



OSSTF/FEESO's Submission to the Ministry of Training, Colleges and Universities on the Discussion Paper - *Postsecondary Education Sustainability and Renewal*

The Ontario Secondary School Teachers' Federation (OSSTF/FEESO) welcomes the opportunity to provide comment on the discussion paper, *Postsecondary Education Sustainability and Renewal*, released in late June 2019 by the Ministry of Training, Colleges and Universities (MTCU). This discussion paper outlines the government's vision for "employee renewal by potentially limiting the ability of postsecondary education employees to simultaneously collect full-time salaries and pension benefits."

OSSTF/FEESO Membership Background

OSSTF/FEESO is a trade union, founded in 1919, that represents over 60,000 members in the Ontario education sector working as public high school teachers, occasional teachers, educational assistants, instructors, secretaries, social workers, speech-language pathologists, plant support personnel, and many other educational workers. The Union includes 2 400 members working as front-line support staff employees, in over 150 different job classifications, at six (6) Ontario Universities [Algoma, Brock, Guelph (including all fifteen (15) research stations such as Emo in NW Ontario, New Liskeard in NE Ontario, Winchester in Eastern Ontario, Vineland in Central Ontario, and Ridgetown in SW Ontario), Laurier, Ottawa, and Saint-Paul].

OSSTF/FEESO has a unique perspective on the government's proposed changes since we have members who work in a representative sample of Universities in terms of geography, language of instruction, variety of programs offered, student enrolment size, and types of pension plans. The following comments need to be viewed through this lens.

Thesis question:

Is there a systemic problem involving postsecondary employees in receipt of a pension who are hired to work for the same or another postsecondary institution that is preventing the renewal of a dynamic workforce or a significant cause of system or institutional sustainability?

OSSTF/FEESO believes this initiative to address an issue which may not be as prevalent as presented in the discussion paper will have unintended but significant negative repercussions for individuals, employers, and the government if implemented. Our submission will provide the evidence and rationale why we have reached this conclusion.

The current available information and research that has been referenced in the discussion paper does not indicate this as being a major problem for the sector and has been based on a few excerpts from a series of reports prepared by the Higher Education Quality Council of Ontario (HEQCO) about the composition of the academic workforce. The final of the three (3) reports is titled *The Sustainability of the Ontario Public Postsecondary System: Putting Together the Pieces of the Puzzle* was released on April 5, 2018. The HEQCO was legislated into existence in 2005 by the *HEQCO Act* and describes itself as being an arm's length agency of the Ministry in its stakeholder submissions over the years. The homepage for HEQCO is accessible through the following link www.heqco.ca and identifies itself as "[a]n agency of the

Government of Ontario". Based on this information, OSSTF/FEESO believes the HEQCO is actually a crown agency of the MTCU and does not provide independent counsel to the government as a true stakeholder in the University sector should be doing.

Demographics of Postsecondary Workforce with an Emphasis on Universities

In order to answer the question stated above, the first challenge to overcome is to determine the statistics pertinent to the hypothesized problem and that would necessitate a common understanding of the composition of the academic, support staff, and management workforce at each University and across the system.

Statistics for the composition of management and support staff workforce are not readily available but there has been some research conducted to ascertain the composition of the academic workforce.

OSSTF/FEESO University Sector Demographics:

In order to provide an OSSTF/FEESO perspective we consulted with our bargaining unit local leaders to collect qualitative information on the demographic breakdown of their respective memberships as it relates to their age and status as a retiree. Anecdotally for all 2400 members, very few OSSTF/FEESO members continue to work past their Normal Retirement Age (NRA) of 65 as set out in the pension plan in which they are enrolled. Those who choose to work past their NRA do so for a variety of reasons such as enjoying the work they are accomplishing, for financial reasons due to changes in family status or beginning their careers at a later age and not being able to afford to retire. An employee's contributions to the workforce should not be determined by their biological age but rather by the quality of work they are providing to enrich the student experience.

