

**June 24, 2021**

**Employer Proposal – Equity – Unit 2**

This is a comprehensive package proposal. Agreement to any one item is subject to agreement to all items with respect to the Articles set out in this proposal. The University reserves the right to withdraw any or all of the items in this proposal if all items not agreed to.

**Note:** Items highlighted in **Yellow** are revised or new proposals.

***Employer Proposals:***

1. Revised Employer Proposal re Article 5.03

**See attached June 24, 2021 proposal**

Relates to CUPE proposals #40 (December 14, 2020)

2. Employer Proposal re Article 12.04.1 – Option B (Employer reserves Option A)

**See attached June 24, 2021 proposal**

Relates to CUPE proposal #40 (December 14, 2020)

3. Employer Proposal re Article 12.04.2

**See attached June 22, 2021 proposal**

4. Joint statement on Equity Issues

**See attached June 22, 2021 document**

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**Employer Proposal re Unit 2 Article 5.03**

corresponds to CUPE 3903 proposal #40

NOTE: **BLUE TEXT** REFLECT CHANGES AS BETWEEN THE UNIVERSITY'S JUNE 22 AND JUNE 25, 2021 PROPOSALS.

5.03.1 Employment Equity Committee

- (a) The Union and the Employer agree to continue to maintain an Employment Equity Committee, which will consist of three representatives of each party, including a senior designate of the Office of the Vice-President Equity, People and Culture and the CUPE 3903 Equity Officer. The Committee may invite additional participants. A representative of each party shall be designated as joint Chair and the two persons so designated shall alternate in the Chair. Either Chair may call meetings on at least two weeks' notice to the other members of the Committee. **Where possible, Equity Groups identified in Article 5.03.3 may be included among the representatives.**
- (b) The Employment Equity Committee's mandate will include setting goals and timetables for the elimination of discriminatory practices and systemic barriers to equal opportunity. Issues to be addressed will include recruitment of employees, selection procedures, job postings, Employer required and provided training, salaries and benefits, and working conditions (including accommodation for persons with disabilities).
- (c) Further to its mandate as set out at Article 5.03.1 (b) above, the Employment Equity Committee **in consultation with the parties,** will review and make recommendations in respect of the Employment Equity Plan for approval by the Parties. The Employment Equity Plan will address the removal of employment barriers in order to achieve the ultimate goal of fair representation of Equity Groups as defined at 5.03.3(a) and as measurable against External Availability Data defined in Article 5.03.3(c). Fair representation will be taken to mean achieving and maintaining a workforce that is representative of the population of the Federal Contractor Program Equity Groups (defined below) and **LGBTQ2+** people, where the latter can also be measured against External Availability Data, in Toronto or Canada, whichever is proportionately higher.
- (d) By ~~April 1~~ **March 1** each year the Employment Equity Committee shall report to the Labour Management Committee on its activities and provide any recommendations for the consideration of the Labour Management Committee.
- (e) Pursuant to its mandate, the Employment Equity Committee will have access to the non-confidential findings of Internal Self-identification Representation Data defined in Article 5.03.3(e) below. The Internal Self-Identification

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Data will be correlated with employment-related information, including number of positions held, position type, and salaries for purposes of reporting to the Employment Equity Committee.

- (f) The Employment Equity Committee may review the appointment process set out in Article 12.04 of the Unit 2 collective agreement and make such recommendations to the parties as it considers appropriate.
- (g) All data handled by the Employment Equity Committee will be in accordance with relevant privacy statutes.
- (h) Where issues of interpretation, data or process arise, the parties will review these at the Employment Equity Committee.

5.03.2 Terminology and Pronoun Use

- (a) The collective agreement has been amended to reflect LGBTQ2+ throughout.
- (b) Throughout the collective agreement, the parties have adopted the pronoun “they” to represent the singular in place of *she* and *he*.

5.03.3 Definitions

(a) Equity Groups

For the purposes of the Collective Agreement, Equity Groups are defined as:

- (i) Federal Contractor Program (FCP) Equity Groups: women, racialized groups (visible minorities) (“racialized”), Indigenous peoples (Aboriginal peoples) (“Indigenous”), and persons with disabilities; and
- (ii) LGBTQ2+

Note: The parties have defined LGBTQ2\* as an Equity Group under the collective agreement and wish to remove any employment barriers and barriers for employees who self-identify as LGBTQ2\*. The implementation of LGBTQ2\* as an

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Equity Group within the Collective Agreement will not interfere with the Employer's Federal Contractor Program obligations.

(b) Intersectionality

For the purposes of the Collective Agreement, Intersectionality means the classification of self-identification information for employment equity purposes, considering combinations of two or more of the Equity Groups.

