

The Pension Promise: Out for Delivery

QUFA wins an important legal battle over pension eligibility that could reach well beyond Queen's campus!

By Leslie Jermyn
Executive Director, QUFA

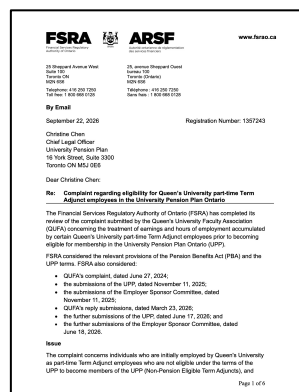
On 22 September 2026, the Financial Services Regulatory Authority (FSRA) sent a letter to the University Pension Plan (UPP) declaring that, as QUFA had argued, the UPP was not compliant with the Pension Benefits Act in assessing the eligibility of Continuing Adjuncts to join the pension plan. This Infosheet explains what this means and why it matters for QUFA Members and for precarious workers everywhere.

QUFA first challenged how Continuing Adjuncts were being assessed for pension eligibility in late 2022. We noticed that whether a newly converted Continuing Adjunct was admitted to the pension plan immediately, or was forced to work through a “qualifying period,” or was not invited to join the pension plan at all, was internally inconsistent but also contradicted the rules governing pension eligibility that are outlined in the relevant statutes (the Pensions Benefit Act (PBA)).

We raised our concerns with Queen's, and some issues were resolved without the need for further litigation, for which we are grateful to those working in pension and benefits offices at the university. However, we could not reach agreement on everything and so escalated our concerns by writing directly to the UPP in September 2023.

The heart of the issue is how people who are not full-time, regular employees qualify to join a pension plan offered in a workplace. The PBA says that anyone working in a class of employment that is eligible to be included in the pension plan (Continuing Adjuncts are such a class at Queen's) qualifies to join, even if they are “part-time” (or less than 1.0 Full Time Equivalent (FTE) appointment) if, in the previous two years, they have worked enough hours (700 per annum) or earned enough money (35% of the Yearly Maximum Pensionable Earnings (YMPE) for the year).

Queen's and the UPP argued that at the time of conversion to Continuing Adjunct, people's previous work for Queen's was as a Term Adjunct, most of whom are not eligible to join the pension plan. They were forcing Continuing Adjuncts with less than a full-time appointment to work *two more years* to qualify to join the pension plan. So, in short, they said that



Read the Letter

QUFA Members can read the official letter about the decision from the Financial Services Regulatory Authority of Ontario (FSRA) to the Chief Legal Officer of the University Pension Plan (UPP), attached to this Infosheet.

even work that meets or surpasses the PBA thresholds, if done in a non-pension eligible class, doesn't count, and the person only begins to qualify once they are working in a pension-eligible class.

We begged to differ and escalated our concerns, with the invaluable help of our pension lawyers at Koskie Minsky, to the FSRA for consideration in June 2024. Both the Employer Sponsor of the UPP and UPP management made substantive arguments to defend their practice of making people start qualifying after conversion to Continuing Adjunct. They were not successful, and the FSRA sided with us both on the interpretation of the PBA and on the principle of “promoting good administration of pension plans, and protecting and safeguarding the pension benefits and rights of pension-plan beneficiaries.”

If you're in the middle of a giant shoulder shrug, understand that Continuing Adjuncts with less than 1.0 FTE already face a diminished pension horizon because their service is throttled to their FTE: someone with a 0.5 FTE must work two years to get one year's pension service. Forcing them to work two additional years *just to qualify* to join the pension is unjust and, it turns out, inconsistent with pension law.

The FSRA has asked the UPP to respond to them by 23 November 2026 with a proposal outlining how the UPP will address this oversight. We hope they will do the right thing and put their considerable energies and attention to fixing this problem. We are poised to be of service to get the word out and help our affected Members understand their options.

However, and it's a big one, while a very small number of Members could be affected in QUFA (resulting in an insignificant cost to Queen's), this decision has the potential to change how any number of employer pensions are administered in our sector and beyond. That could prompt the UPP or the Employer Sponsor of the UPP to appeal the decision to protect the practice of conflating "pension-eligible class" with meeting PBA pension eligibility criteria. If they do decide to challenge the decision, we will keep you posted and will begin to strategize on how best to preserve this win for precarious workers across the province.

We will hold out hope that our pension administrators will work in good faith to implement what the regulator has told them to do.

We would love for the next headline to be "Pension Promise Delivered!"

Notes

¹In 2026, the YMPE (the amount you can earn a Canada Pension on) is \$74,600, so 35% of that is \$26,110. Please note that employer-provided pensions can apply to much higher incomes.

²We benefitted from the expert legal advice and analysis of both Murray Gold and James Harnum at Koskie Minsky. James and his associates moved legal-argument mountains with the FSRA to get us over the final finish line. I am personally grateful for the attention he paid to the convoluted minutiae of classes of employment at Queen's.

