

CUASA Proposals

Collective Bargaining 2017

Governance and Process package

October 6th, 2017

These proposals set out CUASA's bargaining position on the individual articles included as of this date. CUASA reserves the right to amend its position, including the right to add, modify or delete any component of each individual article if not accepted in its entirety

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<Note: all references to Article 13.5 below refer to language submitted in CUASA proposals tabled September 15th, 2017. References to Article 5.4 refer to language submitted in CUASA proposals tabled September 29th, 2017.>

Article 4: Academic Freedom

- 4.1 The common good of society depends upon the search for truth and its free exposition. Universities with academic freedom are essential to these purposes both in teaching and scholarship/research. Employees are entitled, therefore, to:
- (a) freedom in carrying out research and in publishing the results thereof,
 - (b) freedom in carrying out teaching and in discussing their subject and,
 - (c) freedom from institutional censorship, **including during periods of service as per Article 13.5.**

Academic freedom carries with it the duty to use that freedom in a manner consistent with the scholarly obligation to base research and teaching on an honest search for truth.

Article 6: Past Policies and Practices of the University

6.1 University Governance

~~Except as expressly provided for in the Certification Order and this Collective Agreement, the parties agree. The Carleton University Act specifies a bicameral system of governance in which the Senate has the power to establish practices in academic matters, while the Board of Governors has the power to establish bylaws and practices regarding the public interest in Carleton's governance and its fiscal management. The parties to this agreement acknowledge and support this system of governance and, in so doing, further specify:~~

- (a) ~~to acknowledge and support the traditional role of Senate as established by statute, bylaw and practice;~~ **that the Senate shall:**
 - (i) **conduct its meetings and set the agenda thereof through the position of Speaker of Senate, which reports to the Senate;**
 - (ii) **approve by a majority vote all mission statements, strategic and academic plans, and strategic mandate agreements;**

- (iii) **oversee the selection process for Deans of Faculties, including the selection of a search committee to solicit nominations;**
 - (iv) **with respect to the appointment or reappointment of a Dean, the Senate will organize a vote of academic staff within the Faculty in question with the successful candidate requiring a majority of the votes cast; and,**
 - (v) **jointly with the Board of Governors, oversee the selection of the President and Provost of the University. Members of the Senate will then vote by secret ballot on the nominees in a duly constituted election. The successful candidate must win a majority of the votes cast, with ballots having an option to abstain.**
- (b) ~~to acknowledge and support the traditional role of the Board of Governors and the persons authorized to act on its behalf;~~ **that the Board of Governors shall:**
 - (i) **reorganize itself to have 15 External and 15 Internal elected members plus the Chancellor and Vice-Chancellor according to (ii), (iii), and (iv) below**
 - (ii) **of the 15 Internal members, 4 members shall be elected by CUASA members; 2 shall be elected by Senate.**
 - (iii) **External members will be drawn from the following sectors of society: (1) the private/corporate sector; (2) the public/government sector; (3) the community group and voluntary sector; (4) the labour movement, human rights, and social justice sector; and (5) alumni. No fewer than 2 and no greater than 4 members will come from each of these groups. External members shall be balanced in terms of gender and include members of equity-seeking groups.**
 - (iv) **The Board of Governors will elect a Nominating Committee composed of 3 Internal and 3 External members, plus the Vice-Chancellor, to oversee the process of adding External members to the Board. All existing members of the Board shall have the opportunity to nominate External candidates. There shall be at least 2 nominees for each open position on the Board. The Nominating Committee shall provide information on nominees' sectoral background as per (iii) above and their suitability to participate in the governance of an institution of higher learning. Continuing members (both Internal and External) shall then elect the new External members. Outgoing External members cannot vote and those who stand for re-election do so according to the same rules as other candidates.**
 - (v) **Internal members will be allowed to debate but not vote on matters that affect their monetary and working conditions.**
 - (vi) **The Board will develop public criteria to determine those matters that can be delegated to the Executive Committee and those which properly require determination by the full Board.**
 - (vii) **The Board will develop a public policy on what sorts of business it handles**

in open and closed sessions.