(c) External Availability Data

For the purposes of the Collective Agreement, External Availability Data refers to the most recent Statistics Canada data for FCP Equity Groups by occupation for Canada as a whole or for Toronto, as the case may be.

(d) General Workforce Population Equity Group Data

The most recent available Statistics Canada data for FCP Equity Groups without regard to occupation for Canada as a whole and for Toronto, as the case may be.

(e) Internal Self-identification Representation Data

For the purposes of the Collective Agreement, Internal Self-identification Representation Data refers to the self-identification data collected via self-identification surveys of current employees conducted by the Office of the Vice-President Equity, People and Culture on a regular basis and Applicant Self-Identification Data defined below in [\(f\)](#).

(f) Applicant Self-Identification Data

For the purposes of the Collective Agreement, Applicant Self-Identification Data refers to the data the Employer collects from the self-identification form that applicants may complete in an application or selection process. A provision for voluntary self-identification is part of the Unit 2 blanket application. [For Unit 1 Collective Agreement: A provision for voluntary self-identification is part of the Application for a Teaching Assistantship Position.]

5.0.3.4 Use and Reporting of Data

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- (1) The following data establishes the foundation which the parties will rely on for decision-making in support of the mandate set out at Article 5.0.3.1(c):
  - (a) External Availability Data.
  - (b) Internal Self-identification Representation Data for the most recent consecutive three contract years for which the data is available as of the November 1 preceding the contract year for which appointment decisions will be made.
  - (c) Internal Self-identification Representation Data available as of November 1 each year correlated with employment-related information, including number of positions held, position type, and salaries, per Article 5.03.1(d).
  - (d) Applicant Self-Identification Data pertaining to the appointment and selection procedures or programs listed by Article number in (i-iii) below, which serves as the sole source of equity data for individual applicants in regard to these appointment and selection procedures or programs:
    - (i) Article 12.04.1
    - (ii) Article 12.04.2
    - (iii) Article 23 Affirmative Action
  
- (2) The Employer will annually report on equity data as follows:
  - (a) By December 1 each year, the Employer will provide to the Employment Equity Committee non-confidential Internal Self-identification Representation Data broken down by department and faculty for the most recent consecutive three contract years for which the data is available as of the immediately preceding November 1, per Article 5.03.4(a)(ii).

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Internal Self-Representation Data will be provided for individual academic units with 10 or more contract faculty members over the reporting period. Subject to any contrary recommendation from the Employment Equity Committee that is adopted by the Parties, for academic units with fewer than 10 contract faculty over the reporting period, Self-Representation Data will be provided for the Faculty as a whole, which serves as the basis for determining underrepresentation in these units per Article 5.04.4(b) below.

- (b) By December 1 of each year, the Employer will provide to the Employment Equity Committee non-confidential Internal Self-Representation data correlated with information including number of positions held, position type, and salaries available as of the immediately preceding November 1, per Article 5.03.1(d).
  
- (3) The Employment Equity Committee may ask for specific analyses in respect of the Internal Self-Identification Representation Data to support its activities. Such requests will not be unreasonably denied, taking into account availability of resources and/or costs that may be involved.

5.03.4 Underrepresentation

(a) Representation Thresholds

Unless otherwise agreed upon and, in order not to interfere with the Employer's FCP obligations, where the representation percentages are not lower than those for the FCP Equity Groups in the External Availability Data for Canada as a whole, underrepresentation shall be understood to mean fewer employees who identify as belonging to one or more of the Equity Groups than the External Availability Data for Toronto.

Informed by this understanding of underrepresentation, the representation thresholds for the FCP Equity Groups current as of March 1, 2021 are as follows:

Women: 45.9%

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Racialized: 30.9%

Indigenous: 1.4%

Representation data for persons with disabilities is not available either for Toronto or nationally.

(b) Determination of Underrepresentation in Academic Units with Few Contract Faculty

Where the number of contract faculty teaching in an academic unit render the Internal Self-Identification Representation Data for the academic unit unavailable, subject to any contrary recommendation from the Employment Equity Committee that is adopted by the Parties, the Internal Self-Identification Representation Data for the Faculty as a whole will be used to determine the representation thresholds for the academic unit. Fewer than 10 contract faculty in an academic unit over the 3-year reporting period will be considered too few to make Internal Self-Identification Representation Data available for the academic unit.

