- 34 Health and Safety – August 1, 1993
- 38 Paid Holidays – May 9, 1997
- 41 Contract Research at University of Waterloo – September 1, 1976
- 52 Private Corporations – April 2, 1974
- 56 Vacations/Vacation Pay (Faculty, Graduate and Undergraduate Students) – February 1, 1978
- 59 Reduced Work Load – April 2, 2002
- 62 Conflict of Interest in the Employment and Supervision of Personnel – February 1, 1987
- 66 Use of University Resources and Affiliation – March 31, 1999
- 67 Employee Assistance Program (EAP) – March 15, 1994
- 69 Conflict of Interest – April 2, 1991