



PART 2 - Identifying Elements of Compensation & Collecting Information

**Costing Collective Bargaining Proposals:
A manual for Canadian academic staff associations**



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Costing collective bargaining proposals: a manual for Canadian academic staff associations

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Part 2: Identifying Elements of Compensation & Collecting Information about Costs

Quick Reference – Part 2 Summary

Part 2 walks through the step-by-step process to identify all the elements of compensation and to collect information about the associated costs and composition of the bargaining unit. The first step in the costing process is to identify and to note all components of compensation.

1. Identify every potential source of compensation in the collective agreement.
2. Indicate whether each benefit is 'salary-related.'
3. Make notes about the specific information needed to calculate total annual costs for each component of compensation.

Step 1 in the costing template provides a systematic tool to review the collective agreement and identify all components of compensation. Step 2 in the template turns the notes about compensation into an official **information request** to management. The union has right to information about compensation and the bargaining unit in accordance with the legal principle of good faith bargaining. A sample information request letter is included as Appendix B.

The growing variance in academic appointment types makes information about the **composition of the bargaining unit** critically important. Distinct compensation structures across appointment types, such as tenure stream and contract academic staff, will typically require separate Base Year Models. The bargaining unit database (Step 3) creates a summary of basic information (Step 4) that serves as a foundation for the Base Year Model.

Part 2 includes a special module on **negotiating benefits**. Most collective agreements specify the insured benefits but information about costs usually has to be obtained from the benefits carrier through the employer. Costing benefits requires breaking a group benefits package into its component parts and gathering information about the premiums associated with each category of benefit. Union-oriented benefit consultants can provide important independent information about trends in benefits, but premium costs are typically based on the experience of claims specific to the bargaining unit.

In simple terms, the information needed to calculate compensation costs include:

1. Salaries and benefits; and
2. Composition of employees in the bargaining unit.⁹

Identifying all the Components of Total Compensation

While the collective agreement will be the primary source for identifying the various components of compensation, the costing process will require access to additional sources of information. Start with the collective agreement, but do not limit the search to that single document. Review the institution's human resources website, employee manuals and other sources for information about compensation. Use the list of categories in Step 1 of the template as a guide to systematically search for all potential sources of compensation.

1. Identify each element of compensation in its most basic form. (e.g. create a separate entry line for every element of compensation, distinguishing dental benefits from drug benefits and other insured benefits).
2. Take detailed notes about each component of compensation.
 - a. Is the compensation described in the collective agreement? (If so, where, if not, where did you find information describing it?).
3. Start by confirming whether this item is compensation and if so, what type of compensation does this item represent? (e.g. base salary, insured benefit, overload payment, etc.).

9. Corry, D.J. *Collective Bargaining and Agreement*, Canada Law Book, 1997.

4. Is this benefit salary-related? (Does this benefit increase if the base salary increases?).¹⁰
5. What information is needed to calculate total annual cost of this benefit?
 - a. Do we need information related to the composition of the bargaining unit?
 - b. Do we need information about the operation of the university or college to calculate total annual cost for this component of compensation? (For example, how many academic staff were paid for overload teaching in the last academic year?)
6. Do we have an independent source of information to calculate the total annual cost?
 - a. If not, what specific data request do we need to make to the administration to obtain the information required to calculate total annual costs?

Base Salary Information

While it is important to note salary floors and base stipends established by the collective agreement, it is necessary to collect the experience data of the actual base salaries of members of the bargaining unit. Likewise, the costing team should note the basic salary model, appointment types, and features of merit pay if those increases are added to base salaries. (Merit pay paid as a one-time lump sum bonus does not become part of base salary and is therefore treated differently).

Wage-related?	Component of compensation	Source	Information & notes
	Base salaries		Salary floors, course stipends, reduced appointments
	Salary step grid / Salary model		Grid structure, career development breakpoints
	Classifications		Full-service tenure stream, teaching stream, continuing appointments, contract academic staff, librarians and archivists.
	Merit pay		Monetary value of merit pool, is merit added to base or provided as lump sum?

In some situations, it might be important to distinguish base or nominal salary from salary paid as this may be higher or lower than the base salary figure. Academic staff on reduced responsibility may retain their nominal salary for certain benefits, such as pension and life insurance, but receive a reduced salary pro-rated to match their reduced workload. Generally, using the weighted average salary by FTE status will account for pro-rated benefits in the bargaining unit. However, the Base Year Model may not be able to account for all such situations.