5.03.5 Intersectional Application of Underrepresentation Thresholds

For the intersectional application of underrepresentation thresholds, under Article 12.04.2 of the Unit 2 collective agreement, the following will apply:

- (1) In academic units where there are fewer than 45.9% members in the academic unit employed in bargaining unit work who identify as women and there are fewer than 30.9% members in the academic unit employed in bargaining unit work who identify as members of a racialized group, then an applicant who self-identifies as a racialized woman (a woman who is a member of a racialized group) will be appointed.
- (2) If there are no racialized women applicants, then an applicant from the more underrepresented group (a woman or member of a racialized group) will be appointed.
- (3) If there are no applicants who self-identify as a member of either group or the academic unit has met both

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underrepresentation thresholds in (1), then an applicant who self-identifies as an Indigenous person or as a person with disabilities will be appointed.

- (4) If the academic unit has met the underrepresentation thresholds in (1) and there are no applicants from the FCP Equity Groups in (3) or there are no applicants from the FCP Equity Groups in (1) and (3), then an applicant who self-identifies as LGBTQ2+ will be hired.



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**Employer Proposal re Unit 2 Article 12.04.1 – Option B**

Corresponds to CUPE proposal #40

NOTE: **BLUE TEXT** REFLECT CHANGES AS BETWEEN THE UNIVERSITY'S JUNE 22 AND JUNE 25, 2021 PROPOSALS

12.04.1 Appointments shall be made as follows:

- (i) In the exceptional circumstances in which a candidate for a position as course director or team lecturer is adjudged by the appropriate Dean or designate to be substantially and demonstrably more qualified, able and competent to perform the duties and responsibilities of the position than all other candidates for the position, that candidate may be appointed to the position. Where such a candidate is appointed, the hiring unit shall forward to the union the name of the successful candidate, their curriculum vitae, and any other non-confidential information that formed the basis of the hiring, with a copy to the candidate who otherwise would have received the position.
- (ii) Pool of Candidates with Required and Preferred Qualifications:
  - (a) Where no appointment is made under (i), then the appointment shall be made from among the candidates with the required and preferred qualifications, according to the provisions of 12.04.1(iv) and, for appointment processes commencing subsequent to September 1, 2021, according to the provisions of 12.04.1(ii)(b-g):
  - (b) Where there is one or more candidates who as per Article 12.06.1 **holds incumbency in respect of the course and** are in the pool of candidates with required and preferred qualifications and who self-identify as Indigenous or racialized, and
  - (c) Where the data indicates that the Academic Unit in which the appointment is occurring has not met the threshold targets for representation of Indigenous or racialized as per Article 5.03.4;
  - (d) Then the appointment to the position shall be made to an Indigenous or racialized candidate; and If there is more than one such candidate the appointment shall be made according to the provisions in Article 12.04.1(iv);
  - (e) Where such an appointment is made as per (d) and there is a candidate who does not self-identify as Indigenous or racialized and who would have otherwise been appointed to the position by virtue of their seniority and who has incumbency under Article 12.06(1) then such a candidate shall be dealt with under the Letter of Understanding re "Priority for Indigenous or racialized Candidates - Article 12.04.1".
  - (f) No grievance will be filed challenging an appointment made under (d).

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**Employer Proposal re Unit 2 Article 12.04.1 – Option B**

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(iii) Pool of Candidates with Required Qualifications:

Where no appointment is made under Article 12.04(ii) because no candidate has the required and preferred qualifications, then the appointment shall be made from among the candidates with the required qualifications and according<sup>ly</sup> to the provisions in Article 12.04.(iv).

- (iv) (a) The candidate with the most experience gained in applicable teaching, demonstrating, tutoring and marking within the University, subject to Articles 12.09 and 12.10, shall be appointed and, where applicable prior experience is equal, the candidate with the desirable qualifications shall be appointed, except in the case of:

**LONG-SERVICE OVERRIDE:**

- (b) Where a candidate has a total of at least five years of service in the bargaining unit in each of which they have accrued applicable prior experience for one Type 1 position or its equivalent as provided by 12.06 (ii), and have at least three more years of such service than the number of years of such service of the candidate otherwise entitled to the position as per (iv)(a), they shall be appointed;
- (c) Where there is more than one candidate in (b), the candidate with the most years of such service shall be appointed except as follows;
- (d) Where two or more candidates per (c) have equal years of such service, the candidate with the most applicable prior experience shall be appointed;
- (e) Where two or more candidates have equal years of such service and equal applicable prior experience, then the candidate with the desirable qualifications shall be appointed.
- (f) Long Service Override (LSO) shall not apply to appointments that would result in a displacement of a person who is a member of an employment equity group for bargaining unit work. The LSO shall apply if the appointment would be made to a person who is themselves a member of an employment equity group for bargaining unit work.

For the purposes of the Long Service Override, service in Unit 1, including service accrued per Article 15.08.3, or as a full-time faculty contractually limited appointment at York, or per Article 17.06.1, shall count as bargaining unit experience.