- (viii) All members of the Board shall have the right to communicate with their constituencies, and the public generally, on non-confidential matters pertinent to the governance of Carleton University, including the sharing of non-confidential information.**
- (c) that nothing in this Collective Agreement shall be construed to deny or diminish any existing rights, privileges and responsibilities of employees, individually and collectively, to participate directly in the formation and recommendation of policy within Carleton University and its component parts, as these rights, privileges and responsibilities are provided for under existing Senate/Board documents and/or established practices.
- (d) Except as modified in this article or changed by subsequent agreement of the parties, the Senate/Board policies referred to in Articles 14, 15, 16, 17 and 26, as they were on the date of signing this agreement, shall remain in force for the term of this Collective Agreement unless specifically amended by agreement of the parties. Should the Senate change or alter any of these policies during the term of this agreement, Articles 14, 15, 16, 17 and 26 shall remain in force for the term of this Collective Agreement, unless specifically amended by agreement of the parties.
- (e) Each unit shall adopt a constitution in keeping with this collective agreement.**
- (f) Each constitution shall specify procedures for the formation of all committees. Deans and the University Librarian are responsible for ensuring a committee is diverse and inclusive, as per Article 5.4.**

Article 14: Innovation Transfer, Patents And Copyright

14.6 Dispute Resolution Mechanism

- (a) The parties agree to request the Senate to establish an Innovation, Patents and Copyright Committee. Should Senate fail to establish such a Committee within two (2) months of the signing of this Collective Agreement the parties agree to create a continuing Innovation, Patents and Copyright Committee, which shall be composed of two (2) members appointed by the Employer and two (2) members appointed by the Association with the Chairpersonship alternating between the Employer's representatives and the Association's representatives at each successive meeting. The Committee shall meet at least twice annually or at the call of any two (2) members to:
 - (i) conduct such business as is referred to it;
 - ~~(ii) consider proposals for modifications or changes in Article 14 of this Collective Agreement; and,~~
 - ~~(iii) mediate any disputes arising out of this Article as per 14.6(b) below.~~

- (b) For the purpose of this Collective Agreement, the complaint stage of a grievance pertaining to innovation, patents and copyright shall be referred to the Innovation, Patents and Copyright Committee. If the Committee is unable to resolve the dispute, the remaining formal grievance and arbitration procedures provided for in Article 30 of this Collective Agreement shall apply.

Article 15: Rights and Responsibilities

15.6 Rights and Responsibilities of Self-Governance

- (a) In the context of collegial decision-making and the processes of academic peer judgement, members of the academic staff shall participate in the governance of Carleton University through active membership in department, school, institute, and/or faculty councils and, when called upon, to participate to a reasonable extent in other University bodies, according to this Collective Agreement, past practice and the principles embodied in the *New University Government* document. [Note that the *Senate Academic Governance* document replaces the *New University Government* document].
- (b) In the course of the collegial and peer judgement decision-making process, members of the academic staff shall deal fairly and ethically with their colleagues, shall objectively assess the performance of their colleagues when this is required, shall avoid discrimination and shall not infringe on their colleagues' academic freedom. In addition, they shall observe the principles of confidentiality in a manner consistent with the performance of their collegial responsibilities.
- (c) **For search committees for the President, Provost, and Vice-President Research & International, two of the members of these search committees shall be chosen by CUASA members in a duly constituted election.**