Workloads & Premiums

Salary-related?	Component of compensation	Source	Information & notes
	Regular teaching load by appointment type		
	Regular FTE formula for contract academic staff		
	Overload premium(s)		Often provided as a flat-rate stipend, and therefore not a salary-related benefit.
	Administrative stipend(s)		Is this treated as part of the base salary for ATB, or separate, flat-rate benefit?
	Other premiums		

The total salary paid to an academic employee may include certain premia, such as overload pay for teaching extra courses or an administrative stipend. The costing team should note every potential source for premia provided under the collective agreement. These notes will serve as the basis for segments of the information request (Step 2) on the number

10. At some institutions, the parties have traditionally agreed that across-the-board (ATB) increases apply to a variety of benefits. Despite the consistent application of ATBs to these benefits, technically, the application of ATB increases to these benefits is the result of a negotiated outcome, not a feature of the structure of compensation. Therefore, these benefits are still not considered 'salary-related.'

of bargaining unit members receiving the premium payments and the total amount paid under those provisions in the most recent academic year.

Many collective agreements may not include specific information regarding workload, and even if such terms are included, the assumptions in the Base Year Model should reflect the actual experience data of how many courses academic staff taught, on average, in the last academic year. The costing team will have to collect the experience data through the information request letter.

Insured Benefits

Many collective agreements will identify specific classes of benefits provided to employees. Some contracts simply refer to the group benefit plan detailed in the Human Resource department. In any case, the costing team needs to identify every insured benefit category, often reflected in the sample list provided in the template.

Salary-related?	Component of compensation	Source	Information & notes
	Extended medical		Are there distinct benefit classes under supplemental medical such as semi-private hospital?
	Dental		
	Vision		
Typically yes	Life insurance		Life insurance is often a salary-related type of benefit.
Typically yes	Long-term disability		Employee paid or employer paid premiums?
	Prescription drug		Note any co-pays or annual benefit caps.
	Other		

While the bargaining team will focus on the benefits provided by the collective agreement, the objective for costing is to gather information about the premiums paid to obtain the benefits. The two most important tasks at this stage is to identify every type of benefit provided to academic staff and note which benefits are salary-related. The information request will seek premium information for each class of benefit. The bargaining team will need to track premiums paid by members through co-payments and benefit caps, but the costing model focuses solely on the premiums paid by the employer.

Special Module on Negotiating Benefits

While most collective agreements specify the type or level of insured benefits members of the bargaining unit are entitled to, costing is based on the premiums paid to obtain those benefits. While the union negotiating team should take member paid premiums into account for the overall bargaining strategy, the Base Year Model includes only employer paid premia.

Benefit Providers

Most universities and colleges contract with a benefits provider (e.g. Canada Life Assurance Company – formerly Great West Life, Green Shield, Manulife, Sun Life, etc.) to administer group benefits for employees. Benefit packages negotiated between the institution and academic staff unions often form part of a larger group benefits package. Based on the types of benefits included in the package, and the demographics and past claims data from the employee group, the university or college negotiates a contract with a benefits provider. Given the importance and complexity of designing and contracting group insurance plans, it is common for employers to use an insurance broker or consultant to help with the plan design and contracting with providers.

There are other models for the provision of benefits such as self-funded plans, multi-employer group plans, and union administered benefit plans. Regardless of the specific model used to provide insured benefits, the costing framework is the same — total compensation includes the costs associated with the provision of non-statutory benefits. These costs are part of total compensation whether or not the employee submits claims under the benefit program.

The employer may offer benefits that have not been negotiated into the collective agreement. A common example of this would be Employee Assistance Programs (EAPs). These programs often provide a variety of counseling, health, and wellness services. The costs associated with EAPs typically do not constitute a significant portion of total compensation. The union’s costing team should strategically decide whether to include EAP benefits in the Base Year Model. On the one hand, inclusion of unilaterally provided benefits support a more comprehensive model of compensation. On the other

hand, terms that are not negotiated or result from collective bargaining proposals may not be included in union costing models to reinforce the union's message that such items are not considered valuable components of employee compensation.

Benefit Cost Structures

When identifying the components of compensation, the costing model should create a separate line for each insured benefit category. For example, most benefit carriers will have specific premiums associated with dental, paraprofessional services, drug benefits, LTD, etc. The information request letter should seek the most detailed information about premiums available. Obtaining information about new benefits or cost projections for current benefits may be more difficult as the employer will likely have to go to their benefits consultant or carrier for those estimates.

The premium costs for benefits are shaped by two primary factors: 1) prices for the products or service, and 2) the experience of usage data from the benefit claims. Cost structures can also be shaped by whether employees have individual or family coverage. Carriers also typically have reciprocity arrangements for coverage provided by family members with other sources of insured coverage.

While not directly accounted for in the costing model, knowing the usage or experience data for insured benefits is very valuable information for the bargaining committee when assessing costs and benefit priorities. Experience data can provide union leaders with important information to assess the importance and value of individual elements of insured benefits. During the information-gathering phase, the union should also note eligibility requirements or prorating arrangements for contract academic staff and others without a full-time equivalent appointment.

The following steps outline a systematic procedure for identifying benefits, collecting information, and calculating costs.