Retired OSSTF/FEESO members in receipt of a pension have, in exceptional cases, been rehired by their previous employer on a limited term contract to accomplish essential functions to ensure the continuity of services to students and staff. Most of these cases were to fill in, on a short term basis, for the individual who had been hired to replace them. The reasons for the vacancies were varied but included new members taking statutory leaves (maternity, parental, family care-giver, ...), being ill, resigning, being terminated, or dying. Other reasons for retired members in receipt of a pension to return to work included providing training for new employees, dealing with legacy systems, unplanned extensions to longitudinal research projects past the irrevocable notice of retirement had been submitted to the employer, and excessive workload caused by the restructuring or implementation of new systems at the university. These returning retired members were fulfilling important work and should not be negatively impacted because they are in receipt of a pension.

Impact of *Income Tax Act* Provisions on Employees Aged 71 or Older:

There are a few OSSTF/FEESO members who are currently working in permanent or contract positions and in receipt of their pension but who have not retired from their current employer. These individuals are over the age of 70 and are required, by the *Income Tax Act*, to stop contributing to their pension plan and begin collecting their pension by December of the year they reach the age of 71. The initiation of their pension is not a voluntary act and members should not be discriminated against if they choose to continue working.

Fair & Transparent Hiring Practices:

Hiring practices for non-unionized positions, be they permanent or limited-term (contract) positions, are often less transparent than for unionized positions. The lack of transparency of available jobs may result in creating a smaller pool of qualified candidates who will be considered for these non-union positions. Individuals with inside information will have greater opportunity to these jobs and this could lead to not only increased nepotism but more retirees from the institution being hired into positions. A significant impact will be a less diverse workforce which could affect the sustainability of programs and institutions. This is less of an issue for OSSTF/FEESO members, and other unionized employee groups, since hiring practices for permanent and contract positions are determined by collective agreement provisions and the pension entitlement question is determined by the pension plan text, and occasionally by the applicable collective agreement, at each University. Fair and transparent hiring practices based on objective work-related criteria, respecting collective agreement and pension plan provisions where applicable, will address the workforce renewal objectives referenced in the discussion paper.

Recommendations:

- **Employers should work with local Union leaders to negotiate provisions to improve succession planning for all employees which will improve the sustainability and workforce renewal at the University.**
- **The Ministry's funding to each University should be more transparent and require the production of detailed reports on the staffing allocation for all management positions, all unionized and non-unionized front-line support staff positions, and all academic workforce positions.**

Analysis of Available Research about Academic Workforce Demographics in Universities

To provide a bit of context for what appears to be the government's empirical basis, taken from work done by HEQCO, for proposing pension related changes to the *Ministry of Training, Colleges and Universities Act* this section will focus on the academic workforce and a comparison with the general population of Canada.

There have been efforts done to determine the staffing levels for the academic workforce in the University sector. The Council of Ontario Universities (COU) released a report titled *Faculty at Work – The Composition and Activities of Ontario Universities' Academic Workforce (January 2018)*, accessible at <https://cou.ca/reports/2018-faculty-at-work/>, which states "there is no singular way to describe a group as diverse as the academic workforce of universities" (p.2) and decided to use the employment status (full-time and part-time) to organize the academic workforce into broad groups.

The full-time group is further subdivided into tenure stream and non-tenure stream but also includes limited-term contract and "these can be visiting professors, teaching-stream faculty, recent graduates covering research or maternity leave, and so forth." (p.2) There is no common understanding across the universities on the type of employee that is working at an institution.

The picture becomes even more complicated to identify the part-time academic workforce demographics. "Part-time instructors are hired to teach on a course-by-course basis and are

responsible for leading the teaching activities of that course. Those who teach part-time at Ontario's universities are a diverse group – with different backgrounds, experiences, and motives for teaching.” (p.6) The following summary chart is based on data presented on page 6 and 7 of the COU report.

Composition of Part-Time Academic Workforce (Figure 1 on p.6)	%
No pre-existing affiliation with the University such as professionals from business, law, health, public administration, politics, arts, and other areas of professional practice. Also includes faculty who teach full-time at another University while also teaching part-time at another institution	73.2 %
Graduate Students (excluding TAs) who are getting they experience they need for the next step of their career path	20.5 %
Staff Members (Retired)	2.8 %
Postdoctoral Fellows	2.1 %
Staff Members (Current) who work in teaching and learning centres, libraries, and career services for example	1.4 %

The COU Report also provides statistics about the age distribution of the academic workforce for both Full-time and part-time employees.