Article 16: Confidentiality and Access to Personnel Files

- 16.5 (a) No anonymous material shall be kept by the Employer concerning any employee. If introduced, such material shall be sufficient in and of itself to invalidate the proceedings. Statistical information gathered pursuant to Article 26 shall not be considered anonymous material. Non-statistical information gathered pursuant to Article 26, however, shall not be exempt from the provisions of this article.
- ~~(b) Where the Employer places a signed student comment on an employee's file:~~
- ~~(i) the employee shall be promptly advised of the substance of the complaint in such a form as will preserve the confidentiality of the complainant(s);~~
 - ~~(ii) the employee shall be given an opportunity to place a comment or rebuttal on the file;~~
 - ~~(iii) the student's names shall only be disclosed with their consent;~~

- ~~(iv) — the Employer may only use the complaint in a career decision if the student's names are disclosed to the employee;~~
 - ~~(v) — if the students do not consent to the disclosure of their names, then upon completion of final grade reports the document, along with the employee's rebuttal, shall be removed from the file and destroyed;~~
 - ~~(vi) — if the students' names are disclosed, the employee shall, at that time, be given an opportunity to place a further comment or rebuttal on the file.~~
 - ~~(e) — When written student comments are retained copies shall be placed in the employee's file in accordance with Article 16.5(b), and shall be forwarded to the employee.~~
 - ~~(d) — Where a document pertaining to an employee's performance or to a disciplinary matter, and which has not already been sent to the employee, is to be added to the employee's file held in the office of the Vice President (Academic), the relevant Dean or Director, or the University Librarian, a copy shall, subject to any confidentiality restrictions set out in this Collective Agreement, be sent to the employee.~~
 - (eb) Except for student complaints under Article 16.5 (a) — (c), when the university receives a signed written complaint filed with the Employer against a CUASA member that results in a formal inquiry or investigation, the employee will be notified within fifteen (15) working days of the receipt of the complaint and advised to notify CUASA. A copy of the letter advising the member to contact CUASA shall be sent to the Association. The employee shall be given an opportunity to place a comment or rebuttal on the file.**
 - (fc) For any formal inquiry/investigation, the Employer shall notify the employee of any additional steps before they occur throughout the process and inform the employee when the process is concluded.**
- 16.8 (a) Letters or assessments in relation to promotion shall be solicited by the appropriate Dean, University Librarian or their designates (hereafter in this clause the Dean). The Dean shall request a list of possible referees from the candidate. If the Dean desires to solicit additional references or assessments, they shall so inform the candidate and submit the names of the proposed referees to the candidate who shall have the right to comment in writing on the names suggested and to have such comments included in their official dossier. In submitting letters of reference or assessments to the Promotion Committee whether the referees or assessors were suggested by the candidate, the Chairperson or the Dean shall be indicated. Such letters and assessments in connection with promotion shall be confidential ~~and shall not be shown to the candidate~~ except where the candidate proceeds to arbitration under ~~Article 4 (Academic Freedom) or Article 5 (No Discrimination)~~ **10.10** of the Collective Agreement. All letters and assessments in relation to promotion shall be destroyed at the end of the relevant period. Such letters or assessments, if maintained contrary to this policy, shall not be submitted as evidence in any subsequent proceeding involving any employee.
- 16.9 The employee shall have the right to submit names of referees to the appropriate Chair/Director and Dean, or in the case of professional librarian employees the University Librarian, who shall solicit letters or assessments from the names provided in regard to renewal of a preliminary

appointment or to the confirmation of appointment or to the granting of tenure. Letters or assessments or any other written material presented as evidence in regard to the renewal of appointment, confirmation of appointment, or the granting of tenure shall, in the event of a tentative negative recommendation, be made available as a true copy to the employee concerned prior to any final decision by the department or by a faculty review body or by the Peer Evaluation Committee or by the University Librarian. At the level of the ~~Senate~~ **Tenure and Promotions** Appeal Committee as applicable all written assessments in regard to a negative recommendation shall be made available to the employee concerned at the time they are presented to the committee or, at the discretion of the Employer at any earlier date.

