

IN THE MATTER OF AN ARBITRATION  
BEFORE ARBITRATOR MICHELLE FLAHERTY

B E T W E E N :

WESTERN UNIVERSITY  
(the "University")

- and -

UNIVERSITY OF WESTERN ONTARIO FACULTY ASSOCIATION  
(the "Association")

**Re: October 17, 2019 Policy Grievance re. Phased Retirement Beyond Normal Retirement Date – Letter of Understanding – Phased Retirement (Policy Grievance #80) (the "Grievance")**

**MEMORANDUM OF SETTLEMENT**

WHEREAS the Association filed the Grievance alleging that Clause 2 of the Phased Retirement Letter of Understanding in the 2018 – 2022 Faculty Collective Agreement (the "Phased Retirement Letter of Understanding") constitutes discriminatory treatment contrary to the Ontario *Human Rights Code* (the "Code") on the basis of age;

AND WHEREAS in the Grievance the Association seeks by way of remedy, *inter alia*, a declaration that every eligible Represented Member, regardless of whether the Represented Member is over their Normal Retirement Date (the "NRD" being the 1st day of July coinciding with or next following the Member's 65th birthday), is entitled to phase their retirement over a period of one, two or three years;

AND WHEREAS the parties wish to fully and finally settle any and all issues in any way related to the Grievance, including any and all issues in any way related to a Represented Member's entitlement to phase their retirement pursuant to the Retirement

and Resignation Article of the collective agreement and the Phased Retirement Letter of Understanding;

AND WHEREAS the parties agree that the terms and conditions of this Memorandum of Settlement fully, fairly and appropriately deal with any and all issues in any way related to a Represented Member's entitlement to phase their retirement pursuant to the Retirement and Resignation Article of the collective agreement and the Phased Retirement Letter of Understanding;

NOW THEREFORE the parties agree as follows:

1. Effective the date this Memorandum of Settlement is signed by the parties, a Represented Member who is eligible to phase their retirement pursuant to Clause 4 of the Retirement and Resignation Article of the collective agreement, including members who previously provided notice to the University of intent to phase their retirement, but who have not yet commenced their phased retirement or who commenced their phased retirement on January 1, 2022, may phase their retirement over a period of one, two or three years regardless of whether the Represented Member is over their NRD or not.
2. Effective the date this Memorandum of Settlement is signed by the parties, the Phased Retirement Letter of Understanding will be amended to read as follows:

**LETTER OF UNDERSTANDING**

**PHASED RETIREMENT**

*The Parties agree that this Letter of Understanding forms part of the 2018-2022 Faculty Collective Agreement for the life of the Collective Agreement.*

*1. Notwithstanding the provisions of Clause 4.2 of the Article Retirement and Resignation, a Member who is eligible under Clause 4 of that Article may phase their retirement over a one-year or two-year period.*

*2. Notwithstanding the provisions of Clause 4 of the Article Retirement and Resignation, a Member who is eligible for phased retirement under Clause 4 who is beyond their Normal Retirement Date may phase their retirement over a one-year, two-year or three-year period.*

*3. A Member choosing to phase their retirement over one or two years shall have a maximum and minimum workload in any one of the years of 75% and 25%, respectively.*

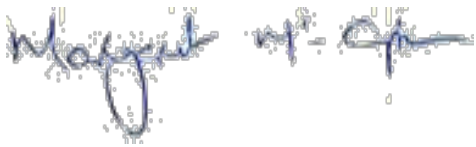
*4. Notwithstanding the provisions of Clause 4.3.4 of the Article Retirement and Resignation, an eligible Member on a one-year Phased Retirement shall receive Phased Retirement Supplement equal to a minimum of one sixth of the Member's Base Salary immediately before commencement of the Phased Retirement, and an eligible Member on a two-year Phased Retirement shall receive Phased Retirement Supplement equal to a minimum of one third of the Member's Base Salary immediately before commencement of the Phased Retirement.*

*5. All other provisions of Clauses 4 through 4.3.6 of the Article Retirement and Resignation shall apply.*

3. The Association, on behalf of all current and future Represented Members, acknowledges that the parties have discussed or otherwise canvassed any and all potential human rights complaints, concerns or issues arising out of or in respect of the Retirement and Resignation Article of the collective agreement and the Phased Retirement Letter of Understanding in any way related to a Represented Member's entitlement to phase their retirement, and that the terms and conditions of this Memorandum of Settlement constitutes a full and final settlement of any existing, planned or possible complaint or complaints based on similar allegations against the University under the *Code*.
4. This settlement is made without prejudice or precedent to the rights of the University or the Association in any other matter and shall not be referred to or relied on in any other matter for any purpose whatsoever other than the enforcement of and/or adherence to its terms and conditions.
5. Nothing in this Memorandum of Settlement is nor shall it be construed as any admission by the University of any breach of the collective agreement or the *Code* as alleged in the Grievances, all of which has been and is denied by the University.
6. Michelle Flaherty shall be seized as mediator-arbitrator of any issues concerning the interpretation, application, administration or alleged violation of the terms and conditions of this Memorandum of Settlement.

7. By the signature of authorized representatives hereunder the University and the Association confirm their agreement to the terms and conditions set out herein.
8. This Memorandum of Settlement may be signed in any number of counterparts with the same effect as if all parties had signed the same document. All counterparts, including facsimile or email pdf signatures shall be construed together and shall constitute one and the same agreement.

FOR THE UNIVERSITY



19 January 2022

Per: \_\_\_\_\_

Date \_\_\_\_\_

FOR THE ASSOCIATION



19 January 2022

Per: \_\_\_\_\_

Date \_\_\_\_\_