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Memo

To: Michol Hoffman, Chief Negotiator, YUFA Bargaining Team

From: Adam Bereza, Director, Faculty Relations, Co-Chief Negotiator, York University Bargaining Team

Copy: Erin Black, YUFA Staff Representative
Alison Fisher, YUFA Staff Representative

Date: February 22, 2022

Re: Bill 124 and Progress-through-the-Ranks (PTR) Under the YUFA Collective Agreement

Following our discussion at our February 15, 2022, bargaining meeting, I am writing to you to summarize the University's interpretation of Bill 124 in relation to Progress-through-the-Ranks ("PTR") in the context of relevant provisions of the YUFA collective agreement.

While the provisions of Bill 124 regarding increases in "salary rate" as defined in the Bill requires some elaboration, I think it is helpful to begin with a general observation of where the parties appear to agree or disagree, which the University understands is as follows:

- We agree that Bill 124 allows for a 1% across-the-board salary increase in each year of the three-year moderation period. By way of simple example, in year one of a 3-year collective agreement, for a faculty member or librarian currently earning \$100,000 that would represent a \$1,000 increase.
- We further agree that Bill 124 allows for the implementation of the current amount of PTR in each of the three years. In other words, regardless of a faculty member or librarian's current base salary, in each year of a 3-year renewal collective agreement, Bill 124 would allow all faculty members and librarians to receive a PTR salary increase of \$2,750, in addition to the 1% increase.
- Where we disagree is on whether Bill 124 permits any increase in the fixed value collective agreement PTR of \$2,750 (at a 1% increase equivalent to \$28 per member in year-one of a three-year collective agreement), in addition to a 1% across-the-board salary increase, during the three-year moderation period. For the reasons previously discussed with you and set out in more detail below – in the University's view it does not.

The detailed explanation of our interpretation of Bill 124 in relation to PTR, which we provided to you on February 15 is as follows:

- Bill 124 was proclaimed in force on November 7, 2019.

- At the time Bill 124 was proclaimed in force the PTR provisions of the YUFA collective agreement provided for a “fixed value” PTR increase to the base salary of faculty members and librarians as follows:

Progress-through-the-Ranks

25.04 The purpose of progress-through-the-Ranks is the recognition, on an annual basis, of an employee’s academic/professional development and improvement. Embodied in the concept of progress-through-the-Ranks is the notion of a structured career development plan in which employees move steadily towards their retirement salary. Progress-through-the-Ranks effective May 1, 2018 shall be \$2,750.

- PTR effective May 1, 2019, and May 1, 2020, was also \$2,750.
- The PTR model under the YUFA collective agreement is a “fixed value” amount and that amount is not tied to or related to negotiated across-the-board % salary increases. For example, the “fixed value” PTR amount has been \$2,750 since May 1, 2017 and has not been increased by the parties through negotiations since then notwithstanding the fact that there have been negotiated across-the-board % salary increases on every May 1 since then up to and including May 1, 2020.
- The Preamble to Bill 124 noted that one of the purposes of the Act was to moderate the growth in compensation costs in the broader public sector.
- “Compensation” is defined broadly in Bill 124 to mean “anything paid or provided, directly or indirectly, to or for the benefit of an employee, and includes salary, benefits, perquisites and all forms of non-discretionary and discretionary payments”.
- Bill 124 defines “salary rate” to mean “a base rate of pay...including a rate of pay expressed on an ... annual ... basis”.
- Section 10 of Bill 124 relates to increases in salary rates and is as follows:

Maximum increases in salary rates

10(1) No collective agreement or arbitration award may provide for an increase in a salary rate applicable to a position or class of positions during the application moderation period that is greater than 1% for each 12-month period of the moderation period, but they may provide for increases that are lower.

