

AUFA Newsletter

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Message From the President

Hello AUFA members, and happy 2018.

The new year, as always, brings new opportunities as well as fresh challenges. This year, we are preparing to enter our first round of single-table bargaining, under the new legislation. AUFA members can be confident that we have put together a solid bargaining team, which has already been meeting to hammer down some concrete objectives and, thanks to the bargaining survey responses from members, has some clear direction as well. Thank you to the Bargaining Committee for taking on this crucial duty.

I have also been impressed by the dedicated efforts of the Work Stoppage Committee, which has been developing a very effective plan and policy that should soon be ready for the membership. Thank you to that committee for tackling a tough job. A work stoppage plan is an unprecedented necessity here in Alberta. We have never had to think in these terms before, but, what with the new legislation, the committee has had to put their creativity to work in order to imagine how a work stoppage might play out in a virtual and dispersed work environment. It may be too early to say so, but AUFA could become the place where other dispersed work forces look for inspiration, as there are few examples of this kind of planning to draw on. Of course, as with insurance policies, we hope we will never have to use it, but it is critical to have such a plan in place, just in case.

As we begin to traverse the somewhat rough and uncertain terrain of the new labour landscape, I find myself digging more deeply into the history of bargaining units that have gone before us, reading legal decisions and case studies in order to prepare AUFA for the kinds of challenges we will potentially face regarding member

designation and the composition of bargaining units. In addition, legal questions are bound to arise concerning the interpretation of specific articles in Bill 7 and about how to apply the Labour Code (which has never until now been relevant to our sector) to post-secondary institutions in a way that harmonizes with the provisions of Bill 7. And so it is with great interest and investment that we monitor the actions of other Alberta post-secondary institutions, including the unfair labour practice complaint that the University of Lethbridge Faculty Association has brought before the Alberta Labour Board and in which AUFA (among others) is acting as an intervenor. The result of that hearing will have ramifications for the entire post-secondary sector.

The learning curve has been steep, but productive, and I am fortunate to have a savvy executive as we work to safeguard the interests of our membership and the integrity of our association in what is clearly a very new legal environment.



Jolene Armstrong
AUFA President

Teleworkers Now Have Workplace Safety Rights



In December, Alberta significantly amended its Occupational Health and Safety (OHS) Act for the first time since 1976. An important change for AUFA members is that teleworkers are now subject to the Act. Previously, teleworkers had been excluded by archaic wording aimed at domestic servants working in the home.

Effective June 1, 2018, Athabasca University will need to identify and control the hazards present in each home office. This represents an opportunity for AUFA members to seek the remedy of hazards, such as improper ergonomic arrangements and aging office equipment that is overdue for replacement.

The first step in such a process is that AU must conduct (or have the employee conduct) a hazard assessment of each home office. Should the employer fail to control identified hazards, the worker will then have the right to contact a provincial OHS inspector.

The amendments to the Act also require employers to ensure, as far as is reasonably practicable, that no employees are subjected to or participate in harassment at the work site. As defined in the Act:

1(q) "harassment" means any single incident or repeated incidents of objectionable or unwelcome conduct, comment, bullying or action by a person that the person knows or ought reasonably to know will or would cause offence or humiliation to a worker, or

adversely affects the worker's health and safety, and includes

(i) conduct, comment, bullying or action because of race, religious beliefs, colour, physical disability, mental disability, age, ancestry, place of origin, marital status, source of income, family status, gender, gender identity, gender expression and sexual orientation, and
(ii) a sexual solicitation or advance,
but excludes any reasonable conduct of an employer or supervisor in respect of the management of workers or a work site.

This obligation strengthens the existing protections in AUFA's collective agreement. Specifically, it allows AUFA members to refuse work that has been made unsafe by virtue of harassment. Where the employer fails to remedy the situation, workers can seek an immediate investigation by OHS inspectors (rather than waiting months for the resolution of a grievance). How exactly OHS inspectors handle harassment concerns (particularly in a unionized workplace) remains to be seen. These changes, however, appear to be positive for AUFA members.

