

Okanagan Bulletin

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Medical Leaves: what medical information are you required to disclose?

JIM JOHNSON, CHAIR, OKANAGAN FACULTY COMMITTEE

Recently, several members have complained to the Association that they have been contacted by UBCO's Office of Workplace Health and Sustainability prior to taking sick leave and been asked to provide their consent to allow that office to gather medical information. The Association immediately filed a grievance on this matter.

Members have a general right of privacy under both federal and provincial privacy legislation and under labour and employment law when it comes to the need for disclosure of their personal medical information. There may be circumstances where the university has some limited right to medical information, such as when a return to work is contemplated, or an accommodation has been requested.

But absent specific collective agreement or statutory provisions, the employer has no independent right to require disclosure of medical information. Specifically, arbitrators have almost universally held that an employer is not entitled to know an employee's medical diagnosis.

Our Collective Agreement contains no requirement that faculty taking

Know Your Rights

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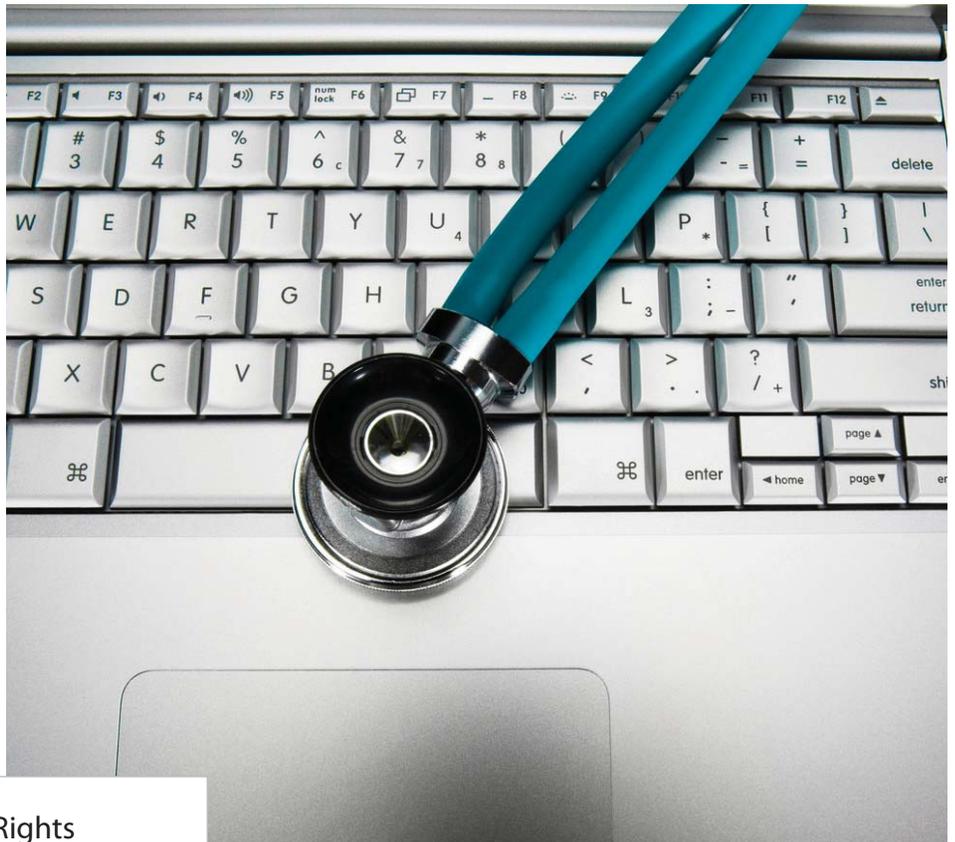
short-term sick leave provide the university with medical information.

There is a provision

for dealing with situations in which the University and the faculty member disagree about the member's capacity to work, but that provision does not allow the university to request and evaluate medical information. On the contrary, the provision specifies the creation of a committee of medical personnel to study the medical evidence and make recommendations. There is no provision

whatsoever that would allow UBC management to go digging through a member's personal medical records.

If you are, at any time, asked by the University or any of its agents to provide them with access to your medical records, do not do so. Instead, refer the matter to us. You can, if you wish, consult directly and confidentially with our professional Membership Services Officer, Deena Rubuliak (deenar@interchange.ubc.ca).



