

AUFA Newsletter



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Message From the President

As many of you are aware, pressures on AUFA have been mounting, especially over the past several weeks. In the opening round of bargaining, on May 9, the employer proposed a 0% percent increase in COLA for two years and then went on to outline revisions to the language of the collective agreement that would drastically curtail AUFA members' rights and protections. Your bargaining team has been working hard to analyze this opening manoeuvre and to develop constructive counterproposals, but the challenge to the terms and conditions of our employment is severe, and unless we are willing accept some serious damage to our collective agreement, we are facing a tough fight for academic freedom and reasonable job security, including protections from harassment and arbitrary discipline on the part of the employer.

Without going so far as to conclude that, in response to changes in the law, the employer is doubling down on its efforts to weaken our collective agreement or is intentionally trying to undermine the authority and effectiveness of AUFA, I will say that the employer's continued refusal to respect the rules and procedures outlined in the Labour Code and the PSLA has made day-to-day work very difficult for the AUFA office. We currently have two unfair labour practice complaints in front of the Labour Board, as well as the designation challenge regarding the out-of-province tutors. A case could also be made that the communiqué sent out to AUFA members by the Provost on behalf of the university's bargaining team represents an attempt to negotiate directly with the union's membership and thus constitutes yet another unfair labour practice, and the AUFA executive is currently working decide whether, at this point, it makes sense to file yet another complaint. Needless to say, we will continue to keep you informed as these situations evolve.

At a time when university administrations are embracing corporate models of operation, perhaps we need to reflect on the qualities that distinguish an institution of

higher learning from ordinary businesses. A university exists not to sell a product to customers but to educate students and to support the creation and dissemination of new knowledge. Regardless of their bargaining unit affiliation, all of Athabasca University's staff members are committed to this shared mission. So, when faced with difficult decisions at the bargaining table—when confronted with pressure to concede sections of the collective agreement that speak to the very heart of academic values and traditions—we may need to ask ourselves difficult questions about what we are willing to sacrifice and what we are not, about what we must be prepared to protect and how far we are willing to go to protect it. We may all be called upon to resist what appears to be a very serious attempt to erode the core values and principles of academia, the very qualities that define a place of higher learning—an institution that seeks to foster the unfettered pursuit of knowledge and creativity, excellence in teaching and research, and the ability to speak up and offer a thoughtful critique of policies and procedures that might compromise the values that we, as academics and seekers of knowledge, hold dear. We are not alone in facing such affronts: we have seen this happen all across the country, and indeed around the world. Now, more than ever, we must work to build and maintain solidarity, not just within our membership but also among our colleagues here in Alberta and in Canada as a whole.



Jolene Armstrong
AUFA President

AUFA Workloads Explained

Lately there has been a lot of discussion about workload. It seems that after Athabasca University laid a bunch of people off several years ago the work performed by those people did not disappear, instead it landed on someone else's desk. I want to talk a bit about how workload is structured under the collective agreement. There are going to be two sections to this article, one for Academics and one for Professionals but I want to start by pointing out where they are the same:

All work in the Athabasca University Faculty Association bargaining unit is calculated annually. When there is work requested beyond the duties in one's job description the AUFA member can agree to them (or refuse them) and the pay is determined by the Letter of Agreement on Professional and Academic Overload (at the back of the AUFA agreement). Payment for overload work cannot exceed \$12,000 or 20% of the AUFA Member's current compensation. The rate of pay is to be negotiated (again you can turn this work down!) between the AUFA member and their supervisor.

If someone is trying to get work that is not work normally in your job description you should get paid for it!

Professionals

For Professionals the annual duties are calculated through their job description (Article 4.3.3 of the AUFA agreement). Job descriptions are to be periodically reviewed and when the duties, as performed, do not reflect what is in their job description there is a process under Article 9 to appeal their current rank. So if an A level professional is assigned duties that are above their pay grade, such as increased responsibility, they may have a case to appeal their ranking.

Professional staff also must have sufficient time in their work schedule to participate in Athabasca University Committees. AUFA for the purposes of the agreement is an AU committee and time spent on AUFA work is considered time spent on Athabasca University work (AUFA Agreement 4.3.3), this includes attending AUFA's general meetings and participating on AUFA committees



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or as an AUFA representative on AU committees (for instance on executive hiring committees or GFC).

Academics

For Academics the duties are negotiated with their supervisor (their Dean) each year (Article 3.3.4). Academic duties are negotiated, not dictated, by the supervisor. Additionally there is a requirement that workloads are similar for all staff inside the same academic unit (Article 3.3.4 a.) and all staff of a similar rank across the university (Article 3.3.4 b.).