The amendments to the OHS Act also mean that AU will need to ensure that its OHS committee meets the new duties and requirements of a joint health and safety committee, including considering complaints and concerns, periodic worksite inspections, participating in the investigation of serious injuries and incidents, and providing adequate training to members. AU will also be required to ensure it has a health and safety program that is compliant with the Act.



Bob Barnetson
 Professor, Labour
 Studies

AUFA LONG LAKE SKI DAY

Saturday February 24th, 2018



The next event for the AUFA social committee is the 8th Annual AUFA Family Sky Day at the Long Lake Ski Hill.

What is Included: Full day downhill sky pass, equipment rentals, and meals.

When: Saturday, February 24, 2018. 10am to 4pm.

Where: Long Lake Ski Hill <http://skilonglake.com>

RSVP: Oksana Delgado oksana@athabascau.ca

Please RSVP by Monday, February 13th with the following information:

Number of adults and children attending

- Required rentals
- Required lessons
- Lesson Type (skiing or snowboarding)

Hope to see you there!





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ACADEMIC FREEDOM AT THE HEART OF AU

The Ontario Public Services Employees Union (OPSEU) strike came to an end on November 19, after the Ontario government passed back-to-work legislation. A month later, on December 20, OPSEU and the College Employer Council [announced the results](#) of the binding mediation-arbitration process mandated in the back-to-work ruling. A vital aspect of the new collective agreement is the language it contains on academic freedom. Under the heading “Copyright and Academic Freedom,” the agreement now specifies that all faculty have the right [“to enquire about, investigate, pursue, teach and speak freely about academic issues without fear of impairment to position or other reprisal.”](#) OPSEU was very pleased with the new language, calling the change “nothing less than historic.”

The need to protect academic freedom was a key factor in OPSEU’s decision to take strike action, but the concept of academic freedom is often only vaguely understood by the general public. As Nora Loreto points out in [“Why Is Academic Freedom Prolonging the Ontario College Strike?”](#) the notion of academic freedom is often distorted “by sensationalist reporting that focuses on individual instances of a professor doing something bad but being protected from reprisal.” In actuality, academic freedom allows instructors to choose course content and delivery methods, to maintain control over their own intellectual property, to have a say in curriculum and academic planning, and to carry out their own research. As Loreto put it, academic freedom lies at “the heart of a higher education institute’s academic programming.”

This is why it is crucial that academic and professional freedom be enshrined in collective agreements, as it has been for OPSEU and that it already is for us, as AUFAs members.

It is vital, however, that we not take our academic and professional freedom for granted and that we keep it at the heart of our own goals for academic and professional excellence when we come to the bargaining table.



Jen Rempel
Information Literacy &
Resource Access
Librarian

Know Your Contract: Is it an Appeal, or is it a Grievance?

The AUFA Collective Agreement outlines two systems for defending against possible violations of an AUFA member's rights. One is an appeal, and the other is a grievance, and the two systems are designed to deal with different problems. Whereas a grievance arises when an employer acts in a way that contravenes a union member's contractual rights, an appeal is an attempt to reverse a decision made by an employee's superiors.

One very important difference between an appeal and a grievance concerns the "carriage rights," that is, the legal right to decide whether to pursue or drop a case. With regard to appeals, the AUFA member has the carriage rights, while, in the case of a grievance, the union itself has the carriage rights, as a safeguard against possible coercion. In the event of a grievance, management may sometimes try to pressure an individual member into dropping the case, whether by bribes or intimidation. Having the carriage rights allows the union to carry forward a complaint on its own.

In the case of an appeal, an AUFA member may disagree with the union's recommendation and proceed with an appeal that AUFA has advised against. In such circumstances, the union can choose to step back from

the situation, but AUFA cannot "drop" the appeal, as the appeal itself is owned by the member, not the union.