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7 October 2026

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September 22, 2026

Registration Number: 1357243

Christine Chen
Chief Legal Officer
University Pension Plan
16 York Street, Suite 3300
Toronto ON M5J 0E6

Dear Christine Chen:

**Re: Complaint regarding eligibility for Queen's University part-time Term
Adjunct employees in the University Pension Plan Ontario**

The Financial Services Regulatory Authority of Ontario (FSRA) has completed its review of the complaint submitted by the Queen's University Faculty Association (QUFA) concerning the treatment of earnings and hours of employment accumulated by certain Queen's University part-time Term Adjunct employees prior to becoming eligible for membership in the University Pension Plan Ontario (UPP).

FSRA considered the relevant provisions of the Pension Benefits Act (PBA) and the UPP terms. FSRA also considered:

- QUFA's complaint, dated June 27, 2024;
- the submissions of the UPP, dated November 11, 2025;
- the submissions of the Employer Sponsor Committee, dated November 11, 2025;
- QUFA's reply submissions, dated March 23, 2026;
- the further submissions of the UPP, dated June 17, 2026; and
- the further submissions of the Employer Sponsor Committee, dated June 18, 2026.

Issue

The complaint concerns individuals who are initially employed by Queen's University as part-time Term Adjunct employees who are not eligible under the terms of the UPP to become members of the UPP (Non-Pension Eligible Term Adjuncts), and

who subsequently become employed by Queen's University in a class of employees eligible to participate in the UPP (Pension Eligible Adjuncts).

The issue is whether, once an individual becomes a Pension Eligible Adjunct, the individual's earnings and hours of employment while employed as a Non-Pension Eligible Term Adjunct must be recognized in determining whether the individual has satisfied the eligibility requirements for membership in the UPP as a Pension Eligible Adjunct.

More specifically, the issue is whether either the terms of the UPP or section 31 of the PBA require employment, earnings, and hours accumulated with Queen's University while employed as a Non-Pension Eligible Term Adjunct to be taken into account for purposes of determining membership eligibility under the UPP once the individual becomes a Pension Eligible Adjunct.

QUFA submits that earnings and hours of employment accumulated while employed as a Non-Pension Eligible Term Adjunct should be counted toward the earnings and hours of employment required for a Pension Eligible Adjunct to become a member of the UPP. The UPP and the Employer Sponsor Committee disagree.

FSRA's Determination

For the reasons set out below, FSRA has concluded that the current application of the UPP's eligibility rules for Pension Eligible Adjuncts who were previously employed as Non-Pension Eligible Term Adjuncts at Queen's University is consistent with the UPP terms but is inconsistent with the requirements of section 31 of the PBA.

Analysis

Interpretation of the UPP Plan Text

Section 4.03 of the UPP terms sets out the earnings and hours of employment requirements that a Pension Eligible Adjunct must satisfy to become a member of the UPP and provides that those earnings and hours must be from an eligible class of employment described in section 20.01 of the UPP terms.

Section 20.01 provides that, in the case of unionized Queen's University employees, pension eligibility is tied to a class of employment for which Queen's University has entered into an agreement with their union to provide pension benefits under the UPP. Non-Pension Eligible Term Adjuncts, although represented by QUFA, are excluded from eligibility for membership in the UPP. That exclusion is expressly reflected in section 20.06 of the UPP terms.

When these provisions are read together, sections 4.03 and 20.01 have the effect of excluding earnings and hours of employment accumulated while employed as a Non-Pension Eligible Term Adjunct from counting toward the earnings and hours of employment required for membership in the UPP once an individual becomes a Pension Eligible Adjunct.

FSRA therefore concludes that the UPP terms do not support counting earnings and hours of employment accumulated while employed as a Non-Pension Eligible Term Adjunct toward the earnings and hours of employment required for membership in the UPP once an individual becomes a Pension Eligible Adjunct.

However, as described below, FSRA also finds that the UPP terms are inconsistent with the requirements of section 31 of the PBA in that regard.

Interpretation of Section 31 of the PBA

Section 31 of the PBA governs the eligibility requirements that may be imposed by a pension plan before an employee becomes entitled to membership in the plan.

Subsection 31(1) provides that “Every employee of a class of employees for whom a pension plan is established is eligible to be a member of the pension plan.”

For employees who are not employed on a full-time basis, subsection 31(3) permits a pension plan to “require not more than twenty-four months of less than full-time continuous employment with the employer, with the lesser of,

- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings; or
- (b) 700 hours of employment with the employer,

in each of two consecutive calendar years immediately prior to membership in the pension plan, or such equivalent basis as is approved by the Chief Executive Officer, as a condition precedent to membership in the pension plan.”