Age Distribution of Academic Workforce (Figure 3 on p. 7)			
Full-Time		Part-Time	
Under 36 years of age	6.7 %	Under 36 years of age	34.4 %
36 to 40 years of age	28.9 %	36 to 40 years of age	24.2 %
46 to 55 years of age	31.8 %	46 to 55 years of age	19.3 %
56 to 65 years of age	24.7 %	56 to 65 years of age	15.1 %
Over 65 years of age	7.8 %	Over 65 years of age	7.0 %

The percentages of full-time and part-time academic staff is also provided in Figure 5 on p.9 of the report. Part-time staff represent 51.9 % of all academic staff while Full-time staff are subdivided into Tenure Stream staff representing 42.3 % and Non-Tenure staff accounting for 5.8 % of all academic staff.

Based on the data provided in the COU report, the weighted average of the academic workforce over the age of 65 is 7.38 %. The COU number is significantly lower than the 9 % of full-time faculty that was provided on page 10 of the HEQCO report as well as the amount stated by the government, in its discussion paper on p. 4, that “in 2017-2018, 9.5 % of Ontario university faculty were over the age of 65”. It is important that all stakeholders involved in policy discussions have a common understanding of the context for any data point that is used as evidence to advance one position or another.

Notwithstanding the differences in the data points presented by different groups, it is imperative that the proposal being made by the government be analyzed within the general trends of the entire population of working seniors in Canada. Statistics Canada released on November 29, 2017 a relevant document titled *Census in Brief – Working Seniors in Canada* following the census of the population in 2016. The link to this document is <https://www12.statcan.gc.ca/census-recensement/2016/as-sa/98-200-x/2016027/98-200-x2016027-eng.cfm>.

The following charts summarizes some of the data from the report to show Canada wide statistics for seniors, defined as aged 65 or older, working in Canada as of 2015. A greater percentage of seniors, for both men and women, are working in 2015 compared to 1995. Based on the trends, it appears this rise will continue to gradually increase due to the projected increased longevity of the Canadian population, an increase to precarious employment, and a decrease in the overall pension coverage for employees.

Work Activity of Seniors Aged 65 or Older in 2015

One in five Canadians (19.8 %) aged 65 and older, or nearly 1.1 million seniors worked at some point in 2015 including 5.9 % who did so full-time and full-year (Chart 1)

Work Activity of Senior Men in 2015 (Chart 2)						Work Activity of Senior Women in 2015 (Chart 3)					
Age 65		Age 70		Age 71		Age 65		Age 70		Age 71	
FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
22.9 %	30.5 %	8.8 %	20.6 %	7.4 %	19.2 %	12.8 %	26.0 %	3.7 %	13.3 %	3.0 %	11.8 %

FT represents Full-Time for a full-year while PT represents Part Year and/or Part Time

Work Activity of Seniors Aged 65 or Older, by Education Level, in 2015 (Chart 4)					
Bachelor's Degree or Higher		Post-secondary qualification below Bachelor's Degree		High School Diploma or Less	
FT = 9.0 %	PT = 21.0 %	FT = 6.8 %	PT = 16.2 %	FT = 4.6 %	PT = 10.5 %

FT represents Full-Time for a full-year while PT represents Part Year and/or Part Time

Occupation Profile of People Working in 2015 (Charts 6 & 7)											
Occupations in Education, Law, and Social, Community, and Government Services				Business, Finance, and Administrative Occupations				Management Occupations			
Ages 65 or older		Ages 25 to 54		Ages 65 or older		Ages 25 to 54		Ages 65 or older		Ages 25 to 54	
FT	PT	FT	PT	FT	PT	FT	PT	FT	PT	FT	PT
9.7 %	12.1 %	13.1 %	13.6 %	17.1 %	18.2 %	17.8 %	14.3 %	22.4 %	10.5 %	15.1 %	7.5 %

Based on the information provided in the discussion paper and the available research, the trends in the University sector are very similar to the trends in the general Canadian population of seniors. In fact, a lower percentage of total academic workforce are working past their Normal Retirement Age (NRA) of 65 compared to the general Canadian population.

More men than women continue to work, full-time or part-time and there are more men currently working in the academic workforce in Universities.