For Academic Coordinators their workload is broken down into two parts, Academic and Professional Effectiveness and Service to the University and Society, all other Academic staff also have a third category in addition to these: Research and Creative Activity (Article 3.7).

The AUFA agreement also requires that Academic staff work on Athabasca University committees and have the time in their workloads to perform these duties. For the purposes of this agreement Academics, like Professionals, are to have any time doing work for AUFA counted as part of their workload.

Workload Disputes:

When there is a disagreement over workload between a supervisor and an AUFA member they can bring it up with the "appropriate executive officer and the president, in that order" (Article 3.3.6 for Academics; Article 4.3.5 for Professionals). If the language is a simple

disagreement over tasks then it ends there with the President of the University having the final word.

If the dispute is about duties outside the job description if you are a professional; duties that are beyond what can be reasonably accomplished in a year for any staff member; and duties for Academics that were not negotiated but simply imposed by the supervisor then these can be the subject of a grievance.

Overall AUFA members have some tools to address the fact that many people are clearly putting in longer hours and doing more than can be reasonably be expected of the staff. If you suspect you have a workload complaint, please do not hesitate to contact the AUFA office.



Nick Driedger
Executive Director

Dispute Resolution Under the Labour Code

For a little over a year now, faculty associations in Alberta have been subject to the provisions of Bill 7—which, for the purposes of labour relations, deemed such associations to be trade unions and amended the Alberta Labour Relations Code accordingly. One significant advantage of the new legislation is that faculty associations are now able to file applications to and complaints with the Alberta Labour Relations Board in connection with certain issues. Previously, our only mechanism for resolving disputes was grievances and third-party arbitrations, which are far more time-consuming and costly. Thus far, several faculty associations in the province, including AUFA, have made use of this new mechanism for dispute resolution, chiefly in two areas.

Unfair Labour Practices

Both employers and unions can be guilty of unfair labour practices (ULPs), and the Labour Relations Board has regulations pertaining to both. A variety of actions on the part of a union can constitute a ULP; these are described in [Unfair Labour Practices by Trade Unions](#). In

[Unfair Labour Practices by Employers](#), ULPs are broadly described as “practices that undermine employees’ free choice of a bargaining agent and the bargaining agent’s independence.” Simply put, the employer cannot interfere in the union’s ability to conduct its business and represent the interests of its members.

So far, AUFA has filed three ULP complaints with the Labour Relations Board. The first concerned retaliation against a member for filing a grievance, while the second and third were related to the employer’s failure to engage with the union and meet timelines for bargaining and to interference in AUFA’s organizing campaign for out-of-province tutors. ULP complaints are public documents, and all union members are notified when one is filed. Our purpose in filing ULPs is not merely to draw attention to behaviour that violates the Labour Relations Code but to arrive at a resolution that will allow AUFA and AU to conduct union-related business in a fair and open manner.

Many of you will have heard the term [bad faith bargaining](#), which is a specific kind of ULP. A party is bargaining in bad faith if it is in some way undermining the fair negotiation of a collective agreement. This can include stalling or refusing to meet, adding or removing proposed language midway through bargaining, bargaining directly with union members rather than with their bargaining team, and engaging in “surface bargaining,” that is, bargaining with no real intention of reaching an agreement. AU’s repeated delays in meeting with our bargaining team (part of our second complaint) is an example of bad faith bargaining.

Designation Challenges

Until Bill 7 was passed, a faculty association’s composition was determined solely by an institution’s board of governors. In effect, the employer had the right to decide who belongs to the union and who doesn’t. Although Bill 7 kept initial designation power with boards of governors, it created a mechanism for appeals. As a result, faculty associations can now request that members be added to or removed from their bargaining unit, and if the board of governors refuses, the association can appeal that decision to the Labour Relations Board.

This is a significant gain. Because the power of designation has rested with boards of governors, the composition of faculty associations in Alberta is inconsistent, often reflecting the politics of the day more than the application of any uniform criteria, and many associations have been looking to change their makeup for years. Now they have an opportunity to do so. At Northern Lakes College, for example, the faculty association has filed a designation challenge with respect to department chairs, who had been excluded from the bargaining unit by a decision made some twenty years earlier.

While designation challenges may aim to redress historical anomalies, they also give faculty associations a means to combat an employer's attempts to weaken a faculty association's numbers by arbitrarily excluding certain positions from the bargaining unit. At the same time, they enable faculty associations to offer protection to academic staff who currently lack union representation, as in AUFA's organizing efforts on behalf of out-of-province tutors.

University of Lethbridge at the Labour Board

In the spring, the University of Lethbridge Faculty Association (ULFA) won a significant victory at the Labour Relations Board (LRB). The university was trying to force ULFA to negotiate two collective agreements: one for regular faculty and one for sessionals.