1. Identify every type of insured benefit to which members of the bargaining unit are entitled under the collective agreement.
 - a. Note whether the benefit is salary-related.
 - b. Note the eligibility requirements for each type of benefit.
 - c. Significantly different benefit entitlements across appointment types may justify distinct Base Year Models for each appointment type.
2. Isolate the information needed and the source of information for the cost of premiums for each benefit.
 - a. In most cases, the collective agreement establishes the level of benefit, but the cost of the premium has to be obtained from the administration.
3. Write a detailed information request to the employer for data about the cost and usage of insured benefits.
 - a. The goal of the information request is to obtain the total annual cost for every insured benefit provided as part of the total compensation package. To ensure that the costing model includes the most up-to-date premiums, the letter should request the monthly premium costs for each benefit type as of the last day of the expiring collective agreement.¹¹
4. Calculate the total annual cost for each benefit type.
 - a. When calculating the total annual cost for each benefit, be sure to limit attribution of those costs only to eligible employees in the bargaining unit.
 - b. In Base Year Models that include a mix of both eligible and non-eligible employees, the expression of benefit costs on an FTE and a per course per FTE, spread the average cost across the entire bargaining unit. This allows the bargaining team to compare the values of a particular benefit, especially if eligibility and access vary.¹²

Requesting Information about Benefit Costs

While there are significant privacy concerns surrounding information about benefit claims and the health status of employees, providing the information needed for costing benefits is a legitimate obligation for good faith bargaining by the employer. Potential denials based on privacy concerns makes it more important that the union information request be detailed and specific as possible.

11. Universities typically hold annual contracts with insurance carriers to provide the specified benefits at fixed premiums for the year. Renewal of these contracts may result in changes to the costs of the premiums. Therefore, the information request letter should not ask for the premium payments over the previous twelve month reference period as they may include different premium rates depending on the date of renewal. Premium costs as of the last day of the expiring collective agreement provide the best benchmark for the Base Year Model.

12. Benefits available to only a portion of the bargaining unit will have a lower weighted average value to the entire bargaining unit compared to benefits available to all employees. By standardizing the unit of cost expression, the Base Year Model provides equity-based comparisons.

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1. Monthly premium costs for (e.g. dental benefits) provided by the collective agreement as of (the last day of the current collective agreement).
 - a. If the premium varies by family or single coverage, request the premium rates for each category and the enrollment data for bargaining unit members. (What percentage of the bargaining unit is signed up for family coverage and what portion is enrolled for single coverage? Use the weighted average of the enrollment figures to calculate the total annual costs.)
 - b. If the collective agreement requires co-payment of the benefit premiums, the union might request both total payments and premiums broken down by employer and employee portions.
 2. While not directly relevant for costing and calculating the Base Year Model, the information request letter should also establish a record of asking the employer if they plan or are aware of any changes in the benefit carrier or group benefits plan.

Unions can enhance their access to information about benefits, including costs and usage, by negotiating disclosure and joint review procedures in the collective agreement. The following terms were negotiated by the Queen's University Faculty Association to ensure, regular, detailed information about the financial performance and usage of the group benefit plan:

The Parties agree to establish a Joint Benefits Committee to advise the Parties on the operations of all benefits plans (except the Pension Plan). The Parties shall each appoint three (3) individuals to the Joint Benefits Committee. The Committee shall meet periodically at the request of either Party and at least once per year. The Mandate of the Committee shall be:

- (a) To receive financial reports from the University and insurance carrier(s) showing the claims made, expenses incurred, and reserves for each benefit plan;*
- (b) To provide input to the University on considerations for plan changes that may be desired;*
- (c) To advise the Parties on any decision to publicly tender the plans;*
- (d) To advise the Parties on the need to retain consultants or outside advisors; and*
- (e) To advise the Parties on any improvements or additions to the plans and the costs of such improvements or additions.*

Maintenance of Benefits

A common and important point of contention and difference in costing practices by administrations and academic staff associations concerns costs associated with the maintenance of established benefit levels. This reflects the important difference between benefits provided and the costs associated with purchasing those benefits. For example, the union may not propose any changes to the benefit plan over the life of the agreement, but the cost of those benefits may increase significantly. From the academic staff association perspective, the union has not tabled proposals to enhance the benefits and therefore there are no costs associated with collective bargaining. Those cost increases are important budgetary considerations for the institution, but have no more relevance than other inflationary cost pressures for the general operations of the institution.

Health Care Spending Accounts

Insured benefit carriers offer an increasing range of products and services beyond the standard group benefit plans. These include a variety of plans that offer more flexibility through a menu-type selection option. Health care benefit accounts offer another form of flexible spending for individual employees. For employers responsible for maintaining benefit levels, health care spending accounts provide greater cost certainty since the employer is committing to provide a set amount of money each year, not a level of benefit subject to inflationary cost pressures. Individual employees may find the new products like health care spending accounts an attractive alternative to group benefits they may not currently use. Costing benefits and analyzing the experience data from benefit claims can provide the union negotiating team with an important tool for assessing the value of benefits for the bargaining unit. Generally, the cost of pooled insured benefits will provide employees with greater collective value, especially if the medium term maintenance of benefits are included in the analysis.