Seniors with a Bachelor's degree or higher account for a greater percentage of seniors who continue to work past age 65. According to the COU report on page 7, approximately 93 % of full-time academic workforce have a PhD or a Professional Degree while about 83 % of part-time academic workers have earned a higher degree than a Bachelor's. The numbers provided in all reports (COU, HEQCO, and the Government's Discussion Paper) of academic workers aged 65 or older are all much lower than the percentage of the general population of Canadian Seniors who work full-time or part-time as reported in the Statistics Canada report.

The three (3) listed Occupation Profiles in the chart above reflect the type of work done by a variety of employees, be they academic, support staff, or management members of the University workforce. The percentages provided in the different reports referenced in the government's discussion paper for employees aged 65 or older are all significantly lower than the numbers of the general population trends across Canada.

Retired Staff Reference in Research referenced in Discussion Paper:

The COU report, on page 6, is the only one that provides a number for the percentage of retired staff members who work as part-time instructors. That number is 2.8 % which is a very small number across the system. The COU report goes on to state that “retired faculty members, who are keen to share their expertise with students and likely are not interested in becoming full-time or continuing faculty members.” This same report states that the retired faculty members’ “teaching activity and expertise provides students with greater choice in specific areas of study.”

Employees who have retired and who are rehired bring back to the institution valuable experience. These individuals should not be judged on their age or on what other sources of compensation they may be in receipt of, but on the quality of their work assessed using objective metrics that are not based on prohibited grounds of the Ontario Human Rights Code.

Support Staff Workforce Renewal:

The focus of the discussion paper has been skewed significantly towards the renewal of the academic workforce. OSSTF/FEESO is reiterating its position presented in previous Government consultation submissions on the importance of the front-line support staff employees working directly with students and the academic staff to provide a better student experience. That is why OSSTF/FEESO, as part of the workforce renewal, is asking for dedicated funding to those who directly support students and academic staff.

Any funding model that applies to the university sector must include dedicated funding to provide stable and sustained employment for those employees who support students at the university. Many OSSTF/FEESO support staff members at different Universities indicate they remain in their jobs after they have qualified to receive an unreduced pension in order to ensure the program they are working in will continue to operate with the required staffing levels since they have noticed a growing trend of restructuring in different faculties and services when support staff positions become vacant due to retirements. These positions are often not filled in a timely fashion, or at all, even though the workload has not decreased resulting in fewer employees trying to accomplish the work and academic staff taking on tasks that are clearly support staff duties. Having dedicated funding will ensure greater staff renewal and allow people to do the work they are best qualified to do for the University and students.

While the academic achievement of students is an important facet of a University education, it is equally important that students be supported by professional non-academic staff. Currently, there is no mechanism to identify the role of such non-academic staff in the university funding model. By incorporating such a metric into the funding model, it would recognize the importance of the function of the non-academic staff and codify those jobs as being continuous, requiring adequate funding to put an end to the disturbing trend of part-time or contract work in university employment as described in the February 2018 report prepared by the Canadian Centre for Policy Alternatives titled *No Temporary Solution – Ontario's shifting college and university workforce* available at this link: www.policyalternatives.ca/publications/reports/no-temporary-solution.

The current model for research grants fails to recognize the important role of non-academic staff. In many circumstances, research grants provide crucial funds to academic research but, does not sufficiently fund the non-academic support that is critical with that research, resulting in that support being a limited contract position. A consequence of this would be an increased workload on academic staff in order to complete the necessary tasks to meet the timelines and deliverables in research grants that would normally be done by available support staff had the funding come from Ministry operating-grants or tuition.

Benefits of Accountable and Transparent Funding in the University Sector:

Currently under the Ministry of Education, public school boards must account for the allocation of public money through a series of reports. These Education Funding Information System (EFIS) reports are designed to provide both accountability and transparency to the public. Furthermore, the Ministry of Education provides yearly consultations by the stakeholder groups prior to releasing the Grants for Student Needs. The experience of OSSTF/FEESO in this type of consultations has shown us, and hopefully the Government, that it is an essential opportunity to provide input and gain a more nuanced understanding of the funding changes from year to year. It also ensures that funding for K – 12 remains vibrant and current. The Government of Ontario must adopt this practice in respect of university funding in Ontario to empower local partners and to ensure resources are appropriately directed to students on university campuses.