- 16.10 Letters of reference and/or assessments shall be made available in their entirety when called for by the provisions of this agreement, to the relevant departmental, faculty, or library committees and, in the case of appeal or grievance, to the ~~Senate~~ **Tenure and Promotions** Appeal Committee, ~~the Promotions Appeal Committee~~, as appropriate. The members of such committees shall treat such letters and assessments as confidential.

Article 30: Complaints, Grievances And Arbitrations

- 30.2 (a) The Association and the Employer shall ~~have the right to~~ be present at all steps of the complaint and grievance procedure. ~~If so requested by the grievor, the~~ **The** Association shall have the right to represent the grievor at all steps. ~~Notwithstanding the preceding, however, only the Association and the Employer shall have the right to proceed with grievances beyond Stage 2.~~ The Association shall have carriage of all grievances, save and except those filed by the Employer.
- (b) The parties shall be bound by and shall promptly implement all decisions arrived at under the procedures described in this Article.
- 30.3 All communications required by this Article to be in writing shall be by email and shall be directed by the Employer to the Grievance Chair and the ~~Executive Director~~ **Senior Grievance and Arbitration Officer** of CUASA with a follow-up hard copy directed to the CUASA Office. All communications required by this article to be in writing shall be by email and shall be directed by CUASA to the Assistant Director, Advisory Services (Academic) and Assistant Vice-President (Human Resources) with a follow-up hard copy directed to the Human Resources Office.

30.5 Employee Grievances

Informal Stage

At the informal stage, an employee may discuss with their Dean/University Librarian any problem related to their terms and conditions of employment. If the matter is not resolved at this stage, it may become a Stage 1 grievance.

- (a) Stage 1

It is understood and expected that ~~an employee will discuss with their Dean/University Librarian~~ **the parties will discuss** any matter relating to an alleged grievance. ~~The Dean/University Librarian shall notify the Assistant Director Advisory Services~~

~~(Academic) and the Association of any complaint giving rise to such a discussion. This discussion is to be informal in nature and directed at improving communication and solving problems. While still informal in nature, this stage shall comply with Articles 30.2 and 30.3. The Dean/University Librarian shall notify the Assistant Director Advisory Services (Academic) and the Association of the result of this discussion.~~ If at any point in the ~~informal~~ **Stage 1** grievance process the Association determines that the informal process has failed, a Stage 2 grievance may be filed. If the grievance is settled at Stage 1, all decisions, agreements and resolutions shall be committed to writing and a copy shall be provided to CUASA and signed by the parties' designates.

(b) Stage 2

An employee who is not satisfied with the results of the informal discussion at Stage 1 and who believes that they have a grievance shall, within twenty (20) working days of the event giving rise thereto or of the date on which the employee first knew or reasonably could have known of such event if that date is later, consult the Association, and request that CUASA report to the Dean/University Librarian in writing (with a copy to the Assistant Director Advisory Services (Academic)) on the grievance form provided. The Grievance report shall set forth, in the space provided, all of the following:

- (i) the nature of the grievance;
- (ii) the facts upon which the grievance is based;
- (iii) the remedy sought;
- (iv) the result of the informal stage; and
- (v) the article(s) of this agreement relied upon or claimed to have been violated, misinterpreted or improperly applied.

The CUASA Grievance Chair or designate shall sign the form and shall ensure its transmittal to the relevant Dean/University Librarian or the Assistant Director Advisory Services (Academic) or designate. The Employer representative shall have ten (10) working days from the date of receipt of the grievance form in which to either schedule a meeting to discuss the grievance or render a decision in writing. Should a meeting be scheduled, the Employer must then respond in writing by the end of the ten (10) working days from the holding of the meeting. If the Employer fails to meet these deadlines the Association shall have the right to take the grievance to arbitration. The Association will respond and participate expeditiously in the process.

(c) Binding Arbitration

If the efforts of the parties at Stage 2 to resolve the grievance are unsuccessful, the Association may submit the matter to binding arbitration within ten (10) working days of the completion of Stage 2. The Association shall notify the Employer in writing of such action.

