University of Manitoba FACULTY ASSOCIATION

NEWS & VIEWS

MARCH 2009

From the President's Desk

Brenda Austin-Smith

Welcome back!

We here at the UMFA Office hope your Reading Break was a good one and that the distance from late winter to early spring doesn't look nearly as great to you as it did in mid-February.

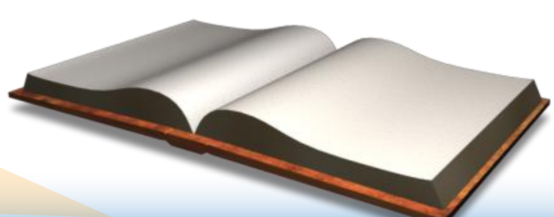
One of the things we're happy to report is that the 2007-2010 Collective Agreement has at long last been proofread, signed, and sent back to the administration for printing. Finalizing the Agreement took extra time because of an arbitration on the Intellectual Property article last fall, but hard copies of the Agreement should be in Members' hands before long.

We would also like to remind Members of two awards for which we are seeking nominations. The **Roy Vogt Memorial Award for Exceptionally Meritorious Service** is given each year to a current or former UMFA Member. The award consists of a certificate and a donation made in the name of the award holder to a charity chosen by the winner. Past donations have been made to the Student Hardship Fund, The University of Manitoba Libraries, the Harry Crowe Foundation, and the Campus Food Bank.

Members are also encouraged to nominate students for the **Paul Fortier Prize for Student Activism**. Undergraduate and graduate students who have contributed to the improvement of student life through union-related activities or community activism are eligible for this $500 award. Details of nomination procedures can be found on the UMFA website (www.umfa.ca) under "Calls For Nominations." The deadline for nominations is March 6th. Members can also phone or e-mail UMFA for more information. Both the Roy Vogt and the Paul Fortier awards will be presented at the UMFA Annual General Meeting to be held this year at the University Club at 2 p.m. on Thursday, May 14th.

Nominations for the positions of UMFA President and Vice-President closed in mid-February, and it is my pleasure to announce that Brad McKenzie (Social Work) and Cam Morrill (Accounting and Finance) are the incoming President and Vice-President of the Association for 2009-2010. Both will assume office on June 1st of this year.

This newsletter contains timely information on pension issues and other matters. Please feel free to pass on your comments on the topics covered in this issue to me or the UMFA Office.



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University Plan at Risk Again

A UM PENSION PRIMER

Generally speaking, there are two types of pension plans. A *defined benefit* plan is one in which the sponsor, in this case it is the University of Manitoba, guarantees some level of post-retirement benefits, usually defined as some percentage of employee salary multiplied by years of service. A *defined contribution* plan is one in which the sponsor invests some amount of cash each year on behalf of the employee. Upon retirement, the employee is entitled to a level of benefits that depends on how well the pension funds have performed. There are strong advocates for each type of plan. The defined benefit plan offers security in the form of a guaranteed level of benefits. Like a registered retirement savings plan (RRSP), the defined contribution plan does not offer any kind of guarantee, but does offer the potential for a very comfortable retirement if the pension investments perform well.

The U of M has a hybrid plan that combines the features of a defined benefit and a defined contribution plan. Employees make regular contributions to the plan that are matched by the university and invested by outside investment firms in a combination of fixed income (interest bearing investments) and equity assets. The total contributions are kept in separate accounts for each employee and any pension fund gains and losses are distributed among, and accumulate in, these employee accounts. At retirement, the employee receives either a benefit based on the value of his/her account in the pension plan, or the defined benefit (2% x years of service x average of best 5 years of annual salary, adjusted downward to account for Canada Pension Plan benefits), whichever is *greater*. If the pension investments perform well, the retiree can look forward to a substantial benefit. If the pension investments do badly, the retiree is assured of receiving at least the defined benefit. Most recent retirees are receiving a defined contribution benefit that exceeds the defined benefit, but an increasing number are opting for the defined benefit. The university's actuaries predict that, primarily because of poor investment returns, more future retirees can expect to receive the defined benefit.

Any pension plan that offers a defined benefit is very carefully regulated to ensure that it remains solvent, i.e., that the pension plan assets are sufficient to meet the plan's defined benefit obligations. Specific solvency tests must be performed on a regular basis (at least every three years). If the plan fails any of these tests, the sponsor must take appropriate remedial action.