Union Consultants & Benefit Brokers

In some jurisdictions, provincial academic staff union federations retain benefit consultants to advise local associations about costs and trends in benefit coverage. These supports can be an extremely valuable independent source of information about cost trends and other developments in the benefits industry. However, one important limitation is that costing information has to be obtained from the provider through the employer given the unique variation in experience data and associated premiums for each institution.

Special Considerations for Specific Benefits

Drug benefits

Benefit plans vary widely in their provision of drug benefits, and therefore premium costs will also vary greatly. The costs of drug coverage has been one of the primary drivers of cost escalation in most benefit plans in Canada. The cost of drug benefits, especially specialty drugs such as biologics derived from living cells that are used to treat complex or rare chronic conditions such as cancer, rheumatoid arthritis, hemophilia, and HIV have increased at rates well above standard inflation. This has led to more focused efforts by employers to implement or to negotiate cost containment provisions for drug benefits. For example, employers have sought caps to benefits or co-payments to premiums to control the rising cost of prescription drugs.

If the union anticipates that the employer will seek concessions in drug benefit coverage, it is possible to obtain more detailed experience data on the claims made by bargaining unit members to assess the factors contributing to premium cost increases. However, information related to basic monthly premium costs for drug benefits are sufficient for creating the Base Year Model.

Supplemental medical

Supplemental medical benefits include a range of services such as paraprofessional services, semi private hospital coverage, massage therapy and psychologist services. These individual components of supplemental medical benefits may be packaged into a single benefit premium cost or the benefit carrier may be able to provide line-by-line premium costs associated with each supplemental benefit. In general, greater detail will allow the negotiating team to compare the money-for-value across the various types of benefits.

Long-term disability (LTD)

Like drug benefit costs, the costs associated with long-term disability plans has risen at a rate exceeding increases in the Consumer Price Index (CPI). There are several reasons for the cost escalation, with recent claims being the most important factor. Assessing the value-for-money of LTD benefits can be a more complex exercise given the important tax implications depending on who pays the LTD premium. If the employer pays the premium, the benefit is typically salary-related and an employee receiving LTD benefits will generally have to pay taxes on those benefits. In contrast, if employees pay the full premium, the costs will not be included in the Base Year Model and the employees can generally receive LTD benefits without paying taxes on the benefit payments received.

The Base Year Model does not include premiums paid by employees, but the negotiating team may still want to collect information about LTD premium costs given the importance of this benefit and the significant costs associated with the premiums.

Statutory Benefits

Collective bargaining teams do not typically discuss statutory benefits because such items are not negotiated terms of employment. Nonetheless, statutory benefits are included in the Base Year Model in order to capture the comprehensive structure of total compensation. Changes to employer obligations to pay for statutory benefits, such as rate increases to the Canadian Pension Plan, will affect the bargaining environment and it is therefore important for the union's leadership to see these compensation costs as part of the total compensation package.

Salary-related?	Component of compensation	Source	Information & notes
Depends	Employment Insurance		Record the YMIE from the CEIC website.
Yes	Employer Health Tax		
Depends	Canada Pension Plan		Record the YMPE from the CRA website. ¹³
Yes	Workers' Compensation		

13. Refer to Canada Revenue Agency - <https://www.canada.ca/en/revenue-agency.html> and Government of Canada CPP contribution rates table <https://www.canada.ca/en/revenue-agency/services/tax/businesses/topics/payroll/payroll-deductions-contributions/canada-pension-plan-cpp/cpp-contribution-rates-maximums-exemptions.html>.

Collective agreements may make passing references to the employer’s obligation to ensure payment for statutory benefits and timely remittance of the employees’ share for such benefits. For union costing teams, the formulas for calculating the costs are less important than gathering information about the total amount paid by the employer for each statutory benefit on behalf of bargaining unit members.

There are a number of special considerations related to the statutory benefits.

Canada Pension Plan (CPP)

The federal government sets the contribution rates for the CPP, including the Yearly Maximum Pensionable Earnings (YMPE). Employees and employers do not pay premiums on earnings above the YMPE. The CPP is a salary-related benefit or average annual salary (less the Annual Basic Exemption) in the bargaining unit is below the YMPE.

Employment Insurance

Employees and employers pay premiums for Employment Insurance (EI). The Canada Employment Insurance Commission sets the EI premium rate on an annual basis and includes a Maximum Insurable Earnings cap. If the average annual salary for bargaining unit members exceeds the cap, EI is no longer a salary-related benefit in the Base Year Model.

Employer Health Tax

On January 1, 2019, British Columbia joined a number of other provinces by adopting an Employer Health Tax to provide funding to the provincial health care system.¹⁴ The specific formula for the Employer Health Tax (EHT) will vary by jurisdiction, but the basic model constitutes a payroll tax based on total remuneration (all salary and benefits). For this reason, the EHT has a roll-up affect greater than a typical salary-related benefit. For the purposes of the costing model, it is sufficient to treat the EHT as a salary-related benefit.

