

AUFA COMMUNICATOR

Acadia University Faculty Association Newsletter

AUFA Homepage: <http://www.caut.ca/aufa/>

TABLE OF CONTENTS

Features

The AUFA President Communicates	1
Dates to Remember	8
Editorial Policy.....	9

Negotiations

Preparing for Negotiations	4
AUFA Negotiating Team	5

Conferences and Workshops

CAUT Workshop for Senior Grievance Officers	6
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THE AUFA PRESIDENT COMMUNICATES

Bargaining for Equity



At our special meeting of June 22, 2009, AUFA members voted to authorize the donation of \$25,000 to create the AUFA Equity Scholarships/ Bursaries. The AUFA executive has worked over the summer to develop citations for these awards and on August 28 we delivered our cheque to President Ray Ivany (see photo). President Ivany has written to me to express his “personal gratitude for AUFA’s recent \$25,000 contribution towards the AUFA Equity Scholarship,” commenting that this “generous gift will benefit many students and add much needed breadth to our financial aid program.” The citations for these awards were approved by the Board of Governors at its August 2009 meeting and have now been posted on the Acadia Financial Aid website:

<http://www.acadiau.ca/prospective/finance/eguide.html>



(Photo: J. Longley)

A call for applications was sent to students in September with a deadline for submissions of October 31. The application form is also available online: http://www.acadiu.ca/prospective/finance/documents/AUFAEquity2009_000.pdf. The \$25,000 donated by AUFA will be given out to students in 2009–2010. Money donated by individual faculty members (over \$30,000 to date) will be used to fund a second round of scholarships and bursaries in the 2010–2011 academic year.

The newly established AUFA Equity scholarships make clear our association's commitment to the principles of equity and set the stage for our next round of contract negotiations.

Some work in this area has already been carried out over the course of the summer. In May, representatives from Acadia (Jim Sacouman, Beert Verstraete and Janice Best on behalf of AUFA), as well as representatives from other employee groups at Acadia and members of the Senior Administration, attended a meeting of the Nova Scotia Human Rights Commission where a new Employment Equity Partnership was launched. Melissa Connell, an Acadia graduate who now works as a Policy Research and Public Education Officer in Race Relations, Equity and Inclusion for the Human Rights Commission, is helping coordinate this new initiative. Other partners include Bell Aliant, Dalhousie University, and the Nova Scotia Government Employees Union.

At this meeting, Acadia announced its commitment to the partnership and to the goals of promoting the principles of equity, inclusion, and diversity through a series of open dialogues with employers, employees, researchers, and communities across Nova Scotia. The target is to achieve equitable employment through the reduction of discrimination and barriers to employment for disadvantaged groups within our communities. Creating a more diverse workforce at Acadia that is representative of the groups in society will make it easier to achieve our goal of recruiting and retaining students from a wider variety of backgrounds.

One of the first steps to implementing employment equity is to prepare an equity plan. This includes developing a workforce survey – a self-identification questionnaire which asks employees questions to determine whether they belong to any of the four designated groups identified by the Employment Equity Act and provincial Human Rights Legislation (Aboriginal peoples, persons with disabilities, visible minorities, and women), or other disadvantaged groups which we may wish to include.

The AUFA Equity committee is currently working with other employee groups on campus to put together a sub-committee of experts to develop our workforce survey.

These types of surveys are a common feature of equity programs in most universities across Canada which must comply with the provisions of the Federal Contractors Program (FCP) in order to remain eligible to bid on large federal contracts, including grants from the three federally regulated granting councils, SSHRC, NRC and CIHR. The Federal Contractors Program was initiated by a Cabinet Decision in 1986 and operates in parallel to the Canadian Employment Equity Act which covers federally regulated employers. The Federal Contractors Program, on the other hand, applies to provincially regulated employers with 100 or more employees and who receive at least \$200,000 in federal contracts annually. These organizations are required to certify in writing their commitment to implementing employment equity. Employers who refuse to honour this commitment and are found in non-compliance with FCP requirements may lose the right to bid on or to receive further federal government funding valued at \$25,000 or more. Acadia has long maintained that because of its status as a small university, it does not have to comply with the requirements of the FCP. Whether or not this is really the case, most other universities our size (Mount Allison, Saint Mary's and Saint Francis Xavier to name but a few in our region) have long ago made a commitment to employment equity and there is no reason for Acadia to continue to lag behind and run the risk of jeopardizing our members' right to apply for and receive federal grants.