Separate agreements weaken the negotiating power of the union. ULFA resisted this demand and sought to have the LRB determine whether multiple collective agreements could be forced upon it by the employer.

On March 14, the LRB ruled in favour of ULFA. The LRB said that, while it was possible for a union and an employer to negotiate more than one collective

agreement (each covering a portion of the bargaining unit), the employer could not compel the union to accept such an arrangement. Instead, if the union sought a single agreement, the employer would have to negotiate one.



This decision was important for AUFA. If it had gone the other way, and two separate agreements were negotiated, this would have paved the way for the University of Lethbridge to remove sessional instructors from ULFA and designate them as an independent bargaining unit. This, in turn, would invite our own employer to argue that faculty members and professional staff do not belong in the same bargaining unit.

This case represents the first litigation between post-secondary employers and unions. There are at least three other PSE cases in the queue:

- The NorQuest College faculty association has filed an unfair labour practice complaint against the employer in connection with the layoff of three academic staff members.
- Northern Lakes College aculty are seeking to have department chairs included in their bargaining unit.
- And, at Keyano College, CUPE has challenged the employer's recent designation of contract instructors into the academic bargaining unit.



Bob Barnettson
Professor, Labour
Studies

WORKING ON THE RAILROAD?

Bear with me as I describe a situation for you. It concerns a railway, not a university, but it holds lessons for post-secondary institutions in Alberta as they embark upon their first round of bargaining under the new legislation.



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On April 6, Canadian Pacific Railway employees, who

belong to the Teamsters Canada Rail Conference (TCRC), voted

94.2% in favour of strike action, meaning that nearly 3,000 engineers and conductors were prepared to walk off the job on April 21. The CP workers—who were often forced to work beyond the point of exhaustion—were primarily seeking to bolster the safety provisions in their contract, as well as to bring their salaries into line with those at CP’s main competitor, CN Railway. But CP employees had also been confronted with the employer’s new “discipline-based” labour relations strategy, one that workers found abusive. The TCRC had tracked a 500% increase in the number of worker dismissals since the employer adopted its newly adversarial approach to labour management.

The labour strife experienced by the TCRC was largely provoked by the employer’s behaviour around bargaining.

According to the TCRC, CP’s bargaining team had repeatedly proved unwilling to show up at the bargaining table to bargain in good faith—behaviour that seriously jeopardizes the negotiation of a fair contract. An employer’s refusal to bargain in good faith essentially backs a union into a corner, at which point it has only two choices: accept a bad contract or take strike action. Neither option is especially attractive to employees.

As TCRC president Doug Finson noted, “The Supreme Court of Canada has stated that collective bargaining is a fundamental right,” and in order for that right to be exercised, both employers and unions must take the collective process seriously. Yet even as CP publicly claimed that it was trying to bargain in good faith, it informed the union that, rather than continuing to negotiate, it would prefer the intervention of a government-appointed arbitrator.

The TCRC agreed to postpone their strike until May 23, in hopes that an agreement could be reached. But CP’s final offer proved unacceptable, and union members voted 98.1% to reject it. At 10 p.m. on May 29, a strike began; the following day, a tentative agreement was reached, and the strike ended. Although the agreement still has to be ratified by the union’s membership, Finson was pleased. “We believe this is a fair contract that our members can feel good about ratifying,” he stated.

Back to universities—in Alberta and elsewhere in Canada. With the passing of Bill 7, Alberta’s post-secondary academics were granted a legal right that academic faculty in other provinces already had: the right to go on strike. This has left some wondering what advantage lies in the shift to a strike/lockout regime. Why should quiet, reasonable, well-educated scholars and professionals be called upon to join a picket line? After all, lockouts and strikes are disruptive and stressful.

In the short term, heated labour conflict obviously *is* unpleasant. As the TCRC case illustrates, however, bargaining units sometimes find themselves forced into voting to strike by an employer who refuses to bargain in good faith and in a timely

manner, or simply refuses to come to the table at all. Even possessing the capacity to threaten labour action can be a powerful bargaining chip, and in the face of an aggressive employer, it may ultimately be the only bargaining tool capable of producing long-term gains.

Unfortunately, “discipline-based” models of labour management seem to be growing in popularity. The administration at the University of Northern British Columbia has, for example, adopted an extremely heavy-handed approach to day-to-day labour relations. This newly aggressive stance has led to an unprecedented number of dismissals of long-standing staff members for minor and often spurious reasons and arguably in violation the discipline process outlined in the collective agreement. Not only is this shoot-first-and-justify-later style of HR management short-sighted, disrespectful, and potentially traumatic, but it almost inevitably results in grievances and lengthy appeal processes that cost universities (and, by extension, the public) a great deal of money. And, as the apology recently issued by the University of Manitoba to its faculty association indicates, university administrations are not above engaging in unfair labour practices during bargaining—which, in this case, could end up costing the university as much as \$2.4 million.