Workers’ Compensation

The premiums for provincial Workers’ Compensation insurance programs are payroll taxes based on a complex formula of industry and experience ratings. The Base Year Model requires information on the total premiums paid by the employer for bargaining unit members. The employer is unlikely to have premium payment information on an individual or bargaining unit basis, so the union may need to estimate the appropriate portion from the employer’s total payments for all employees. As a payroll tax, this statutory benefit is salary-related and therefore should be included as part of the roll-up factor.

Pensions

Costing pensions for the Base Year Model is possible when the collective agreement clearly defines the employer’s contribution rate. Accounting for special solvency payments or payments towards unfunded liabilities in defined benefit pension plans, goes beyond the scope of the Base Year Model and the union bargaining team should seek expert actuarial advice in those situations.

Salary-related?	Component of compensation	Source	Information & notes
Typically yes	Employer contribution rates		Eligibility criteria, contribution rates below and above YMPE.

Pensions are typically salary-related benefits with contribution rates that often vary for earnings below and above the Yearly Maximum Pensionable Earnings (YMPE) set by the federal government, (see discussion of CPP above).¹⁵ The costing model focuses only on employer contributions, which may or may not be specified in the collective agreement. At this step, the costing team should also note eligibility criteria and other factors that may affect the total annual costs of this benefit.

14. Provinces with an Employer Health Tax include Ontario, Quebec, Manitoba, Newfoundland and Labrador, and most recently, British Columbia.
 15. Depending upon defined benefit accrual rates, some high-wage employees may reach the annual maximum amount of pension contributions allowed under the Canada Revenue Agency’s (CRA) pension benefit rules. (This is distinct from the YMPE threshold for the CPP.) Unless the average salary for bargaining unit employees results in contributions above the CRA maximum, pensions will typically remain salary-related benefits.

Annual Payments & Allowances

Annual payments may include both one-time benefits, such as moving expenses, and on-going allowances. Identify and note information about every potential source of allowance as a separate line item in the template. The union may opt to include some allowances, such as professional expenses and tuition payments to dependents, in the Base Year Model, even though they do not constitute compensation to employees under the rules established by the Canada Revenue Agency.

Salary-related?	Component of compensation	Source	Information & notes
	Professional Expenses		Most annual professional expense (PE) allowances are not compensation in a strict sense, but given the importance to academic staff, PE should be included in the costing model.
	Tuition benefits		Some arrangements may seek to buffer this benefit from taxes and therefore technically not compensation. Regardless of the tax arrangements, it is appropriate to include this benefit in the Base Year Model.
	Education Stipend		
	Childcare benefits		
	Other		

Other Benefits

The costing team can record benefits that do not fit into any of the established categories in this section. For example, this may include provisions in the collective agreement that allow for payments of cash in lieu of benefits. The notes in this section should trigger specific questions about the total annual costs of these benefits in the information request letter to the employer.

Post-Employment Benefits

Post-employment benefits, such as severance payments and other benefits that accrue over time but are not paid until the end of the employment relationship can be difficult to cost as new proposals. The employer may budget for the accumulated liabilities for deferred compensation and therefore cost proposals at a relatively high potential payout. However, the Base Year Model focuses on compensation actually paid during a specific reference period, such as the previous academic year. For established post-employment benefits, the experience data for the past year can give the total annual cost and an estimate for the typical separation rate of bargaining unit members.

Salary-related?	Component of compensation	Source	Information & notes
	Severance		Separation rate of employees eligible for this benefit.
	Retiree benefits		

Composition of the Bargaining Unit

Creating an accurate profile of the composition of the bargaining unit is one of the first, and perhaps most essential, steps in costing. The composition of the bargaining unit includes all academic staff covered by the terms and conditions established under the collective agreement. While the administration may consider the “spillover effects” of Academic Staff Association bargaining, the costing model should focus solely on members of the bargaining unit.

Scope Clause & Appointment Types

While the scope of the bargaining unit is typically described in the recognition clause of the collective agreement, costing requires specific details regarding the characteristics for each category or class of employee within the bargaining unit. For example, some associations represent a range of different appointment types such as contract academic staff, tenured and tenure stream faculty, and librarians/archivists. Each appointment type typically has a distinct compensation model with important implications for costing estimates.

If the appointment types constitute different bargaining units, the approach to costing should create a distinct model (spreadsheet) for each bargaining unit. However, even if the appointment types are in the same bargaining unit or covered by the same collective agreement, separate costing models might be appropriate for each distinct compensation structure. Costing practices attempt to balance the simplicity of ‘average’ employee characteristics with the complexity of more detailed and distinct job classifications. To determine how best to use the costing template, and whether distinct models are needed for different appointment types, begin to identify and to outline the components of compensation for each type of appointment (Step 1 in the costing template). Another important factor will be operational, specifically differences in workload especially in teaching.

Step 1 – Compensation Structures & Appointment Types

When taking notes about compensation, especially in bargaining units with a variety of appointment types, it is best to track the components of compensation by distinct appointment types.

