

## **ARTICLE 32: LAY-OFF OF MEMBERS FOR ACADEMIC REASONS**

- 32.01 The Board shall determine, for each Department/School, an authorized staff establishment, being the number of full-time academic staff to which the university has made or is prepared to make a continuing commitment. The Board shall advise Senate at least six calendar weeks prior to the meeting at which the authorized establishment is to be determined and shall request Senate's recommendations. The Board, in determining the authorized establishment, shall give due consideration to any recommendations made by Senate and shall endeavour to ensure that the authorized establishment reflects the long-term academic priorities of the University. The establishment, which may differ from the actual number of staff at any particular time, shall be reviewed regularly by the Board and may be adjusted. Copies of the authorized establishment shall be sent to the Senate and the Association.
- 32.02 Subject to 32.04, reduction in the actual number of members in any Department/School in order to accommodate adjustments to the authorized establishment shall take place through attrition, including retirement, death, or resignation, or through voluntary redeployment or transfer where the member's qualifications meet existing or planned requirements, voluntary retraining where practicable to meet existing or planned requirements, or partial leaves.
- 32.03 Lay-offs of members pursuant to this Article shall occur only when an exceptional academic reason exists and only to the extent required by that reason. For the purposes of this Article, exceptional academic reasons which would justify such adjustments are a significant decrease in course registrations in a Department/School over a period of at least two years, or a recommendation from Senate to discontinue a program. A program is any academic program of studies distinguished by a defined set of requirements leading to a degree or diploma. When such exceptional academic circumstances arise, the procedures described in 32.04 to 32.10 shall be implemented. The onus of proof shall be on the Board to establish that an exceptional academic reason exists.
- 32.04 When the Board believes that an exceptional academic reason as set out in 32.03 exists and that adjustments to the authorized establishment of a Department/School are necessary and the measures 32.02 have not and cannot produce the desired reduction in a reasonable period of time, and that the lay-off of members is therefore required, the President shall establish a three-person Academic Commission. The Academic Commission shall consist of: one person appointed by the President who shall serve as Chair, the Chair of the Senate Academic Committee, and, one person appointed by the Association. The Academic Commission shall establish its own procedures, and shall have access to available information pertinent to the academic problem and deemed relevant by the Commission. The Commission may consult with any person or group of persons from inside and outside the University, and shall consult with any Department/School concerned.
- 32.05 The Academic Commission shall examine the academic reasons for and the extent of the problems giving rise to the situation, and shall present a preliminary report to the President, with copies at the same time to the Senate and the Association, within thirty days of the date on which its establishment was announced by the President. The Preliminary report shall contain the results of the Commission's examination and recommendations on both short- and long-term actions which might be appropriate, together with the academic consideration on which the recommendations are based. The report shall include recommendations on any immediate actions that can be taken that do not involve the lay-off of members. The Senate and the Association shall have twenty

days in which to provide the Commission and the President with comments on the report and its implications.

- 32.06 Following receipt of comments from the Senate and the Association, the Academic Commission shall prepare a final report within twenty days, making such detailed recommendations as seem appropriate to the Academic Commission, including recommendations, if necessary, on the number of any lay-offs in the Department/School concerned, and commenting upon the extent and nature of the potential impact, if any, of the recommendations on the academic programs of the University. The Commission may also include a recommendation to vary the seniority list in accordance with the criteria described in 33.01. The Academic Commission shall include in its report the reasons for its recommendations and any supporting documents which are appropriate. The report shall be submitted to the President with a copy at the same time to the Senate and the Association. The Senate and the Association shall have twenty days in which to provide the President with comments on the final report.
- 32.07 After due consideration of the final report of the Academic Commission the President shall make his/her final recommendations to the Board, including the lay-off of members. The President may alter or reject the final recommendations of the Academic Commission for just and sufficient reasons, which reasons shall be included in his/her report to the Board. The President's report shall include copies of the Academic Commission's final report. Following receipt of the President's report, the Board may lay off one or more members for academic reasons.
- 32.08 Lay-off for academic reasons shall not occur until all reasonable alternative means of making the necessary reduction (as described in 32.02) have been considered and implemented as far as is reasonably practicable.
- 32.09 Any time limits in the Article may be extended up to a maximum of two months with the written agreement of the parties, and such agreement shall not be unreasonably withheld by either party. In the event the Academic Commission, the Senate or the Association fails to do any action or to submit any report or comment, as appropriate, within the time limits set out in this Article, the Board shall have the right to proceed without such action, report or comment.
- 32.10 The Board shall have the right to make appointments to the academic, administrative, or support staffs in the period of time from the date the President announces the appointment of the Academic Commission until the Board has determined what action will be taken on the recommendations made by the President pursuant to 32.07. When making an appointment during this period, the Board shall invite applications from members in the affected Department/School before advertising externally, and, subject to subsisting collective agreements, shall give preference to such a member who applies and who is or can reasonably become qualified to meet the requirements of the vacant position. No appointment(s) shall be made in the affected Department/School during this period of time.
- 32.11 For the purposes of this Article, a reasonable period of time for a member to become qualified to fill a position in the bargaining unit shall be no more than one year, and no more than three months for a position outside the bargaining unit.