Two years ago, the University Staff Benefits Committee met to discuss an analysis of the University's plan prepared by its actuaries. The actuarial report concluded that, as at December 31, 2005, the UM pension plan failed certain tests specified under Manitoba pension legislation. The actuaries warned that the pension plan needed either (a) substantially increased contributions over the next few years and/or (b) a decrease in the level of guaranteed benefits for future retirees.

The 2005 pension problems went away. Strong stock market returns in 2006 buoyed the pension plan's assets upward and the UM plan passed all of the pension legislation tests as of December 31, 2006. At the conclusion of collective bargaining in 2007, UMFA and the administration agreed that a working group would study the plan and any actuarial valuations of it and that no increases in Members' pension contributions could be implemented without UMFA consent. In addition, article 7 of the Collective Agreement ensures that the current benefit levels stay in place for the duration of the Collective Agreement.

The latter half of 2008 saw a global stock market meltdown unlike anything since the Great Depression. The latest pension plan information released by the U of M tells us that the pension plan's assets suffered a loss of almost 16% in 2008. In short, the current financial position of the plan is far worse than it was in 2006.

Just as in 2006, the U of M's actuaries say that the current solvency problem is related to three

(Continued on page 3)

University Plan at Risk Again

(Continued from page 2)

factors. With the poor stock market returns in 2007 and the dramatic losses in equity funds of 2008, the pension plan is in a serious deficit, although it may be at least a few months before we know just how serious. As well, interest rates are dropping (again), resulting in lower returns on the fixed income side of the investments. This all means that pension fund assets are not expected to perform as well as they have in the past and the cost of providing future post-retirement benefits is increasing. Finally, U of M retiree life expectancy continues to increase and the cost of future post -retirement benefits increases with it.

If the stock markets rebound dramatically and interest rates increase, the current pension plan problems may be mitigated in the long term. In the meantime, we need to consider other options. Generally speaking, there are two ways to fix an underfunded defined benefit pension plan; either, put more money into it, or take less out of it. Provincial regulators have already directed the U of M to make an additional immediate contribution of somewhere between $3 and $5 million. Luckily, the university had a special restricted fund of approximately that amount that is available to meet these additional demands. It is, however, very unlikely that this infusion will be enough to restore the plan's solvency. It is also unlikely that there are other special restricted funds available to help make up the shortfall.

Over the next few months, the University Staff Benefits Committee will be considering proposals from the UM actuaries. A preliminary list of suggestions includes:

- Reducing the defined benefit formula from the current level of 2% per year of service
- Restricting membership in the defined benefit plan (in the most extreme case, new employees would only be eligible for the defined contribution part of the plan)
- Capping the maximum defined benefit for which retirees are eligible (e.g., 60% of the average of the best 5 years of annual income)
- Increasing employee and matching University contributions to the pension plan

UMFA's position continues to be that the pension plan is part of employee compensation and is therefore subject to collective bargaining. We believe that the defined benefit component of the plan is crucial to UMFA's Members and must be protected. We are currently working with our consultants and the other unions to identify precisely how serious the current solvency issues are and to identify a broader range of possible solutions, if needed.

UMFA Banner

The UMFA banner, pictured here, hangs on the east wall of the UMFA boardroom. Carole Condé and Karl Beveridge, two artists with a long history of designing images for labour organizations, were commissioned by UMFA to produce the work. We are proud to have this remarkable piece of art which commemorates our history and symbolizes the work of our Members.

UM Pension Plan: A Good Defined Benefit but a Bad Defined Contribution Model

One of the great advantages of our plan is its hybrid nature that gives us the security of a defined benefit plan and the upside potential of a defined contribution plan. Colleagues at many other universities very properly envy us. What could possibly be bad about this?

Recall that a defined contribution plan is one in which regular contributions are determined by a specified formula. At the U of M, employees contribute approximately 7% of gross income, less an adjustment for the Canada Pension Plan, and these contributions are matched by the university. The plan sponsor, the University of Manitoba, then invests these funds on behalf of the employees. The value of the pension ultimately depends on how wise, and how lucky, the investment managers have been. The managers' wisdom helps to determine the *asset allocation*, which is, in the most basic sense, the proportion of the retirement account that is invested in equities (usually shares in publicly traded companies) vs. fixed income securities (e.g., bonds and guaranteed income certificates). Equities usually pay better returns in the long run but are subject to potentially dramatic short-term fluctuation which is what happened to the Toronto Stock Exchange in the latter part of 2008. Fixed income securities typically pay lower returns but those returns are generally far steadier than equity returns.