30.8 Exclusions from the Grievance Procedure

- (a) ~~Recognizing that certain review procedures involving complex forms of academic peer judgement have evolved out of continuous practical experience, the parties agree that the grievance procedures under this Article shall not be available for resolution of disputes, exclusively concerned with employment equity appointments (Article 9.3), faculty promotions (Article 10), renewal of preliminary faculty appointments (Article 10), tenure (Article 10), lay-offs (Article 17.4, 17.5, 17.6, 17.10, 17.12 and Appendix D (*Document on the Release of Teaching Staff in Times of Financial Stringency*)) to the Collective Agreement), and dismissal for cause of faculty employees (Article 6.2(a)), professional librarian employees (Article 11.4), Instructor employees (Article 12.5), except where the employee or the Association alleges violation of Academic Freedom under Article 4, or discrimination under Article 5 of this Collective Agreement, or except where the employee or the Association alleges that a violation of the procedures established in Article 10 or under Appendix A (*Procedures for the Dismissal with Cause of Faculty Members*) has occurred. Only those procedures otherwise provided for in the collective agreement shall be excluded from this Article 30 grievance procedure.~~

30.11 Appointment of Arbitrator

The parties hereby authorize and appoint the persons listed at the end of this Article to serve as a panel of arbitrators on a rotating basis for the duration of this Collective Agreement. The arbitrators shall be requested to serve singly according to the order in which they are listed. If an arbitrator is not available within a reasonable period of time, ~~but in any case not to exceed three (3) months~~, the next arbitrator in order shall be selected and so on until one of the arbitrators is available. For the next arbitration thereafter, the arbitrator who was listed after the arbitrator last selected shall be next in line. By mutual consent, however, any listed arbitrator may be selected out of turn. If in the event that none of the arbitrators is available within a reasonable time, ~~but in any case not to exceed three (3) months~~, an arbitrator outside the panel shall be selected by mutual consent. If such agreement cannot be reached within twenty-two (22) working days the parties agree to request the Ministry of Labour for authority to appoint an arbitrator in accordance with the provisions of Section 44(4) of the Ontario Labour Relations Act. It is agreed, however, that any of the names may be stricken from the list during periods when no arbitrations are pending by either party on one (1) month's written notice, provided that the parties agree to replace those names stricken from the list within one (1) month following such notice. No person may be appointed as an arbitrator who has been involved in an attempt to negotiate or settle the grievance in process.

Panel of Arbitrators: K. Burkett

~~J. Devlin~~ **P. Picher – <HOUSEKEEPING (JCAA: March 4, 2016)>**

B. Keller

P. Knopf

~~M. Tepitsky~~ **M. Mitchnick – <HOUSEKEEPING (JCCA: October 21, 2015)>**

30.14 Time Limits

The time limits fixed in both the grievance and arbitration procedures may be extended by the consent in writing of both parties, ~~such consent to be signed by the Contract Administrator on behalf of the Employer and by the President of the Association on behalf of the Association.~~