Two distinct sets of circumstances can give rise to an appeal. These are dealt with in Articles 7 and 9 of our Collective Agreement, while grievances are covered in Article 8.

Appeals under Article 7

Article 7.1 says, "No Staff Member shall be suspended or dismissed, nor shall any other disciplinary action be taken, except in accordance with the procedures established by this Article." Broadly speaking, anything that is done in response to actions that are objectionable to the employer is discipline and must be handled under this article. As defined in Article 7.5, discipline may consist of a letter of reprimand to be placed in the employee's personnel file, suspension with pay, and/or the denial of certain rights or benefits, but it can involve suspension without pay or even dismissal. An employee must be given written notice that disciplinary procedures are being applied and has ten days from the receipt of that notice to indicate his or her intention to appeal the decision.

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WORK STOPPAGE PLANNING UNDERWAY

Changes to Alberta's labour laws in 2017 mean that AUFA collective bargaining will occur at a single table and bargaining impasse will now be resolved by strike, lockout, or both, unless third-party mediation proves successful. Previously, bargaining occurred at two tables, with impasse over terms and conditions governed by a stonewall clause and impasse over salaries and benefits resolved by binding arbitration.

As part of our preparations for bargaining, AUFA has appointed a Work Stoppage Committee. The committee members are Jolene Armstrong, James Haubrich, Nick Driedger, Bob Barnetson, and Kimberley Lamarche. The committee will deliver a full work stoppage planning report to the AUFA executive by the end of April.

An FAQ about work stoppage planning has been circulated to the members by email and is available on the AUFA website, at <http://aufa.ca/news/2017/12/13/aufa-work-stoppage-planning-faq>. To date, the committee has finished preparations for the negotiation of an Essential Services Agreement, as required by the Labour Relations Code, and has begun the task of planning communication systems in the event of a work stoppage.



2018 CAFA DISTINGUISHED ACADEMIC AWARDS

The Confederation of Alberta Faculty Associations (CAFA) is a professional organization of faculty associations in Alberta universities. It is a federation of four associations: The Association of Academic Staff University of Alberta, Athabasca University Faculty Association, The Faculty Association of the University of Calgary and The University of Lethbridge Faculty Association. The objectives of the Confederation are to promote the quality of education in the province and to promote the well-being of Alberta universities and their academic staff.

CAFA is inviting nominations for the eleventh annual CAFA Distinguished Academic Awards. The 2017 Awards received considerable public attention, and we are hoping to build on this success.

Once again, CAFA is offering two Awards:

2018 CAFA Distinguished Academic Award

Recognizing an academic staff member, or group of staff members, who through their research and/or other scholarly, creative or professional activities have made an outstanding contribution to the wider community beyond the university.

2018 CAFA Distinguished Academic Early Career Award

Recognizing an academic staff member at an early stage of his or her career, who through his or her research and/or other scholarly, creative or professional activity has made an outstanding contribution to the wider community beyond the university.

Each Award recipient will receive a cheque for \$2,000 and an original piece of artwork.

Eligibility

Nominees must be current members of one of the academic staff associations within CAFA - the AASUA, AUFA, Calgary and ULFA. For a group nomination, a majority of group members, including the primary researcher or group leader, must be current members of one of the CAFA academic staff associations.

Nominees for the CAFA Distinguished Academic Early Career Award must be no more than eight (8) years beyond the completion of a doctoral degree or equivalent qualification.

Eligible Contributions

Any type or form of research and/or other scholarly, creative or professional activity, which makes a contribution to the community beyond the university, is eligible for consideration by the Selection Committee.

In making its decision, the Selection Committee, at its discretion, may also take into account such factors as a nominee's teaching and service record, as well as other aspects of his or her professional life.

Award recipients must be willing and able to attend the annual CAFA Distinguished Academic Awards dinner and to make a brief presentation on their research and/or other scholarly, creative or professional activity and its contribution to the wider community. Some contact with the media may also be required.