Recommendations:

- **Create and fund a mechanism which recognizes that non-academic staff form an integral part of the university so that universities can employ and pay for appropriate staffing levels to meet the needs of students;**
- **Provide institutions with clear, multi-year and sufficient operating-grant funding and tuition policies so that institutions can reduce their reliance on tuition fees for postsecondary education thus allowing all Ontarians to attend a college or university regardless of economic status;**
- **Compel each University to annually and publically report, to both the provincial government and to all Union groups, its allocations, from both public and private funds, to appropriate expenditures with the goal of making funding issues as transparent and understandable to all stakeholders;**
- **Consult with stakeholders on a yearly basis regarding funding issues and potential changes to funding.**

Pension Issues:

Most of the OSSTF/FEESO members working in the school board sector participate in the Ontario Teachers' Pension Plan (OTPP) or the Ontario Municipal Employees Retirement System (OMERS) which are both Jointly Sponsored Pension Plans (JSPP). Members working in the University sector, who cannot belong to OTPP or OMERS, are in Single Employer Pension Plans (SEPP) which can be a Defined Contribution (DC), Defined Benefit (DB), or Hybrid plan. These different SEPPs all have unique plan features that may be changed through the collective bargaining process between the individual employer and bargaining unit.

The current University pension landscape is quite complicated. There are 20 universities, with some having affiliated institutions, providing over 40 different pension plans to their employees. Employers, Faculty Associations, and Support Staff Unions have been working together for several years to establish a University Pension Plan (UPP) to address these complexities and the financial liabilities related to pensions in the University sector. As of June 27, 2019 the employees at the University of Toronto, Queen's University, and the University of Guelph, where OSSTF/FEESO have members in 2 of the 3 pension plans, voted to provide their consent to the transfer of assets from their current plans to the UPP once it will be established by July 1, 2021. The UPP was designed to be a scalable plan with the goal of all Ontario Universities, through negotiations with its respective employee groups, to voluntarily agree to transfer its pension assets to the newly created UPP.

The UPP will be a Jointly Sponsored Pension Plan (JSPP) where the Employers and the Employees will now be equally responsible for all surpluses and deficits in the UPP on a go-forward basis. The government has indicated its support for the UPP in its October 2018 Financial Statement and promised to remove the Solvency Funding obligations, as it has done for all of the other broader public sector JSPPs such as OMERS, CAAT, OTPP, HOOPP, and OPTrust. When Solvency Funding obligations are eliminated this will provide to Universities a greater flexibility in how they will allocate existing funding to improve the quality of the postsecondary education system. This will improve the financial sustainability of Universities and allow for reinvestment in front-line workers to improve the student experience.

One of the improvements with the UPP will be the portability of credited pension service for employees who move from one UPP institution to another. Currently, in order for an employee who is considering employment with another Ontario University and wishes to transfer their credited pension service to the new employer's pension plan, either a Reciprocal Transfer Agreement between the two (2) Universities must be in place or, if allowed, to use General Portability Rules that are not standard across the sector. Rarely is there a one-to-one reciprocity because of the different plan features of different institutions so individuals must choose from different options they may be able to access such as deferring their pension, commuting their pensions, initiating their pension, or deciding to remain with their current employer. The proposed restrictions on compensation for any employee in receipt, or having any deferred pension entitlement with their previous employer, would in fact decrease the mobility of the workforce within Ontario and may privilege applicants to jobs who come from other provinces and territories or from other countries.

Pensions must be seen as the deferred wages of employees since they have been making contributions from their salaries from the day they were enrolled in their employer's pension plan. Pension plans have been negotiated between employers and unionized groups for years since both parties understand the benefits for all involved. Pensions will ensure a greater likelihood of financial security for employees who retire and the individual employer can attract and retain better candidates for the programs they want to offer. Unionized employees have accepted the social contract that earning a lower salary for the value of the work they accomplish today with the anticipated goal of receiving greater financial security for themselves and their surviving spouse and children in the future. Changing the rules for employees who choose to work for either the same or a different employer after they have begun collecting, or deferring, a pension will have a negative impact on the renewal of the postsecondary labour market.

Ontario is a world leader in pensions and the UPP will be able to adopt or adapt the best practices of the numerous successful JSPPs based in Ontario to ensure a greater financial sustainability in the University sector. Once the UPP is in place and other Universities choose to join, then there will be a greater percentage of the sector having a Defined Benefit pension which will lead to a more financially secure retirement outcome for more people.

