

January 19, 2021

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Dear CUPE 3903 Bargaining Team,

At our December 17, 2020 meeting the University identified CUPE 3903 proposals that represented new cost items and that in the University's view would fall under the definition of "compensation" set out in Bill 124, the Protecting a Sustainable Public Sector for Future Generations Act, 2019, (hereinafter "Bill 124" or the "Act"). We particularly identified two "types" of CUPE's proposals, namely those that provided for a reduced workload with no corresponding reduction in compensation, and those that introduced a penalty provision where an employee receives an untimely payment. You asked that the University set out its view on this matter in writing, and thus this letter to you. As background:

- The Act requires a 3-year moderation period during which salary rate increases, incremental increases to existing compensation entitlements and new compensation entitlements are limited to 1% for each 12-month period.
- The definition of "Compensation" in section 2 of the Act is very broad: "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".

In the recent Hospital for Sick Children and CUPE Interest Arbitration issued on October 19, 2020 Arbitrator William Kaplan determined that the traditional total compensation model is the appropriate means of considering what ought to be captured by the "direct or indirect" definition of compensation set out in Bill 124. The traditional "total compensation" assessment performed by Arbitrators is based on the cost increase in total compensation if an Arbitration Board awards the proposals. The fact of there being a cost incurred by the University for the benefit of the employee is key.

With that in mind it is the University's view that:

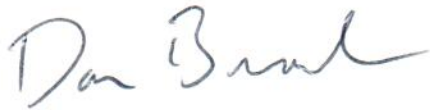
- a. Reduced workload of any form without a corresponding reduction in compensation is a "compensation increase". Whether it is the provision of paid leaves, a shorter work week or the removal and reassignment elsewhere of defined tasks, this new benefit for employees has always been calculated as part of total compensation.



- b. Provisions related to non-payments or untimely payments that require a “penalty” payment of new monies to either employees or to the Union, is a payment for the benefit of the employees and is therefore a “compensation increase”. While the “penalty” may be avoided by compliance with the Collective Agreement, Bill 124 is concerned with compensation increases over the existing model and in the existing compensation model there is no such penalty payment required.

We trust that this helps to clarify the University's view on the moderation period and definition of compensation established by Bill 124.

Sincerely,



Dan Bradshaw