The 2018 CAFA Awards Dinner will take place in Edmonton on Thursday, September 13, 2018.

Nominations (a signed pdf copy of the package should be e-mailed to lori.morinville@ualberta.ca)

Nominations for either Award must include the following:

- 1) A completed Nomination Form: <http://cafa-ab.ca/wp-content/uploads/2018/02/2018nominationform.pdf>
- 2) A Nomination Letter describing specifically how the research and/or other scholarly, creative or professional activity of the nominee(s) have made a contribution to the community beyond the university. Nominations from any source are welcome.
- 3) The current CV of the nominee(s).
- 4) Two (2) Letters of Reference.

Nominations for both CAFA Awards must be received by April 30, 2018.

Selection Process

The Selection Committee consists of the president of CAFA, as Chair, and the presidents of the four CAFA member associations – AASUA, AUFA, Calgary and ULFA, or their designates. (The Executive Director of CAFA, ex-officio, sits as a (non-voting) member of the Committee.)

The Selection Committee may deliberate, consult and arrive at its decisions, as it shall determine, subject to the Terms of Reference of the CAFA Distinguished Academic Awards. The decisions of the Selection Committee are final.

Award recipients will be selected by May 16, 2018.

Recipients

Travel and hotel expenses for Award recipients attending the Awards dinner will be paid by CAFA.

For more information, please visit the CAFA website at www.cafa-ab.ca or contact John Nicholls, Executive Director, Confederation of Alberta Faculty Associations, (780) 492-5630 or e-mail: john.nicholls@ualberta.ca.





Know Your Contract Con't from Page 5

As specified in Article 7.9, appeals are handled by a committee made up of three arbitrators, all of them senior experts in labour law. One member of the Appeal Committee is chosen by the employer, and one by the staff member; these two arbitrators then jointly select the third member. The committee conducts a hearing, deliberates on the evidence, and presents a ruling.

Appeals under Article 9

Whereas Article 7 deals with discipline, Article 9 spells out the procedures for appeals with respect to probation, salary increments (merit increases), academic promotion (for faculty), and position evaluation (for professionals). Again, appeals are heard by a committee, the composition of which varies somewhat depending on the subject of the appeal. For the most part, though, these committees consist of full-time faculty or professionals (that is, AUFA members), together with a few representatives from the University administration.

Grievances under Article 8

According to Article 8.1 of the Collective Agreement, a grievance concerns “any difference as to the interpretation, application, operation, or any contravention or alleged contravention of this Agreement.” In other words, if the employer does something that runs contrary to the contract that the Board of Governors signed with AUFA, this is cause for a grievance. But a grievance can also arise if the employer violates the terms of the Post-Secondary Learning Act or disregards Athabasca University’s own written policies or an agreement that the University made with AUFA through a Letter of Agreement.

Can I grieve an appeal decision?

The short answer to this is no. Under both Article 7 and Article 9, the outcome of an appeal is determined by the Appeal Committee itself, and that committee has the final say in the dispute. However, violations of the appeals process, as it is outlined in the Collective Agreement, are grounds for a grievance. So, for example, if the employer fails to abide by the process—even just by missing a deadline—AUFA could choose to initiate grievance proceedings. At the same time, while a contract is obviously of little use if it is not enforced, we do everything in our power to resolve problems without resorting to the grievance procedure.



Nick Driedger
Executive Director

What's Going On? AUFA'S Changing Identity

As many members have noticed, AUFA seems to be changing. After thirty years of relative stability, suddenly we're talking about adding new groups of members and about possible work stoppages. This has left some members feeling disoriented, perhaps even alienated.

Why is AUFA acting more and more like a hardcore union? Most members have heard about changes in the labour laws, but our

jobs are the same. So why can't we just go on behaving like a genteel faculty association? It's a reasonable question, and the answer has to do with precisely how the law has changed.