More on Merit & PSA at UBC Okanagan

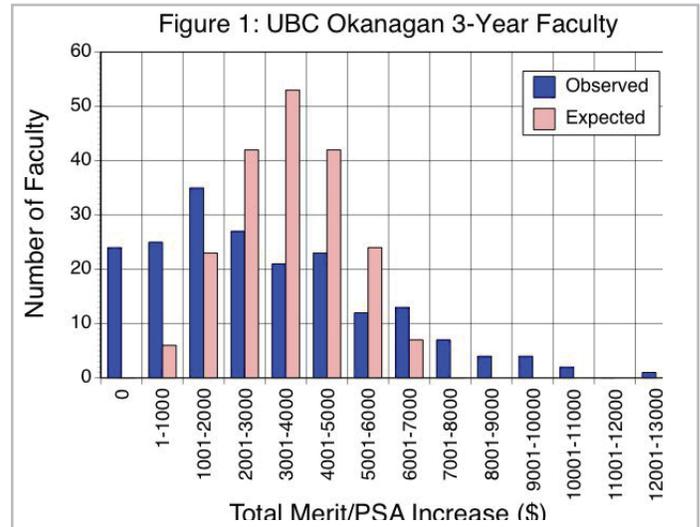
MICHAEL PIDWIRNY, FIRST VICE CHAIR, OKANAGAN FACULTY COMMITTEE

The *New Oxford American Dictionary* defines the word **incentive** as “a thing that motivates or encourages one to do something.” At the University of British Columbia, faculty are offered a number of incentives of which the most important are merit and performance salary adjustment (PSA). Our Collective Agreement clearly states that merit and PSA are given for good performance in “teaching, scholarly activity, and service to the University and to the community.” PSA funds are additionally intended to help redress salary inequities within a unit.

In this article I will present an analysis of three years of data concerning the distribution of merit and PSA to faculty and librarians at UBCO. I am interested particularly in whether certain classes of faculty, or certain types of activities, are being disproportionately ignored in merit/PSA decisions at UBCO.

When graphed on a histogram the sum of merit and PSA awards should display a symmetrical normal distribution or bell-shaped curve if the process of incentive distribution was done fairly. Faculty standing out in all three components of teaching, scholarly activity, and service would be found on the right side of the distribution, receiving merit and PSA compensations above the average. Those strong at two of the components would be found in the middle of the distribution. Faculty who excel only in one of teaching, scholarly activity, and service would be found on the left side of the normal curve, receiving an incentive below the average. Only a few should get no reward at all.

Figure 1 describes the distribution of combined merit and PSA awards for faculty who have worked for UBC Okanagan since its inception (see the blue/dark bars). The **observed** distribution pattern is strongly skewed to the right with 24 individuals receiving no award in the three-year period. Further, of the faculty receiving an incentive (173 out of 197), a larger proportion of these individuals receive awards below the average (57%) than above the average (43%). I have also plotted on this graph a predicted or **expected** normal distribution based on the roughly \$616,000 available at UBCO for allocation (pink/light bars).



Another way to look at the observed distribution is to describe the strongly skewed allocation pattern with quartiles. So, the first quartile (1st 25% rank ordered) received an average award of \$390. The second quartile (26 – 50%) received an average award of \$1,811. The third quartile (51 – 75%) received an average award of \$3,577. And the final quartile (76 – 100%) received an average award of \$6,787. Should the top quartile be receiving an average award that is 17 times greater than the first quartile?

So why do we not see a normal distribution? Why did 24 individuals receive no incentive at all over this three-year period? Maybe a sizeable proportion of the faculty at UBCO are performing poorly? I doubt it – I think many of us have never worked harder in our academic careers. And all of the problems associated with the transition created exceptional amounts of work for faculty in terms of service. I am also always amazed at how extra hard our Assistant Professors work day and night to get their research careers established and their teaching perfected. This is despite the fact that they received less start-up money than their UBC Vancouver counterparts (or no start-up money), they have high teaching loads, the building of their research labs has been endlessly delayed, proper graduate programs may not exist in their discipline, and graduate students are hard to come by.