Colleagues at many other universities very properly envy us.

One of the key advantages of many defined contribution pension plans is that the asset allocation can be customized to fit the risk preferences of each individual employee. Younger employees are usually advised to invest more heavily in equities because they have time to ride out the market ups and downs and earn the higher long-term returns. As employees age, they are usually advised to move progressively more of their investment portfolio into fixed income instruments such that by the time they reach retirement age, almost all of the portfolio is invested in fixed income securities that "lock in" the equity returns earned in earlier years and insulate the prospective retiree from extreme fluctuations in value as retirement approaches.

A defined benefit plan is not managed in this way. Instead, the pooled assets of the plan are invested according to a single overall strategy designed to maximize the long-term return on plan assets while still providing the stability and liquidity to pay out pension benefits to existing retirees. In Canada, the average defined benefit plan asset allocation is approximately 60% equities, 40% fixed income. As at the end of 2008, the U of M plan's asset allocation was approximately 50% equities, 50% fixed income. The U of M's plan is a hybrid plan but its investment strategy is clearly that of a defined benefit plan.

What does that mean to U of M employees? The plan's asset allocation is probably too conservative for many younger members who have time to play the market and weather the ups and downs. That same asset allocation is likely far too risky for older employees who are very close to retirement. This is particularly true here at the U of M because UMFA Members generally give irrevocable notice of their plan to retire six months prior to the retirement date, the date at which the value of their pension accounts would normally lock in. Employees who gave notice of a December 2008 retirement in June 2008 could only watch in horror as their UM pension accounts lost almost 20% over the next six months.

There is an option to defer the payment of retirement benefits for 24 months or until the Member reaches age 71, whichever comes first. Most people, however, plan on commencing pension benefits in conjunction with the actual date of retirement.

The requirements of a defined benefit plan mean that our hybrid plan can never give UM employees the asset allocation flexibility that a true defined contribution plan can give. For many people, though, the security of the defined benefit guarantee is worth the loss of some of the advantages of a defined contribution plan. Is what happened to our December 2008 retirees an unavoidable risk of an otherwise good pension plan?

The answer is clearly no. We can, and arguably should, allow employees to lock in the value of their pension accounts at the date they announce their retirement, simply by removing the value of their accounts from the general pension plan asset pool and investing it in something secure like Government treasury bills. This way, employees can know fairly precisely the value of their pension benefits at the moment they decide to retire. If the market is down, the employee has the option to postpone her or his retirement, keeping in mind that at age 69 UMFA Members are required to provide notice of their intention to retire or to continue on a half-time appointment.

This issue is one of several related to the pension plan that UMFA and the University Staff Benefits Committee will be addressing over the next few months. If you have any comments or suggestions, we encourage you to contact the UMFA Office and share them with us.

CAUT Equity Conference

Cathy Rocke, M.S.W., Aboriginal Focus Programs—Extended Education

CAUT recently hosted a conference entitled "Recasting Equity" on February 6-8, 2009, in Toronto, Ontario. Participants from 36 post secondary institutions across Canada were in attendance. The focus of the conference was to reexamine and revitalize "equity" within post secondary institutions across Canada.

The conference began with a theatrical performance entitled "Equity in Your Face". The play presented a parody of the right wing backlash both in Canada and the US that has become openly hostile towards any type of equity program. The audience was also challenged to reexamine how "equity" has been largely co-opted by many university administrations, with little structural change within the academy.

The first day began with the retelling of the Nuu Chah Nulth origin story that presents the world view of these West Coast Indigenous Peoples. From this perspective, all life forms are considered valuable, and in negotiating life we must strive for balance and harmony between all life forms. This point of view asserts that we are all individually acceptable but not necessarily individually agreeable. The first panel discussion focussed on a number of topics, including the origins of equity, the meaning of diversity, and balancing relationships, rights and responsibilities. The academy was encouraged to move beyond the commonly understood idea of equity (i.e., certain groups are represented and quotas are met) to address the conditions in the workplace that stop equity from being implemented. To achieve equity, a "critical equity lens" is required that works to transform human relationships. Equity programs within post secondary institutions have become entangled in the "business of equity" and the resultant institutional structures have been a poison pill to the spirit of equity. The words "equity" and "equality" are often used interchangeably but mean very different things. Equality refers to sameness whereas equity requires an equitable distribution of resources. Equity is essentially redistributive justice. Within the academy, however, equity without resources, has been a hollow endeavor.