Employment equity is not just about numbers and statistics, but also about fair employment policies and practices. Once we have the results of our workforce survey, we can compare these numbers to Canadian labour market availability data. Next, we need to undertake an Employment Systems Review (ESR) of our current policies and practices in order to determine whether they pose barriers to the designated groups. Based on the results

of the review, we can begin to develop an employment equity plan which aims to eliminate the barriers that obstruct the hiring and promotion of designated group members by establishing positive policies and by setting short-term and long-term numerical goals to ensure that reasonable progress is made in addressing any under-representation. These goals are flexible targets, which may be adjusted, and should not be confused with the quota system used for U.S. affirmative action programs. In fact, section 33(e) of the Employment Equity Act (which regulates federal employers) specifically prohibits the imposition of quotas. Finally, we will need to monitor our progress towards the implementation of employment equity by conducting periodic workforce surveys, and by assessing whether modifications to our equity plan are needed.

Achieving equity is both an individual and a collective responsibility. In my view, AUFA is well poised to take a leadership role on our campus by negotiating strong equity provisions in our next Collective Agreement on issues such as an Employment Systems Review, pay equity, employment equity, elimination of systemic discrimination, and reasonable accommodation of differences. It should be a requirement that a sentence appear in all job advertisements stipulating our commitment to equity and encouraging applications from members of designated groups. Such policies and practices should apply to all employee groups at Acadia, but our only means of ensuring that they are adhered to for AUFA members is to include provisions on equity in our Collective Agreement. This does not preclude us from continuing to work with other employee groups on campus to create a more equitable workplace for all students, faculty, and staff at Acadia.

In order for Acadia to become a truly inclusive university we need to be active in promoting equitable employment policies and practices. Many barriers to equitable employment opportunities continue to exist which can include unvoiced or systemic biases and

assumptions, employment and education inequities, and lack of accommodation. We need to begin by acknowledging inequity and take a proactive approach to create policies and practices aimed at redressing the effects of systemic discrimination by negotiating strong, clear language in our Collective Agreement.

Let's make AUFA's commitment to equity become a reality!

Janice Best

PREPARING FOR NEGOTIATIONS

As was announced at the September general membership meeting, four pre-negotiating committees have been established to draft proposals for the next round of collective bargaining and their work is already underway. The four committees and their members are: the Financial Benefits Committee (FBC): Brian van Blarcom, Pat Corkum, Anna Kieft, Vernon Provencal, and Paul Hobson (as liaison with the Financial Information Committee); the Appointments, Renewal, Tenure, and Promotion Committee (ARTPC): Andrew Biro, Mike Corbett, Richard Cunningham, Randy Newman, David Reid, Ann Smith, Romira Worvill; the Working Conditions Committee (WCC): Zelda Abramson, Eric Alcorn, John Eustace, Erin Patterson, Geoff Whitehall; and the ad-hoc Committee on part-time issues: Mark Adam, Claire Jewell, and Pat O'Neill. Since our membership meeting, Pat Corkum has resigned from the FBC and has been replaced by Shelley MacDougall. The AUFA president is an *ex officio* member of all these committees.

The mandates of the first three committees are established by the AUFA constitution, and have been revised since our last round of collective bargaining. The mandate of the ad-hoc Committee on part-time issues was established

by the AUFA executive to ensure that the interests of our part-time members receive attention. In general, each committee is responsible for reviewing a specific set of articles in the Collective Agreement and for proposing changes to improve wages and working conditions for all AUFA members. The names of the committees have changed, as well as the articles in the Collective Agreement for which they are responsible, but the basic procedures they follow are the same as in previous rounds of negotiation.

