

ARTICLE 4. PAST PRACTICES

4.1 With respect to matters not covered by this Agreement, the Board of Governors shall not diminish or impair during the term of this Agreement any benefit or privilege respecting terms or conditions of employment provided by official University by-laws or policies as of the effective date of this Agreement.

4.2 Subject to conditions hereinafter set forth, the Board agrees that, during the term of this Agreement, it shall not establish new by-laws or policies which effect a general change in terms or conditions of employment of Members, without the agreement of the Association.

This section is subject to the following conditions:

4.2.1 the provision of support services (other than those that are the subject of this Agreement or any letters of understanding collateral to this Agreement or as required by law) including, but without limiting the generality of the foregoing, telephone services, telecommunication services, office supplies, photocopying and other duplicating services and support staff shall not be considered a term and condition of employment for the purposes of this Article; and

4.2.2 the Board is not obligated to replace any Member who leaves the University as the result of retirement, leave, suspension, termination, death or dismissal.

4.3 Where a Member seeks to rely on any general past practice or policy as a term and condition of employment, the onus shall be on that Member to establish the existence of such practice or policy as being reasonable, certain and known.

4.4 For greater certainty, but without restricting the generality of the protections in this Article provided for Members and the Association, this Article precludes the University from:

4.4.1 establishing any new guidelines, by-laws, policies, or procedures approved by the Board, President or a Vice-President or changing any existing guidelines, by-laws, policies, or procedures approved by the Board, President or Vice-President where the policy has disciplinary consequences for Members or which affect the rights, duties, and responsibilities of Members as set forth in sections 17.A.2, 19.A.2 and 34.1, without previously consulting the Association; and

4.4.2 establishing any new guidelines, by-laws, policies, or procedures approved by the Board, President or a Vice-President or changing any existing guidelines, by-laws, policies, or procedures approved by the Board, President or a Vice-President which impose conditions on Members' access to facilities and use of services other than those mentioned in s. 4.2.1 without previously consulting the Association.

4.4.3 The consultation referred to in sections 4.4.1 and 4.4.2 requires the University to forward to the Association a copy of any proposed guideline, by-law, policy or procedure referred to therein and to give the Association two (2) months or forty (40) working days, whichever is longer, from the date of its receipt of the proposal to provide the University with the Association's comments in writing of the proposal. The time period may be extended with the mutual agreement of the University and the Association.