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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 22, 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 22, 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 MAY 7 AND MAY 30, 2021 PROPOSALS. PURPLE TEXT REFLECTS CHANGES AS BETWEEN THE UNIVERSITY'S MAY 30 AND JUNE 22, 2021 PROPOSAL.

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 representative of the Office of the Vice-President Equity, People and Culture and the CUPE 3903 Equity Officer. By consensus 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. By April 1 of each year, the Equity Committee will submit an annual report of its activities to the Labour/Management Committee.
- (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 will review and make recommendations in respect of the Employment Equity Plan for approval approved 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 below at 5.03.3(a) and as measurable against ~~Externally Available Data~~ 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 ~~Externally Available Data~~ External Availability Data, in Toronto or Canada, whichever is proportionately higher.
- (d) By April 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.

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- (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 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*

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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 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) ~~Externally Available Data~~ External Availability Data

For the purposes of the Collective Agreement, ~~Externally Available Data~~ 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 (e).

(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:

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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

- (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
 - (e) ~~Where issues of interpretation, data or process arise during implementation, the parties will review these at the Employment Equity Committee.~~

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(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](#) ~~Union the~~ [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).

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 ~~Externally Available Data~~

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~~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 ~~Externally Available Data~~ ~~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%

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:](#)

~~The intersectional application of underrepresentation thresholds will proceed as follows:~~

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- (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 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 there are no applicants from the FCP Equity Groups and or~~ 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 MAY 30 AND JUNE 22, 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, her ~~her~~ 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 ~~preferred and required and preferred~~ preferred 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): and subject to (b).
 - ~~(b) Where the process commences subsequent to Effective September 1, 2021 for appointments commencing no sooner than September 1, 2022,; and~~
 - (b) Where there is one or more candidates who as per Article 12.06.1 are in the pool of candidates with required and preferred qualifications and who self-identify as ~~Aboriginal (Indigenous) or visible minority (racialized)~~, then the ~~Letter of Understanding regarding Priority for Aboriginal (Indigenous) or visible minority (racialized) candidates, shall apply for the 2020-23 collective agreement.;~~ and
 - (c) For Academic Units where the data is available that – Where the data indicates that the Academic Unit in which the appointment is occurring has not met the threshold targets for representation of ~~Aboriginal (Indigenous) or visible minority (racialized) employees in the academic unit as per Article 5.03.4;~~
 - (d) Then the appointment to the position shall be made to an ~~Aboriginal (Indigenous) or visible minority (racialized) candidate; or~~ and If there is more than one such candidate the appointment shall be made according to the provisions in Article 12.04.1(iv);

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(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).

(iii) Pool of Candidates with Required Qualifications:

Where no appointment is made under Article 12.04(ii) ~~because~~ and no candidate has the ~~preferred~~ required and preferred qualifications, then the appointment shall be made from among the candidates with the required qualifications and accordingly 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 ~~she~~ they ~~has~~ have accrued applicable prior experience for one Type 1 position or its equivalent as provided by 12.06 (ii), and ~~has~~ 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), ~~she~~ 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

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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.

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

The parties agree as follows:

1. ~~Where the circumstances set out at Article 12.04.1(ii)(b) exist then:~~
 - (i) ~~For Academic Units where the data is available that indicates that the Academic Unit has not met the threshold targets for representation of Aboriginal (Indigenous) or visible minority (racialized) employees in the academic unit as per Article 5.03.4, then the appointment to the position shall be made to an Aboriginal (Indigenous) or visible minority (racialized) candidate; or~~
 - (ii) ~~For Academic Units where data is not available to assess whether the Academic Unit has met the threshold targets for representation of Aboriginal (Indigenous) or visible minority (racialized) employees in the bargaining unit, then the appointment to the position shall be made to an Aboriginal (Indigenous) or visible minority (racialized) candidate; and~~
 - (iii) ~~In either (a) or (b) above, where there is more than one such candidate the appointment shall be made according to the provisions in Article 12.04.1(iv).~~

2. ~~Where an Aboriginal (Indigenous) or visible minority (racialized) candidate is appointed (“the appointee”) in accordance with Paragraph 1 above, then a candidate who does not self-identify as Aboriginal (Indigenous) or visible minority (racialized) and who~~

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- (a) ~~would have otherwise been appointed to the position by virtue of their seniority; and~~
- (b) ~~has incumbency under Article 12.06.1;~~

~~will receive two fifths of the salary for the position (“the Payment”), subject to the following: be eligible to apply to the CUPE Ways and Means Fund as set out at Article 20 of the Collective Agreement for support from the fund in relation to any loss experienced by the Senior Employee with respect to the position to which they would have otherwise been appointed.~~

- (c) ~~The Payment would be provided to the Senior Employee on the first such occurrence only of that Senior Employee not receiving an appointment for a given course in the circumstances described in Paragraph 1 and this Paragraph; and~~
- (d) ~~The Payment would not occur where the Senior Employee has a workload in the academic year in which these circumstances occur, that is equivalent to the workload in the prior academic year.~~

~~—For the purposes of Paragraph 2 above, the Employer shall provide to the Union on September 1 each year commencing 2022, a —contribution equivalent to the rate of two fifths of eight CD positions at the prevailing CD rate, to the Ways and Means Funds, ———over and above any other required contributions to the Ways and Means Fund from the Employer. By September 30 of the year following the year in which the Employer provides the funds, the Union shall provide the Employer with an accounting of monies spent from this Employer contribution.~~

3. ~~The grievance process does not apply, and no grievances will be filed regarding appointments made in accordance with this Letter of Understanding.~~
4. ~~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 expiration of the 2020-23 collective agreement and shall be removed from the collective agreement booklet for the subsequent renewal collective agreement unless this Letter of Understanding is renewed by the parties.~~

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Employer Proposal re Unit 2 Article 12.04.1 – Option B

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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”), 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 the~~ 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

NOTE: BLUE TEXT REFLECTS A CHANGE BETWEEN THE UNIVERSITY'S MAY 30 AND JUNE 22, 2021 PROPOSALS

- 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 ~~same levels of Required and/or 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 a candidate is also has self-identified as a member of one or more Equity Groups of the five employment equity seeking groups, using the process for the application of underrepresentation of intersectional thresholds as set out and ~~definition of intersectionality established~~ in Article 5.03.5.
- (ii) Save and except for courses taught under 12.221, when a position is being posted in ~~the a~~ Hiring Unit for the first time, priority will be given to applicants with the most applicable prior experience that meet the Required and/or Preferred qualifications (or Required qualifications where no applicant has the Required and Preferred qualifications) as posted and who have self-identified as are members of one or more Equity Groups, of the five employment equity seeking groups using the process for the application of underrepresentation of intersectional thresholds as set out and the ~~process and definition of intersectionality established~~ 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%