Each committee will receive copies of the membership survey you recently completed (and thanks to all of you who filled in the survey!). Based on results of the survey, committee members will draft changes to articles in the Collective Agreement. Once these draft changes have been completed, each committee will host a series of open round-table style meetings to discuss the proposed changes and receive feedback on them from the members. Following the open meetings, each committee will finalize its proposals and submit them to the Proposal Review Committee (PRC). This committee will check the proposals for consistency (of both language and intent) and submit the entire package to the membership for approval, normally no later than April 1. A final survey will then be conducted to establish which proposals have top priority and the results of this survey will be communicated to the Chief Negotiator and to the President of the Association.

We should be in a good position to begin negotiating our 13th Collective Agreement on May 1, 2010. This is indeed a fitting date for the start of contract negotiations as May 1 is Labour Day in most countries in Europe.

AUFA has long been recognized as a leader among Canadian faculty associations for the democratic approach we take to developing our bargaining positions. The leadership we provide in our tradition of a deeply involved membership with a strong commitment to providing our students with the best education possible has done much to maintain Acadia's

reputation for excellence and to keep our institution strong. There are many opportunities for you to become involved in this process and to shape our university together. We look forward to working with

you and we look forward to seeing you at the many AUFA meetings we have planned over the course of this coming year!

Janice Best, AUFA President
Vernon Provencal, Chief Negotiator

AUFA NEGOTIATING TEAM

The following will serve as the Team: Janice Best, Andrew Biro (*ex officio*), Michael Corbett, John Eustace, Anna Kiefe (Instructor Representative), Pat O'Neill (Part-time Representative), Erin Patterson (Professional Librarian Representative) and Vernon Provencal (Chief Negotiator).



WORKSHOP FOR SENIOR GRIEVANCE OFFICERS

C AUT held its annual Workshop for Senior Grievance Officers Dec 12-14, 2008 at the Sheraton Hotel in Ottawa. The theme for the Workshop, “The Arbitration Process,” was chosen based on survey input from participants at the 2007 Workshop.

Friday’s session provided an account of the evolution of the arbitration process. The presenter discussed the way in which unions gave up “wildcat” strikes in exchange for legal recognition and the right to have disputes with employers decided through the arbitration process. On this account, unions welcomed access to a dispute resolution process that did not involve the judiciary, which unions regarded as unduly sympathetic to employers. Employers, on the other hand, welcomed a formal structure that allowed them to avoid dealing directly with the membership. Here, the speaker noted the view that union executives have tended to exert a moderating effect on the more radical tendencies of the general membership. During the question round, a number of participants questioned this last claim, noting that it did not track the history of their association.

Saturday’s morning session stressed the importance of rigorous conformity to time deadlines and all other official procedures. The presenter expressed serious concerns about the informal resolution stage that precedes formal grievances in some collective agreements. The concern here is that informal resolution can encourage a lax approach to a potential grievance, which may result in failures of procedure that harm the union’s case at the grievance and arbitration levels. In my view, however, AUFA has had a great deal of success with its “informal” resolution stage, which has its own clear procedures and timelines. As the

presenter emphasized, all cases should be approached from the beginning as ones that may end up as arbitration cases. However, the bulk of the presenter’s advice regarding grievance investigations and procedures has already been implemented by AUFA in John Eustace’s initial development of the AGC Handbook.

The speaker also noted that formal grievance filing statements should be restricted to a description of the relevant facts and an account of the sections of the CA that are violated. Grievance filings should not be argumentative in character; the arguments provided in the filing may end up constraining the kinds of arguments that can be made at arbitration. However, the speaker also noted the importance of listing all the articles of the CA relevant to the case. While it is always worthwhile to include the caveat “and other relevant articles” in a formal filing, the speaker noted that some arbitrators have grown hostile to the use of this phrase as a device for drawing upon other unlisted parts of the CA.