Exception, certain increases

(2) Subsection (1) does not prohibit an employee’s salary rate from increasing in recognition of the following matters, if the increase is authorized under a collective agreement:

1. *The employee’s length of time in employment.*

- The University and YUFA agree that because of the exception in ss. 10(2)1 of Bill 124 above, the PTR provisions in Article 25.04 of the YUFA collective agreement in effect when Bill 124 became law, which provided for a “fixed value” PTR of \$2,750, permit a faculty member’s or librarian’s salary to increase by more than 1% for each 12-month period of the 3 year moderation period because the increase in salary by way of a “fixed value” PTR of \$2,750 was authorized under the YUFA collective agreement when Bill 124 became law and is in recognition of a faculty member’s or librarian’s length of time in employment.
- It is for this reason, as set out in the examples below, that the salary rate of faculty members and librarians can increase by more than 1% (i.e., by 1% across-the-board % salary increase plus a fixed-value PTR increment of \$2,750) for each 12-month period of the three-year moderation period.
- However, in the University’s view, the exceptions in subsection 10(2)1 of Bill 124 set out above apply to relevant provisions in collective agreements that existed when Bill 124 became law, that is, the relevant provisions that were authorized in the collective agreements when Bill 124 became law, and do not provide statutory authorization for employers and unions to develop new exceptions under subsection 10(2) of Bill 124 that did not exist or were not authorized under a collective agreement when Bill 124 came into effect, or to increase relevant collective agreement provisions such as a “fixed value” PTR model beyond the amount that was authorized when Bill 124 came into effect.

For example:

- Assume that on April 30, 2021 a faculty member’s salary rate or base salary was \$100,000 per year and YUFA proposes the maximum 1% across-the-board salary increase for May 1, 2021 permissible under ss. 10(1) of Bill 124 above. The employee’s base salary would increase 1% to \$101,000 plus PTR of \$2,750 for a total increase in base salary from \$100,000 to \$103,750, for an increase in base salary of 3.75%.
- Assume that on April 30, 2021 a faculty member’s salary rate or base salary was \$150,000 per year and YUFA proposes the maximum 1% across-the-board salary increase for May 1, 2021 permissible under ss. 10(1) of Bill 124 above. The employee’s base salary would increase 1% to \$151,500 plus PTR of \$2,750 for a total increase in base salary from \$150,000 to \$154,250, for an increase in base salary of 2.83%.
- Assume that on April 30, 2021 a faculty member’s salary rate or base salary was \$200,000 per year and YUFA proposes the maximum 1% across-the-board salary increase for May 1, 2021 permissible under ss. 10(1) of Bill 124 above. The employee’s base salary will increase 1% to \$202,000 plus PTR of \$2,750 for a total increase in base salary from \$200,000 to \$204,750, for an increase in base salary of 2.38%.

To reiterate, we understand that both the University and YUFA agree that the examples and outcomes above are permissible under Bill 124 in light of the pre-

existing collective agreement “fixed value” PTR of \$2,750 and the exemption in ss. 10(2)1 of Bill 124 above.

However, we also understand that YUFA’s view is that additionally Bill 124 allows for or permits further increases in the base salary of faculty members and librarians by both a 1% across-the-board salary increase PLUS an increase to the “fixed value” PTR amount of \$2,750 in effect in the collective agreement when Bill 124 became law, by an additional 1% to the “fixed value” each May 1, i.e. in YUFA’s view, the allowable value of PTR in each of three years would be \$2778 on May 1, 2021; \$2806 on May 1, 2022; and \$2834 on May 1, 2023 (as compared to the University’s view that Bill 124 would allow for a PTR increase of \$2,750 in each of those three years).

I would suggest that at this point, having had several discussions on this matter that have served to clarify points of both shared and differing perspectives, that it would now make sense to defer this matter until such time as we meet with mediator Gedalof and have the benefit of his assistance in discussing and working towards the resolution of this and other compensation matters in a manner that is compliant with and permissible under Bill 124.

Kind regards,

Adam Berz