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**Employer Proposal re Unit 2 Article 12.04.1 – Option B**

Corresponds to CUPE proposal #40

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**Letter of Understanding - Priority for Indigenous or racialized Candidates - Article 12.04.1**

The parties agree as follows:

1. Where a candidate who self-identifies as Indigenous or racialized is appointed in accordance with Article 12.04.1(ii), then a senior candidate who does not so self-identify and who would have otherwise been appointed to the position by virtue of their seniority (“the Senior Employee”) and has incumbency under Article 12.06.1 will receive two-fifths of the salary for the position (“the Payment”), **and the Applicable Prior Experience (APE)** subject to the following:
  - (a) The Payment will be paid to the Senior Employee once for any given course; and
  - (b) The Payment will not occur where the Senior Employee has a workload in the academic year that is equivalent to the workload in the prior academic year in which these circumstances occur.
2. No grievance will be filed challenging an appointment made under Article 12.04.1(ii)(d).
3. This Letter of Understanding shall be placed in the 2020-23 collective agreement booklet and shall form part of the 2020-23 collective agreement. It will expire with the commencement of the renewal collective agreement following the 2020-23 collective agreement and shall be removed from the collective agreement booklet for the renewal collective agreement, unless this Letter of Understanding is renewed by the parties.

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**Employer Proposal re Unit 2 Article 12.04.2**

corresponds to CUPE proposal #40

- 12.04.2 (i) Where the applicants for a position have no previous applicable prior experience or have equivalent applicable prior experience and meet the Required and Preferred qualifications (or Required qualifications where no applicant has the Required and Preferred qualifications) as posted, the position shall be awarded to such an applicant who has self-identified as a member of one or more Equity Groups, using the process for the application of underrepresentation of intersectional thresholds as set out in Article 5.03.5.
- (ii) Save and except for courses taught under 12.22, when a position is being posted in a Hiring Unit for the first time, priority will be given to applicants with the most applicable prior experience that meet the Required and Preferred qualifications (or Required qualifications where no applicant has the Required and Preferred qualifications) as posted and who have self-identified as members of one or more Equity Groups, using the process for the application of underrepresentation of intersectional thresholds as set out in Article 5.03.5.

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Joint Statement on Equity Issues

**Without Prejudice – Joint Statement on Equity Issues**

Upon the negotiation of the 2020-23 York-CUPE 3903 Unit 2 Collective Agreement, the parties agreed that this document be placed in the Appendices of the 2020-23 Collective Agreement on a without prejudice basis relative to the interpretation or application of all other terms of the collective agreement:

1. During collective bargaining, the parties agreed on enhancements to provisions throughout the collective agreement on equity issues so that the administration of the collective agreement will better serve to increase the representation and inclusion of members of equity seeking groups.
2. The parties also recognized through collective bargaining that not all of their perspectives and aspirations are easily captured in a collective agreement, which ultimately is a legal document between the parties and must be written and administered as such. Collective agreement language setting out certain perspectives and aspirations may well have benefits, but it may also diminish the clarity of collective agreement language and thus interfere with the ease of administering certain provisions related to equity and thus interfere with the positive intentions behind such provisions.
3. Accordingly, the parties note as follows:
  - a. At Article 5.03.3(b) the parties have agreed to a definition of **Intersectionality**. While that definition has the benefit of clarity, CUPE had proposed a broader definition which in its view captured the social context in which intersectionality should be understood and thus the importance of the parties' recognition of intersectionality in the collective agreement. The Employer acknowledges that perspective. The parties agree that the definition placed in the collective agreement does not signify a choice of one definition over the other, but rather accepts the utility of the shorter definition at Article 5.03.3(b) for the purpose of collective agreement administration.
  - b. At Article 5.03.3(c) and (d) the parties have defined both:
    - External Availability Data; and
    - General Workforce Population Equity Group Data.

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Joint Statement on Equity Issues

The former is intended to provide specific targets in the collective agreement, guiding the parties as to where internal data may reveal underrepresentation relative to the externally available contract faculty workforce, for which certain other provisions set out on the collective agreement are activated in order to address such underrepresentation.

The latter, while not applied in the administration of any provision of the collective agreement, is nevertheless helpfully defined as a resource for the Employment Equity Committee in order that the parties remain aware of the general population of Equity Groups within the broader society.

Specifically, the current **General Workforce Population Equity Group Data** are:

i) for Canada as a whole:

- a. Women: 48.2%
- b. Racialized people: 21.3%
- c. Indigenous Peoples: 4.0%
- d. Persons with disabilities: 9.1%

ii) for Toronto:

- a. Women: 48.7%
- b. Racialized people: 48.8%
- c. Indigenous Peoples: 0.8%