One of the main reasons provided by OSSTF/FEESO members for not retiring when reaching the age of 65, has been the insufficient income replacement they had earned during their work life. As more employees join the UPP and accrue more Defined Benefit credited service years, it is hoped that more people will retire leaving open positions to facilitate the workforce renewal. Any unnecessary changes to legislation or regulations impacting pensions in Ontario, such as those being proposed in the discussion paper, could complicate the establishment of the UPP by its anticipated date of July 1, 2021 and the ability for individual Universities and their unionized employee groups to negotiate the terms to provide consent to joining the UPP.

Recommendations:

- **That the government remove any barriers, such as Bill 124, Protecting a Sustainable Public Sector for Future Generations Act, 2019, which could impact on the ability of each University and their respective unionized employee groups to voluntarily negotiate satisfactory conditions for Unions to consent to transferring their members' pension assets to the new UPP.**

Potential Human Rights & Charter Violations of the Proposed Changes to the MTCU Act:

The government's proposed regulatory changes would infringe on the parties' right to collectively negotiate such provisions as they relate to total compensation which would include such things as pensions, benefits, and salary. By "requir[ing] institutions to cap salary payments so that pension and salary payments combined were not greater than the employee's salary prior to pension payments commencing", this could lead to employers to treat members of a bargaining unit differently in terms of salary earned for the work done. This would be a direct violation of the negotiated and ratified collective agreements in place between each bargaining unit and employer should any such regulation be applied. This could result in an important Charter challenge which could create significant unfunded liabilities to Universities should Unions be successful in the Courts.

If the proposed amendments are implemented, then there may also be individuals who seek redress through the Human Rights Tribunal of Ontario because they believe they were discriminated against due to their age, a prohibited ground under the OHRC. If implemented, there would be a requirement for all potential hires within the postsecondary sector to disclose if they are in receipt of a pension or have deferred their pension from another employer which would require the disclosure of significant personal and financial information in order for the University to reduce their salary in an amount up to the full value of their pension.

There are many nightmare scenarios possible in the future that could have significant financial impacts on employees, retirees, employers, and the government should these proposed amendments be made. As presented in this submission, the problem that has been identified by the government does not seem to be a major systemic problem impeding either the sustainability of the system and individual institutions or the renewal of the workforce. OSSTF/FEESO strongly encourages the government to not implement these types of

amendments but rather to engage in discussions with all stakeholder groups to work together to ensure that any sustainability and workforce renewal initiatives in the postsecondary sector will be based on objective data which shall be shared with all stakeholders. These discussions must be conducted by looking through a common lens to achieve the common goal of improving the working and learning environment and experiences for all students and staff.

Summary of OSSTF/FEESO's Recommendations as presented in the submission:

- **Employers should work with local Union leaders to negotiate provisions to improve succession planning for all employees which will improve the sustainability and workforce renewal at the University;**
- **The Ministry's funding to each University should be more transparent and require the production of detailed reports on the staffing allocation for all management positions, all unionized and non-unionized front-line support staff positions, and all academic workforce positions;**
- **Create and fund a mechanism which recognizes that non-academic staff form an integral part of the university so that universities can employ and pay for appropriate staffing levels to meet the needs of students;**
- **Provide institutions with clear, multi-year and sufficient operating-grant funding and tuition policies so that institutions can reduce their reliance on tuition fees for postsecondary education thus allowing all Ontarians to attend a college or university regardless of economic status;**
- **Compel each University to annually and publically report, to both the provincial government and to all Union groups, its allocations, from both public and private funds, to appropriate expenditures with the goal of making funding issues as transparent and understandable to all stakeholders;**
- **That the government consult with stakeholders on a yearly basis regarding funding issues and potential changes to funding.**
- **That the government remove any barriers, such as Bill 124, Protecting a Sustainable Public Sector for Future Generations Act, 2019, which could impact on the ability of each University and their respective unionized employee groups to voluntarily negotiate satisfactory conditions for Unions to consent to transferring their members' pension assets to the new UPP.**
- **That the government abandon the proposed amendments to the MTCU Act contained in the discussion paper and proposed regulations and engage in discussions with OSSTF/FEESO and other interested stakeholder groups to objectively assess sustainability and workforce renewal concerns in the postsecondary education sector.**