**LAY-OFF (LIBRARIANS)**

- 32.12 Lay-off of members pursuant to this Article shall occur only for the following reasons:

- (A) financial reasons - lay-offs of members for financial reasons shall occur only when a bona fide financial crisis exists and only to the extent required to alleviate the crisis. A bona fide financial crisis exists when there has been a substantial deficit, which is projected, on the basis of reasonable assumptions, to continue for at least one year, and which threatens the long-term well-being of the University, in particular its academic functions. The onus of proof shall be on the Board to establish that a bona fide financial crisis exists; or
- (B) exceptional operating circumstances - lay-off of members for exceptional operating circumstances shall occur only to accommodate a major and continuing organizational restructuring of the Library operations. The onus of proof shall be on the Board to establish the need for a major and continuing organizational restructuring of the Library operations.

The procedures described in 31.02 - 31.10 shall be implemented in the financial circumstances described above in 32.12(A). The procedures described in 32.13 to 32.19 shall be implemented in the exceptional operating circumstances described in 32.12(B).

- 32.13 When the Board believes that an exceptional operational circumstance as set out in 32.12(B) exists and that the lay-off of members is therefore required, the President shall establish a three person Library Advisory Committee. The Library Advisory Committee shall consist of the University Librarian, the President of L.U.F.A. or his/her designate, and one member named by the President. The Committee shall establish its own procedures, and shall have access to any and all available information pertinent to the exceptional operational circumstance and deemed relevant by the Committee. The Committee may consult with any person or group of persons from inside and outside the University, and shall consult with the professional librarians.
- 32.14 The Committee shall examine the exceptional operational reasons for and the extent of the problems giving rise to the circumstance. The Committee shall make such detailed recommendations as seem appropriate on both short- and long-term actions which might be needed, on the number of lay-offs, and on any immediate actions that can be taken that do not involve the lay-off of members. It shall comment upon the extent and nature of the potential impact, if any, of the recommendations on the academic programs of the University. The Committee shall include in its report the reasons for its recommendations and any supporting documents which are appropriate. The report shall be submitted to the President, and a copy shall be given to the Association, within twenty days of the date on which its establishment was announced by the President. The Association shall have fifteen days in which to provide the President with comments on the Committee's report.
- 32.15 After due consideration of the final report of the Committee, the President shall make his/her final recommendations to the Board, including the lay-off of members. The President may alter or reject the final recommendations of the Library Advisory Committee for just and sufficient reasons, which reasons shall be included in his/her report to the Board. The President's report shall include copies of the Committee's report. Following receipt of the President's report, the Board may lay off one or more members.
- 32.16 Lay-off of members for an exceptional operational circumstance shall not occur until all reasonable alternative means of making the necessary reduction (including early retirement, partial leaves) have been considered and implemented as far as is reasonably practicable.