merit/psa continued on p3

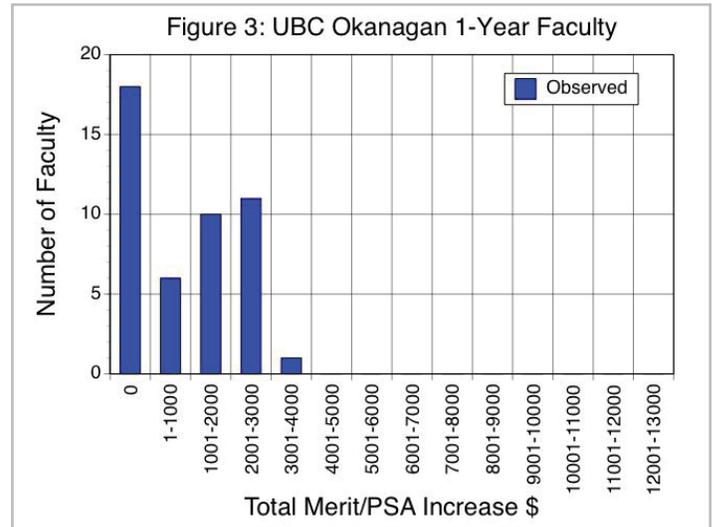
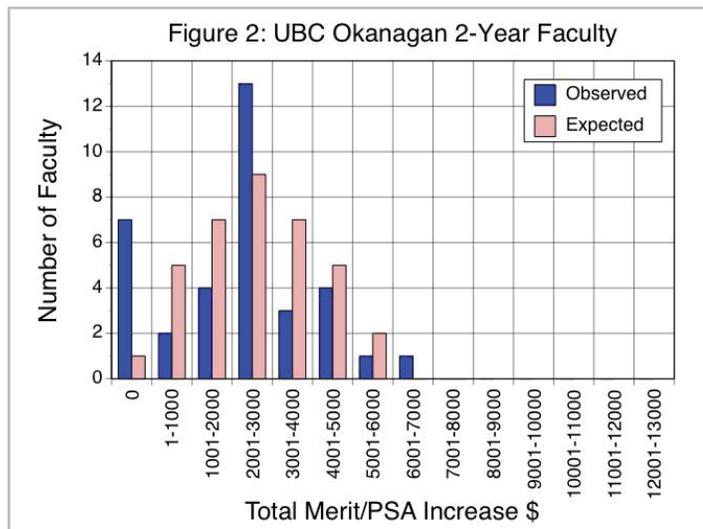
merit/psa continued from p2

Maybe the decision process of who deserves merit and PSA was fundamentally flawed? Perhaps the evaluation process has primarily focused on only one component of our work – research?

Well, it depends. If you dig deeper into the data, the pattern shown in **Figure 1** did not occur in all major administrative units. In the Faculty of Education and the Faculty of Applied Science the bell-shaped curve was the norm. So what happened in the other Faculties? Why were there so many faculty not given their appropriate rewards for working so hard?

I am a bit concerned that 24 faculty did not receive any incentive after three years. This seems high: was there not enough money available? Well, here’s a quick calculation – in any given year if we hold merit awards to just one unit and make PSA awards worth about \$900 we would have enough funds to provide incentives to 90% of the work force. If we made PSA awards worth \$750 everyone could receive an incentive! It is extremely important to provide incentives to new faculty early on in their career. Without these rewards these individuals may begin to believe that UBC Okanagan does not value their ardent effort. They may also decide to move to another institution. I know of a few who have already done this and several more who are seriously considering this option.

Figure 2 describes the distribution of combined merit and PSA awards for faculty who have only worked for UBC Okanagan for the last two years. This graph displays an observed distribution



that is reasonably close to an expected normal pattern. Still, seven of these individuals have yet to see any reward for their work performance.

Figure 3 describes the distribution of combined merit and PSA awards for faculty who worked for UBCO for just the last year. Because of the lack of data, I have not produced an expected distribution. It is also really hard to analyze whether these results are good or bad because they represent only one year.

In closing, for a University to be strong, the collective efforts of faculty must be fully engaged in scholarly activity, teaching, and service. However, the data presented here suggests that most of the Heads and Deans at UBC Okanagan were determined on distributing these incentives disproportionately to a small number of people with very specific profiles. This peculiar behavior needs to stop, not only because it violates the broadly based terms of these awards in the Agreement, but also because it will have a devastating effects on the morale of faculty, on the incentives to invest in undergraduate teaching, and on the overall quality of our institution. It may affect recruitment and retention as well.

So what should we do? Please inform your Head, Dean, Provost and even the Deputy Vice Chancellor that your extra effort is important to UBC Okanagan and that you deserve compensation for your hard work. After all, these administrators are paid handsome salaries and stipends (incentives) to make UBC Okanagan the best it can be!



What Should We Bargain?

Face-to-Face Consultation with **Okanagan Members** on

Monday, April 20, 2009 @ 3pm - 4pm

&

Tuesday, April 21, 2009 @ 12pm - 1pm

Location: SSC-005

Upcoming contract negotiations begin in early 2010, but right now, we want to hear from you! Come to the Faculty Association's face-to-face consultations and tell us what you think. The Association is coming to you to hear your issues and answer your questions. You may have ideas for us on working conditions, salaries, benefits and/ or career paths.

professional development

market/ retention funds

Benefits

promotion & tenure

job security

Bargaining 2010

Salary

salary structures

retirement

pension

merit/ PSA

career path

intellectual property

child care

Conditions of Appointment

Collective Agreement

medical & dental coverage

study leaves

workload

working conditions/ workload

release time