The second panel discussion focussed on the theme of academic freedom and equity. This panel provided an alternative perspective on the recent CAUT decision to censor First Nations University. First Nations Peoples in Canada have worked hard to gain control over education for their people and it is impossible for First Nations to separate the censure by CAUT from the larger colonial structure apparent with dominant society and its institutions. Participants were also challenged to examine how equity can be brought into institutions which are riddled with inequity. For example, if the current hiring practices continue at the University of Toronto, it will take 119 years for the faculty to reflect the current demographics. A recent research project reported on the impact of anti-discrimination/anti-racist policies within universities. In 1989, few universities had such policies in place. Today most universities have anti-discrimination policies on the books; however, there continues to be difficulty in implementation. One of the key findings was the attitude of many senior administrators who simply don't believe that racism exists within the academy. The question then is, "If there are no racists, how does racism persist?"

The final panel discussion shifted to questions of strategies and how to progress beyond such things as affirmative action, how to create commitment in faculty associations, and the issues of tenure and promotion. The lack of resources and leadership can have a silencing effect on equity movement within the academy. Participants were challenged to go beyond superficial talk and ask, "What does equity require of us? How can the academy be transformed if we cannot transform ourselves?" In changing the academy, students can be powerful allies in challenging institutional discrimination as they are often willing to take risks that academics and other employees won't. Equity within the academy also needs to go beyond the numbers game to examine the quality of academic life. In achieving this end, faculty associations need to be subversive in using the language of the workplace policies to challenge administrations without accusing management of being discriminatory.

Between the panel presentations, conference participants took part in a number of working groups that focussed on four areas: 1) equity within associations, 2) collective bargaining and contract language, including pursuing equity through grievances, 3) recruitment, promotion, and retention, and 4) the transformation of research and teaching. These discussions led to recommendations about the types of issues that equity policies should include. For example, equity policies should include a balance of work and "care" responsibilities and should address actions for change that utilize both individual and structural approaches. Faculty associations were urged to examine their own inclusiveness and CAUT was challenged to develop a five-year plan for equity issues (with clear objectives and goals) and to keep equity as a standing agenda item.

Navitas Agreement: The Manitoba Ombudsman Decision

In early 2008, UMFA initiated actions to obtain access to the agreement the university had signed with Navitas, an Australian corporation, to establish a private "college" (International College of Manitoba) on the Fort Garry Campus. This agreement apparently contained provisions related to academic matters as well as the financial arrangements between the two parties. Only the university administration had seen the contract, maintaining that this was strictly a business matter and therefore not subject to the purview of either the Board of Governors or the Senate.

An application was made to the university's Freedom of Information and Protection of Privacy Act (FIPPA) Office, requesting access to the document. This request was denied on the basis that releasing the information would be harmful to a third party's business interests and that the disclosure would be harmful to the economic and other interests of a public body. Further, the university said that there was a formal confidentiality agreement between the U of M and Navitas and that release of contractual information "could be harmful to the University's negotiations with other companies similar to Navitas.".

UMFA then appealed to the Provincial Ombudsman's Office. On February 23, 2009, UMFA received the response to our appeal.

In summary, the report from the Ombudsman's Office stated that there are only four specific clauses in the agreement which were subject to the discretionary exceptions to disclosure under FIPPA, and that the university has not provided specific evidence to support its decision to withhold the remaining information. The Ombudsman therefore is recommending:

"That the University of Manitoba release all information contained in the Recognition and Educational Services Agreement to the applicant except for that information under clauses 2, 4r, 7.7 and the Third Schedule of the Agreement."

The university has until March 4, 2009, to inform the Ombudsman's Office whether these recommendations are accepted, including the plans for implementation, or, alternatively, the reasons for refusing to take such action. The university also has the option of requesting an extension of time beyond March 4.

The senior administration's insistence on secrecy regarding this agreement is extremely concerning and is not reduced by its argument that a summary of some of these provisions has been made available publicly.

UMFA is hopeful that the university will comply with the Ombudsman's recommendation as soon as possible but, failing that, we will consider what further options are available to us.

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