Article 41: Career Development Increments

41.2 Procedures

(a) **Faculty**

- (i) Recommendations with regard to the denial, in exceptional cases, of career development increments shall be made according to procedures established by each department to suit its own needs. The Chair/Director or equivalent shall ensure that the procedures are carried out and shall have the responsibility for conveying recommendations to the appropriate Dean. **The Chair/Director shall provide a copy of their CDI assessment to each individual faculty member.** The decisions with respect to denial of career development increments shall rest with the Dean of the appropriate Faculty.
- (ii) Recommendations with regard to the denial, in exceptional cases, of career development increments for intra-faculty cross-appointees shall be made by a joint committee to be established in accordance with procedures developed by the relevant departments (or equivalent) to suit their own needs. The Chair/Director or equivalent shall ensure that the procedures are carried out and shall have the responsibility for conveying recommendations to the appropriate Dean. **The Chair/Director shall provide a copy of their CDI assessment to each individual faculty member.** The decision with respect to denial of career development increments shall rest with the Dean of the appropriate Faculty.
- (iii) Recommendations with regard to the denial, in exceptional cases, of career development increments for inter-faculty cross-appointees shall be made by a joint committee to be established in accordance with procedures developed by the relevant departments (or equivalent) to suit their own needs. The Chair/Director or equivalent shall ensure that the procedures are carried out and shall have the responsibility for conveying recommendations to the appropriate Deans who shall in all cases meet and attempt to reach a collective decision. **The Chair/Director shall provide a copy of their CDI assessment to each individual faculty member.** The decision with respect to denial of career development increments shall rest with the Deans of the appropriate Faculties. If the Deans are unable to arrive at a collective decision with respect to an inter-faculty cross-appointee, the case shall be forwarded to the Vice-President (Academic) with whom the decision with respect to denial of career development increment shall rest.

41.3 Criteria

(a) **Faculty**

- (i) As specified in Article 15 the rights and responsibilities of faculty employees relate to their performance of an appropriate combination, though not necessarily all, of the activities of teaching, scholarship/research and/or professional achievement, governance and administration (through active contributions to departmental and faculty committees, councils and tasks, and, when called upon and to a reasonable extent, through active membership in other University bodies), and contributions to the learned professions and the community at large. For purposes of these criteria, teaching shall be treated as one (1) area of assessment, scholarship/research or professional achievement as a second, and the remainder of **Article 13.5 service duties such as** (governance, administration, community service and service to the learned professions) as a third, ~~to be called service.~~

[...]

(d) **Methods of Assessment (Faculty and Instructor Employees)**

- (i) The method of assessment of performance in instruction and related activities shall be equitable and may be based on teaching evaluations (including student and peer evaluation) and on assessments by relevant departmental committees, so long as such evaluations and assessments are in accord with Article 26.
- (ii) The method of assessment of performance in areas of research or scholarship, or in professional disciplines, professional achievement and service (**as per article 13.5**), shall be equitable and may be based on peer evaluations and on assessments by relevant departmental committees.

41.4 Reporting of Information

- (a) (i) In the event the Dean or the University Librarian, as appropriate, has made a decision to approve or deny a career development increment on or before June 15, they shall provide written notification to the employee by June 15.
- (ii) In the event the Dean or the University Librarian, as appropriate, has not made a decision to approve or deny a career development increment, they shall, by June 15, provide written notification to the employee and invite them to a meeting to discuss their performance in relation to CDI criteria. Following the meeting with the employee, decisions concerning the approval or denial of career development increments shall be reported by the Dean or University Librarian, as appropriate, to employees by August 1 of each year.
- ~~(iii) In accordance with Article 30.5, no grievances shall be filed until the written notification of the decision to deny the CDI is provided to the employee, except where the employee or the Association alleges that a violation of the procedures in Article 41.4 has occurred.~~

- (iviii) The decision to deny a CDI shall be reported in writing and shall state the reason therefore and indicate to the candidate, in some detail, at least in which area or areas of performance the appropriate Dean or University Librarian would expect evidence of further development before recommending in favour of awarding a career development increment. In the event of a grievance against the denial of a career development increment, no grounds not contained in this written report shall be brought forward by the Employer unless such are first introduced by the employee.
- (b) A failure by an employee to provide information of a sort generally provided by employees concerning their performance in any of the areas of performance shall be taken into account by the appropriate Dean or University Librarian in making their decision (Article 23.1(b)).
- (c) The Dean or University Librarian shall provide the Association with a list of employees, by department, who have been denied career development increments within ten (10) working days of the denial of such increments.
- (d) The Dean or University Librarian shall advise the employee in the CDI letter of assessment that the employee may contact CUASA for further information.**

41.5 [Reserve]

41.6 [Reserve]