	Contract academic	Continuing appointment	Full responsibility	Librarian/Archivist
Salary	Per course	% FTE	Annual	Annual
Supplemental health benefits Drug benefits Paraprofessional Dental LTF	Eligible? Pay in lieu?	Eligible? Pay in lieu?	Premium payments Benefit levels	Premium payments Benefit levels
Pension Defined Benefit or Defined Contribution	Eligibility?	Access?	Contribution rates Employee Employer	Contribution rates Employee Employer
Allowances Professional expenses Childcare funds Tuition support funds	Pro-rated?	Pro-rated?	Tied to ATB?	Tied to ATB?
Premiums Overload payments				

The information needed to calculate the total annual cost for each component of compensation would likely vary by appointment type. The kind of detailed information needed about the composition of the bargaining unit will also vary by appointment type.

Step 2 – Data Requests & Union Rights to Information

Union access to information about the terms and conditions of work and the bargaining unit¹⁶ is a well-established right across all jurisdictions in Canada. This right stems from the principle of the ‘duty to bargain’,¹⁷ and an essential feature of good faith bargaining. ‘Good faith’ serves as a cornerstone of the legal framework for collective bargaining legislation. When employers refuse to share information the union needs in order to prepare for negotiations and make well-informed decisions about bargaining proposals, such a refusal may constitute bad faith bargaining and therefore an unfair labour practice. In *DeVilbiss (Canada) Ltd.*, the labour board adjudicator wrote directly to the issue of union access to information:

Of additional concern is the respondent's failure to respond to the complainant's request at this first meeting for existing wage and classification information. Particularly in "first agreement" situations, it is little wonder that a complainant would have an incomplete monetary demand until it fully appreciated the current rate of wages paid by a respondent and the detailed nature of its job structure. Rational and informed discussion cannot easily take place until this information is provided to a trade union and thus this aspect of the duty supports its production. As a general matter of policy, if parties are to engage in economic conflict their differences ought to be real and well-defined. It is patently silly to have a trade

16. Access to information by associations without certified legal bargaining authority under the applicable labour relations act is more limited.

17. *Bargaining Advisory on the Provision of Information to the Association*, Canadian Association of University Teachers, April 2016.

*union “in the dark” with respect to the fairness of an employer’s offer because it has insufficient information to appreciate fully the offer’s significance to those in the bargaining unit. Moreover, a trade union has a duty to all of the employees in the bargaining unit and thus has to be concerned, in a large measure, with equality of treatment.*¹⁸

This does not mean that unions have an unfettered right to information and an employer’s obligation to share unsolicited information is limited. The employer is under no obligation to share information that is not relevant to negotiations or specific proposals and cannot provide information it does not collect. Union information requests should not be so broad as to reflect a ‘fishing expedition’ for information. The employer also has the right to charge reasonable expenses associated with fulfilling the union’s request for information.

The union can strengthen its request for information in preparation for bargaining by providing clear, detailed, and specific descriptions of the information needed to support rational, informed decisions based on accurate costing estimates.

Strategies to Improve Information Disclosure

The first step in crafting an effective information request comes from taking careful notes during the process of identifying the various components of compensation in the collective agreement. For each element of compensation, the costing process seeks to calculate the total annual cost for that item. What information is needed to calculate the total annual cost? The more detailed and specific that question can be written, the stronger the information request. Two important costing concepts help focus methods for asking about information related to compensation costs: 1) **snapshot date**, and 2) **reference period**.

The snapshot date refers to certain conditions of employment or facts about the bargaining unit on a specific date. For example, to obtain the most accurate information about supplemental healthcare premium costs, the union’s request should ask for the monthly premium on the last day of the current collective agreement. That snapshot in time provides a better measure than asking for the total annual payment in benefit premiums over the previous year since rates often change as a result of annual contract renewals with benefit carriers.

However, calculating the costs for some benefits requires a reference period – a longer timeframe to capture the operations of the university or college and the total compensation costs. For example, the union may have identified teaching overload as a potential source of compensation premiums in the collective agreement. To calculate the total annual cost of this component of compensation, the union needs to know how many bargaining unit members were paid overload over the past twelve months. The data request in the letter should ask for the name, overload amount, course, proportion of course responsibility, and what term the course was offered.

Payroll systems may not capture all of the information requested and the employer may not collect every data point. The employer may not have the information in a specific format. Payroll systems and human resource information systems are not designed to support collective bargaining, so the employer may not be able to isolate certain facts. The point for the information request letter is to make it as detailed and clear as possible so that the union can receive the information necessary for calculating the total annual cost for every component of compensation.

The union cannot expect to receive the information in an arbitrary format. However, keeping the end goal of estimating the total annual cost for each component of compensation will allow the union to adapt the information as required. (A sample information request letter is included in Appendix B.)