- 32.17 Any time limits in this Article may be extended up to a maximum of one month with the written agreement of the parties, and such agreement shall not be unreasonably withheld or requested by either party. In the event the Association fails to do any action or to submit any comment within the time limits set out in this Article, the Board shall have the right to proceed without such action or comment.
- 32.18 The Board shall have the right to make appointments to the academic, administrative, or support staffs in the period of time from the date the President announces the appointment of the Library Advisory Committee until the Board has determined what action will be taken on the recommendations made by the President pursuant to 32.15. When making an appointment during this period, the Board shall invite applications from members before advertising externally, and shall give preference, subject to collective agreements, to such a member who applies and who is or can reasonably become qualified to meet the requirements of the vacant position. No appointment(s) of professional librarians shall be made in the Library during this period of time.
- 32.19 For the purposes of this Article, a reasonable period of time for a member to become qualified to fill a position outside the bargaining unit shall be no more than three months.
- 32.20 Members shall be laid off in reverse order of date of hire within the following sequence:
- (A) first, members on part-time appointment;
  - (B) second, members on limited term appointment;
  - (C) third, members on probationary appointment; and;
  - (D) fourth, members on continuing appointment in rank sequence, i.e. commencing with Librarian 1.
- 32.21 For purposes of this Article, date of hire is established by the date upon which current uninterrupted employment commenced in a position with librarian rank. Current uninterrupted employment is not affected by leave taken in accordance with provisions of this Agreement. If two or more members have the same date of hire, the order of lay-off shall be determined by the number of years since the granting of a member's first degree, those with a lower number being laid off prior to those with a higher number. Failing a distinction, the order of lay-off shall be determined by lot.
- 32.22 Members being laid off shall be given written notice as follows:
- (A) members on part-time appointment shall be given notice in accordance with the Employment Standards Act;
  - (B) members on limited term appointment shall be given one month's notice; notwithstanding the foregoing, term employment shall cease on the date stated in the letter of appointment if that date is prior to the expiration of the one month's notice in writing;
  - (C) members on probationary appointment shall be given two months' notice in writing; and;
  - (D) members holding continuing appointments shall be given four months' notice in writing.

- 32.23 At the Board's discretion, members being laid off may be given payment in lieu of notice.
- 32.24 Members with continuing appointments who are at least forty years of age, who have at least six years of current continuous full-time service with the University, and for whom the sum of their age plus their years of service is at least fifty-five shall be exempt from lay-off until all other lay-off procedures provided for in this Article have been completed.
- 32.25 The President shall notify in writing each member who is being laid off and shall state the reason for the lay-off pursuant to this Article.
- 32.26 Laid-off Librarian members shall retain their recall rights as provided for in 32.27 and shall receive written notice of all vacancies being filled in the Library, in academic positions and in administrative positions at Grade 7 or above in the University, within that period, such notice to be mailed to the member's last known address. The member is responsible for keeping the University informed of his/her current address.
- 32.27 A laid-off librarian member shall have the right of first refusal following the day of lay-off for any vacancy in the bargaining unit which was filled prior to the vacancy by a librarian member for the following periods of time as appropriate:
- (A) continuing librarian members with six years or more of service, for a period of four years;
  - (B) continuing members with less than six years of service, three years;
  - (C) probationary librarian members, one year.
- 32.28 The order of right to recall shall be the reverse of the order of lay-off.
- 32.29 A laid-off member shall have one month from the date the offer of re-employment is made, as provided for in 32.26 and 32.27 to indicate acceptance thereof, and shall have up to three months from the date the offer is made to take up the position.
- 32.30 Any member who rejects an offer of a librarian position in the bargaining unit made pursuant to this Article or who fails to respond within the one month provided for in 32.29 or who informs the University that he/she is no longer interested in re-employment with the University shall have forfeited all further rights accorded laid-off members.
- 32.31 A member who, pursuant to 32.18 and/or 32.19, accepts employment in the University in an area other than the Library shall retain the full right of first refusal for any librarian position in the bargaining unit.
- 32.32 While subject to recall, laid-off members shall have the right to use the Library and such other specific University facilities as may reasonably be made available. In addition, such a member who is not employed on a full-time basis elsewhere may elect to continue coverage in the insured benefit plans at the member's expense and in accordance with the provisions of the plans until he/she is no longer eligible for recall.
- 32.33 All laid-off members and their dependents and spouses shall have the right to tuition waiver in the University for the recall period, or until alternate employment is secured, whichever comes first.
- 32.34 If recalled, laid-off members shall retain seniority, appointment status, and rank rights as at the time of lay-off.

32.35 Lay-off shall not be treated, described, or recorded as dismissal for cause.