Understanding the implications of these changes requires context.



As most members know, AUFA traditionally bargained at two tables, which is to say that our Collective Agreement was bargained in two separate pieces: Salaries and Benefits (S&B) and Terms and Conditions (T&C). In the event of an impasse, each table followed a different process. In the case of S&B, disputes were referred to an arbitrator, whose decision was binding. In contrast, T&C bargaining was governed by “stonewall” clause, according to which, if an agreement could not be reached, the existing contract would remain in place. Although the latter system was a mixed blessing, in that the University could simply say no to what would be for us significant gains, it served well to protect what we already had, as we could simply refuse to make significant sacrifices.

[In 2015, the Supreme Court of Canada ruled that the right to strike is guaranteed to all Canadians under the Charter of Rights and Freedoms and hence cannot be rescinded by provincial legislation.](#) This decision forced provincial governments to eliminate legal restrictions

they had placed on public sector strikes, such as those contained in [Alberta's Post-Secondary Learning Act \(PSLA\)](#). [The result, in Alberta, was Bill 7](#), passed in the spring of 2017. While most of the PSLA remained intact, the bill removed the language about how faculty associations bargain and created new language that brought such associations into alignment with [Alberta's Labour Relations Code](#).

Some of the more important consequences of the new law are:

- Faculty associations are now legally unions, with the existing certification of members protected until July 1, 2022. In other words, until that date, no other union can attempt to “invade” a faculty association. After that date, association members can, as a group, select a different bargaining agent if they wish.

- [The Labour Relations Board \(LRB\)](#) can now overrule

designation decisions made by the Board of Governors, which opens up faculty associations to designation challenges—that is, challenges to who can, or cannot, be a member of a faculty association. At present, four such challenges are before the LRB, and there are likely to be more.

- Faculty associations can now file a complaint to the LRB on matters such as unfair labour practices or bad faith bargaining.

- Strike/lockout is now the default method of dispute resolution. Arbitration is a preliminary option, but only if both parties voluntarily agree to it. Stonewalling is no longer possible. One of the implications, for AUFA, is that all bargaining will now be done at a single table, with a single, legally mandated method of dispute resolution. This is a more complex and potentially more volatile bargaining situation, in that improvements to S&B can now be pitted against sacrifices in the area of T&C (and vice versa). While nobody wants a work stoppage, to prepare for the

upcoming round of bargaining, AUFA must ensure that we have the capacity to withstand a lockout or, if need be, hold a strike. This is why AUFA has joined the CAUT Defence Fund, a national strike insurance fund for faculty associations, and why members voted to create a strike fund to provide supplemental strike pay and ensure that health and insurance benefits would continue in the event of a work stoppage. This is also why we now have a Work Stoppage Planning Committee, which is charged with developing an operational plan in the event of a bargaining impasse.

These preparations are absolutely not a signal that we want to strike, much less that we intend to. The changes that members are seeing are a matter of necessity. Inactivity would be disastrous. Especially in with the shift to a single table, one cannot bargain effectively without leverage, and the inevitable result of doing nothing would be a weaker contract, with lower salaries and fewer rights. AUFA is particularly vulnerable to a lockout, partly because the University can fall back on staff who belong to AUPE or CUPE—staff who could keep the University running in the absence of AUFA members. If we hope to keep what we have, to say nothing of negotiating improvements, we must make it clear that we could survive a lockout or, if it were necessary to prevent unacceptable losses, conduct a strike.



David Powell
AUFA Secretary

AUFA EXECUTIVE TEAM

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Vice-President: Rachel Conroy

Secretary: Dave Powell

Treasurer: James Haubrich

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Mark Crawford

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Jolene Armstrong: Contributor

Jennifer Rempel: Contributor

WE WELCOME YOUR FEEDBACK!

*PLEASE SEND COMMENTS, QUESTIONS,
AND ARTICLE IDEAS TO*

AUFACOMM@ATHABASCAU.CA