18. *United Electrical, Radio and Machine Workers of America v. DeVilbiss (Canada) Ltd.*, OLRB, 1976. A number of additional cases detail the union’s right to information as part of the employer’s good faith bargaining obligations: *Pine Ridge District Health Unit*, 19771 OLRBR Feb.65; *CUPE, Local 30 v. Edmonton (City)*, Alta. LRBR 102, 1995.

Step 3 – Bargaining Unit Database

A critical part of the information request is gathering information about the composition of the bargaining unit. In order to complete Step 4, a summary of basic information in the costing template, the union should build a database of academic employees with as much as the following information about the bargaining unit as possible:

1. Name
2. Base salary
3. Administrative and other stipends
4. Merit award in previous academic year
5. Total annual salary in previous academic year
6. Regular teaching load
7. Appointment type / rank
8. Full-time equivalency designation
9. Step or years of service

Some unions maintain more complete and complex databases. Performing costing estimates directly with an employee database can provide detailed estimates of the cost of salary increases, especially if the database is designed to account for differential breakpoints in career development models. However, designing the database to account for total compensation would require a far more involved design and structure. The Base Year Model seeks to balance the accuracy of highly detailed salary models with a functional method for costing total compensation.

It is likely that some administrations do not record or track information about teaching activities on an individual level (item 6). Even if the course instruction information is tracked, the data may come from distinct sources or systems which cannot merge the data with payroll information. For this reason, an effective strategy in information requests is to seek information at the most detailed level, but suggest an alternate format that will still satisfy the objective of the request. In the case of teaching activities, the goal is not to create a detailed database of individual teaching activities, but to gather information about operations to model the average workload of bargaining unit members. If the regular teaching load at the individual level is not available, get the total number of courses taught by the bargaining unit and calculate the average by FTE.

While labour boards have consistently upheld the union's right to information to ensure good faith bargaining and support rational, informed discussions, unions can improve information disclosure practices by negotiating such disclosure obligations into the collective agreement.¹⁹

Collective Agreement Language

The CAUT Bargaining Advisory bulletin on the *Provision of Information to the Association*, provides a range of examples of language used in collective agreements to ensure information disclosure. Central to costing procedures would be information about bargaining unit members and the institution. Academic staff associations can negotiate language into the collective agreement to provide information about external contracts, especially with benefit carriers, as shown in the section on negotiating benefits.

Step 4 – Summary Basic Information

Using the information from the employee database, the template populates the summary of basic information in Step 4 (see Figure 3).²⁰ The formatted excel worksheets provide a generic tool for summarizing the basic information, but custom adaptation may be necessary depending on the composition of the bargaining unit. Manual calculations or alternate sources of data may also be necessary, especially for the basic information related to courses and the average salary per course.

19. *Bargaining Advisory on the Provision of Information to the Association*, Canadian Association of University Teachers, April 2016.

20. If differences in compensation structures across various appointment types warrants separate costing models by appointment type, the database should be separated and different templates used for each appointment type. This separation will have to be carried through the entire framework and result in a Base Year Model for each appointment type.

Figure 3: Summary of basic information

Reference period		Snapshot date	
Full-time employees		Total annual base salary costs	
Part-time employees			
Headcount (HC)		Average annual salary per HC	
Full-time equivalents (FTE)		Average annual salary per FTE	
Total courses (credits) delivered			
Average courses (credits) per FTE		Average salary per course	

Reference period: Note the primary reference period used in the collection of experience data, typically the 12 month academic year immediately preceding the expiry of the collective agreement.

Full-time employees: A simple headcount measure of the total number of employees designated as holding a full-time appointment (FTE = 1.0).

Part-time employees: A simple headcount measure of the total number of employees holding a part-time appointment, (FTE < 1.0).

Headcount (HC): The sum of full-time and part-time employees.

Full-time equivalents (FTE): A weighted measure of employees in the bargaining unit that pro-rates part-time employees by their FTE appointment.

Total courses (credits) delivered: A measure of the total number of courses (or academic credits) delivered by members of the bargaining unit.

Average courses (credits) per FTE: This ratio (*Courses/FTEs*) provides the average workload per FTE.

Snapshot date: Record the date for data collected based on a single point in time.

Total annual base salary cost: This is a measure for the total regular salary mass for members of the bargaining unit.

Average annual salary per HC: Base salary costs divided (weighted) by Headcount (HC).²¹

Average annual salary per FTE: Base annual salary costs divided (weighted) by total FTE. This number is generally higher than average annual salary per HC.

Average salary per course: This measure serves as the most basic unit of cost, rather than compensation cost per hour, in the Base Year Model adapted for the postsecondary sector.

21. The primary use for the average annual salary per HC is to determine whether certain statutory benefits (CPP and EI) are salary related or above the annual cap.

Module – Costing Salary Models & Career Development Increments

Some post-secondary institutions follow a traditional salary grid system. Under a traditional grid system, an employee automatically advances a step according to negotiated time increments. These advances are time-based and not dependent on performance or merit.