In Alberta, post-secondary faculty are unaccustomed to having to think in adversarial terms, and for many the prospect of open conflict is unpalatable. However, faculty members and academics may soon find themselves in a situation not unlike that CP workers—living in an atmosphere characterized by a punitive approach to labour management and facing a choice at the bargaining table between sacrificing hard-won gains or voting for strike action. Like it or not (and most of us don’t), this is the new reality, and post-secondary academic staff have to learn to how to work within it, rather than be victimized by it. If we are proud to work at a university, then it falls on us to safeguard the most sacred principle of academia: collegial governance. If we do not resist efforts to treat academic faculty and professionals as punch-clock workers instead of shareholders in the governance of the institution, we have a lot more to lose than our salaries and benefits.



Jolene Armstrong
AUFA President

AU POLICIES: SAFEGUARDING OUR GAINS

The university has policies addressing many aspects of university operations. They can be accessed [here](#). Some of these policies reflect AUFA’s past efforts to ensure that members’ interests are fairly represented.

Consider, for example, the [Academic/Professional Staff – Hiring Guidelines policy](#). Section 4 of this policy stipulates that, *before* a job advertisement is drawn up, the entire hiring committee must meet to develop the job specifications and requisite qualifications for the position, as well as to discuss possible recruitment strategies. Only after that do the chair of the hiring committee and HR draft a job posting, which is then circulated to the hiring committee as a whole for approval.

This requirement places significant control over the content of a job posting in the hands of members of the selection committee—who are presumably best qualified to judge, among other things, whether the posting describes the position accurately and whether the duties represent a reasonable workload.

This procedure was established more than thirty years ago, after AUFA members’ input into hiring was not adequately considered and a grievance was filed. Especially in the face of employer pressure to expedite hiring processes, AUFA members need to ensure that such gains are not lost.

- Bob Barnettson

Meet the New AUFA Executive Members

June is always a time of change at AUFA executive as members come and leave. We are saddened to see constituency representatives Kerri Michalczuk and Paul Kellogg depart executive, and in particular wish our best regards to outgoing Vice President Rachel Conroy. Four new executive members will be stepping up to join, and we are very excited to have them on.



Jennifer Rempel

Jen is the Information Literacy and Resource Access Librarian at AU Library & Scholarly resources. She has been with AU in her current position since July 2015. Prior to becoming part of the AU community, Jennifer worked at Nazarbayev University Library in Astana, Kazakhstan, and at the Geoffrey R. Weller Library at the University of Northern British Columbia. Jennifer received her Master's in Library and Information Studies from the

University of British Columbia in 2012. She is originally from Castlegar, BC, but is happy to now call Athabasca home.



Ingo Schmidt

Ingo taught economics and European studies at various universities in Germany and Canada. Prior to that he worked in a carpenter's shop, in the forest industry, and as a janitor and bartender. In labour Ingo has worked as a shop steward and economist, as well as an economic policy advisor, labour educator and co-editor of a local labour paper. Ingo is particularly

concerned with academic freedom and free speech and finding ways to counter employer efforts pitting different groups of workers against each other.

Myreene Tobin

Myreene has held positions in both the public and private sector that have ranged from Senior Leadership positions in Human Resources, Health Care and Social Services to her own company entitled "Masterkey Coaching and Consulting," which involved Coaching senior executives and others along with facilitation of strategic planning and group processes for work groups and senior leaders. Myreene also enjoys teaching and training in such areas as Senior Management Development, Behavior Based Interviewing, Communication and Online teaching in Leadership. Myreene possesses both hard skills in management and analysis along with soft skills in human relations.



Gail Leicht

Gail has been with AU for just over nine years; the last 4 1/2 as the Research Ethics Officer. Acting as a constituency rep would be her first foray into union governance, she accepted the nomination as a rep as she recognizes that we all have a responsibility to participate and take interest in the regulations and agreements that affect our workplace. She hopes to

draw upon her background in professional regulation, ethics and administrative law as a starting point for learning.

AUFA EXECUTIVE

President: Jolene Armstrong
Vice-President: Rachel Conroy
Secretary: Dave Powell
Treasurer: James Haubrich

CONSTITUENCY REPRESENTATIVES:

Travis Burwash
Mark Crawford
Pamela Holway
Sami Houry
Paul Kellogg
Geoff Loken
Kerri Michalczuk

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Jennifer Rempel: Contributor

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We're always interesting in hearing your feedback and article ideas. Please send comments to aufacomm@athabascau.ca