For employees who may become members of a multi-employer pension plan, subsection 31(4) permits the multi-employer pension plan to “require not more than the lesser of,

- (a) earnings of not less than 35 per cent of the Year's Maximum Pensionable Earnings with one or more of the participating employers; or
- (b) 700 hours of employment with one or more participating employers,

in each of two consecutive calendar years immediately before the year in which membership is applied for, or such equivalent basis as is approved by the Chief Executive Officer, as a condition precedent to membership in the multi-employer pension plan.”

The UPP and the Employer Sponsor Committee submit that subsections 31(3) and 31(4) should be interpreted as applying only to employment, earnings and hours accumulated while an individual is employed in a class of employees eligible to participate in the UPP.

FSRA's interpretation, however, is that while subsection 31(1) expressly refers to a class of employees, subsections 31(3) and 31(4) refer simply to continuous

employment with the employer, earnings with the employer, and hours of employment with the employer. Subsections 31(3) and 31(4) do not distinguish between employment, earnings, and hours accumulated in a pension-eligible class of employment and those accumulated in a non-pension-eligible class of employment.

Therefore, once an individual becomes employed in a class of employees eligible to participate in the UPP, all of the individual's employment, earnings, and hours accumulated with the employer while employed as a Non-Pension Eligible Term Adjunct must be taken into account in determining whether the eligibility requirements permitted under section 31 have been satisfied.

FSRA also notes that its statutory objects with respect to the pension sector include promoting the good administration of pension plans and protecting and safeguarding the pension benefits and rights of pension plan beneficiaries. FSRA's interpretation of section 31 is consistent with those statutory objectives.

Practical and Administrative Considerations

FSRA has considered the submissions of the UPP and the Employer Sponsor Committee regarding the practical and administrative implications of this interpretation.

FSRA acknowledges that applying this interpretation may require the review of historical UPP records, the identification of affected individuals, and consideration of appropriate remedial measures.

However, such administrative considerations do not alter the requirements of the PBA. FSRA is not persuaded that the challenges identified by the UPP and the Employer Sponsor Committee justify interpreting section 31 in a manner that is inconsistent with its plain wording and statutory context.

FSRA has also considered the submission that recognition of prior employment, earnings and hours may permit certain employees to satisfy the eligibility requirements for membership earlier than other employees within the same pension-eligible class.

FSRA does not agree that this outcome is inconsistent with section 31. Employees whose prior employment, earnings, and hours satisfy the statutory eligibility requirements are not receiving preferential treatment. Rather, their employment history with the employer is being recognized in accordance with the eligibility framework established by section 31 of the PBA.

Intersection with collectively bargained provisions

FSRA has also considered the submissions of the UPP and the Employer Sponsor Committee regarding the collective bargaining history between Queen's University and QUFA, QUFA's participation in the establishment of the UPP and the incorporation of the relevant eligibility provisions into the governing UPP documents.

FSRA accepts that the distinction between Non-Pension Eligible Term Adjuncts and Pension Eligible Adjuncts was intentional and is reflected in the governing UPP documents, and that Non-Pension Eligible Terms Adjuncts and Pension Eligible Adjuncts are separate classes of employees for purposes of the UPP.

However, the existence of a collectively bargained distinction, or its incorporation into the governing UPP documents, does not determine whether the resulting UPP provisions and administrative practices comply with the requirements of the PBA. Accordingly, those considerations do not alter FSRA's conclusion regarding the interpretation and application of section 31.

Next Steps

In light of the conclusions set out above, FSRA requests that the UPP provide a written response outlining the measures it intends to implement to address the matters identified in this letter.

In particular, FSRA requests that the UPP provide:

1. a proposal identifying the administrative measures the UPP will take to ensure that the UPP and its administration comply with section 31 of the PBA on a prospective basis;
2. a proposal describing the process by which the UPP will identify individuals whose eligibility for membership in the UPP may have been affected by the interpretation of section 31 set out in this letter;
3. a proposal describing how the UPP intends to address cases in which an individual may have become eligible for membership in the UPP earlier than occurred under the current administration of the UPP, including the treatment of membership eligibility, contributions, benefits, and any other consequences flowing from an earlier eligibility date; and
4. The UPP's proposed approach to communicating with any affected current or former members.

FSRA requests that the UPP provide its response by **November 23, 2026**. If the UPP will be unable to provide its response by that date, please contact FSRA as soon as possible before that date with a proposal for when the UPP will provide its response.

Upon receipt and review of the UPP's response, FSRA will consider the appropriate next steps to address the matters identified in this letter.

If at any time you have any questions or concerns, you may contact me either at the address above, or directly by telephone at 416-226-7987. Please reference the registration number shown at the top right-hand corner of this letter.

Yours truly,

A handwritten signature in black ink, appearing to be 'Priya Edward', with a long horizontal line extending from the end of the signature.

Priya Edward
Technical Analyst
FSRA

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