Other salary models include various ways of combining career development increments with merit pay or other performance-based compensation. These non-grid salary models typically share several characteristics. These models may specify a salary floor and a salary cap by academic rank. Most non-grid salary models include career development increments with breakpoints at specific salary levels or years of service.²²

Costing & PTR

There is a fundamental difference in perspective between academic staff associations and most administrations regarding the costing impacts of PTR models and their role in the economics of the collective bargaining relationship. Arbitrator Burkett's 1982 interest arbitration award at the University of Toronto acknowledged the nature of the conflict and affirmed the association's perspective regarding PTR:

Before outlining the respective positions of the parties it is necessary to describe in summary form progression through the ranks scheme (PTR) which is in place at the University. Although the parties are agreed that the PTR scheme should remain in place, there is a disagreement between them with respect to whether or not the value of PTR increases should be included for purposes of calculating the value of the universities offer. More importantly, there is a fundamental disagreement between the parties with respect to whether or not average PTR increases should be included in calculations to determine the relative position over time of the salaries paid to University of Toronto faculty compared to wages and salaries of other groups in society or to movement in the consumer price index.

The original recommendation of the budget committee in support of the PTR scheme was framed in terms of an allocation of funds for "career advancement" and I am satisfied that the annual PTR increase is given, where it is earned, to effect this purpose. The purpose of the PTR increase therefore is not to advance the salary ranges but to recognize merit by moving individual faculty members through the salary ranges. Upward movement of the salary ranges is achieved by means of, and in the amount of, the annual economic increase. It follows that only the amount of economic increase should be included for purposes of determining how faculty salaries have fared over time.²³

While this interpretation and perspective of PTR's in faculty salary models has been largely upheld in most interest arbitrations, there are fundamental weaknesses in the sustainability of this position for associations. First, any changes to PTR formulas opened the entire model to arguments that these constitute economic demands by the union. Chief Justice Winkler articulated this danger in the 2006 arbitration award at the University of Toronto:

With respect to the competing PTR proposals, in consideration of determination that this should be a two-year award, we conclude that the University's proposal to make special allotment to the PTR pool more closely reflects the likely bargained result than does the association's proposal to increase respective pools by one percent of salary. We extended to apply on equal terms to the second year of the agreement. The PTR pool has historically been available to ensure that the meritorious achievement of faculty members is properly rewarded. In that respect, while PTR amounts have the dual effect of increasing the base pay of faculty members once awarded in a continuing impact thereafter in regard to faculty wide ATB increases, the available pool has never been tied specifically to the total salary allocation. The Association proposal to increase the PTR pool by the amount suggested has ramifications that require consideration of the effect on the overall economics of the relationship.²⁴

The second fundamental problem with PTR salary models has been their failure to achieve self-funding sustainability. In theory, career development increments are not supposed to result in an overall increase in the salary mass because of the differences between retiring faculty with high salaries and new appointments with much lower salaries. There are a variety of reasons for the inability of these salary models to be self funding. First, new faculty appointments have been hired at salary levels well above the assistant professor floor. This significantly reduces or

22. For a survey of university salary models see Chant, John. "How We Pay Professors and Why It Matters", *The Education Papers*, ed. C.D. Howe, 2005.

23. Burkett, Kevin. *University of Toronto and University of Toronto Faculty Association*, unreported, 1982.

24. Winkler, Warren. *The Governing Council of the University of Toronto and the University of Toronto Faculty Association*, 2006, p. 12.

eliminates any savings from retirements. Second, the limitation of mandatory retirement has extended the working careers of faculty at the top end of the salary scale.

From the perspective of administrations, the failure of career development increments or PTR schemes to achieve self-funding dynamics has led them to view this component of the salary model as having a real impact on compensation costs. The University of Toronto articulated this position in their interest arbitration brief submission to Arbitrator Teplitsky in 2010:

Although there may have been a hope at the beginning of the PTR scheme, in the 1970s, that the funds for PTR fund could be "recovered" within the operating budget from the difference between salary lines eliminated through retirements and those of new hiring salaries, that recovery model was never fully realized and has ceased to have any meaningful application in the University for many years. Under the current budget model, divisions must fund all compensation increases from the overall operating funds in the same way as they fund any other increase or expense. There is no longer any notion of retirements funding PTR or any other compensation increases; the implications of factors such as the elimination of mandatory retirement in the ensuing low number of retirements as well as a significant increase to hiring salaries over the past 20+ years and other variables in the complement have made the approach obsolete.²⁵

While academic staff associations should maintain the position that career development increments and PTR schemes should not be factored into the economics and costs of bargaining proposals, administrations will continue to challenge these models and seek to offset the cost impacts in other areas of compensation. Efforts to increase the merit pool in salary models that effectively combine PTR and merit could potentially open the entire salary model to arbitral review and costing.

25. Brooks, John. "University Arbitration Brief", *University of Toronto and University of Toronto Faculty Association*, Hicks Morley Hamilton Stewart Storie LLP, 2010, 21, paragraph 35.