The first session of the afternoon discussed the choice between pursuing a grievance settlement and pressing ahead to arbitration. The speaker argued that there is a noticeable and objectionable trend amongst arbitrators towards acting in the capacity of mediators. Likewise, while recognizing that the union may have a greater interest in a successful arbitration (for sake of future precedent) than a settlement that satisfies the individual member, the speaker reminded us that future arbitrators are not bound previous arbitration decisions.

The third session of the afternoon focused on the handling of evidence and the examination of witnesses at arbitration. The speaker, a lawyer, expressed a fair degree of confidence in the ability of non-legal academics to handle the rules of evidence and examination in the context of arbitration.

The speaker emphasized the importance of a clear opening statement that captures both the

essence of the union's argument and the remedy sought in the case. He noted that arbitrators have some discretion with respect to remedy and that it may be possible to seek a remedy other than those proposed in the formal grievance. I note that the AGC has followed the practice of stating nothing other than "Full Redress" under Remedy Sought in recent filings. I did not have the opportunity to ask the speaker about the merits of this approach.

The speaker discussed the importance of organizing evidence and relating it to the witnesses chosen to present it. In preparing for arbitration one must develop a clear sense of relevant evidence and then make selections regarding the best witnesses for the presentation of that evidence. Similar decisions must be made in advance regarding the opposition's witnesses. One must prepare in advance an account of the points to be drawn from the evidence, and then design questions that will elicit the appropriate responses from the witnesses. The speaker was emphatic that one should not ask a question unless one already knows the answer.

The presenter also discussed the basic rules of questioning witnesses. Most important here is the rule that one is precluded from asking leading questions during direct examination. This rule is relaxed somewhat under both cross examination and subsequent re-direction of witnesses. In response to a question from the audience, the speaker noted a general prohibition against surprising a witness with evidence that contradicts their testimony. The examiner should give the witness some kind of signal that it is worth reflecting on the relevant testimony before confronting the witness with the contradicting evidence.

Saturday included two breakout sessions during which grievance officers broke up into smaller working groups to discuss our respective approaches to grievances and arbitration as well as our concerns about handling our own arbitrations. None of the associations in my group currently handle their own arbitrations—

though one grievance officer had substantial arbitration experience. Many of us thought that it might be viable for members to handle relatively simple arbitrations on their own. However, some also expressed the view that the question of whether an arbitration turns out to be a relatively simple one cannot be determined in advance. Likewise, while we agreed that the relevant rules of evidence and testimony appeared fairly simple in themselves, we were also concerned that the nuances of practice, particularly with respect to the questioning of witnesses, might prove difficult for non-lawyers. One member of our group expressed the view that non-lawyers are more than capable of handling arbitrations, but that doing so requires a substantial build-up of experience that is unlikely to be accumulated in associations where the grievance officer is a volunteer who is unlikely to serve a term of more than two or three years. Similar misgivings were expressed during general question rounds after speaker presentations.

Sunday's sessions provided accounts of arbitration experiences of non-lawyers from both academic and non-academic unions. One association made it clear that they had been forced to pursue handling their own arbitrations because of financial limitations. Both the academic and non-academic examples involved members dedicating substantial amounts of time over the long term to developing the relevant skills and expertise. These points were emphasized during the subsequent question rounds and, as noted above, tended to support the views expressed in my working group.

I should note that none of the presenters suggested that associations should simply begin conducting their own arbitrations. Instead, they tended to push the idea that doing so is possible and practical, given sufficient training and experience. To this end, they recommended being as involved as possible in legal counsel's preparation of arbitrations as well as future arbitration training courses conducted by CAUT or other union groups.

Some members of the audience, myself included, raised questions about the difficulty of developing the relevant experience in terms of arbitration (we had only one during my two-year term of Senior Grievance Officer). It was suggested that regional associations could coordinate, providing grievance officers or executive members with the opportunity to attend arbitrations conducted by other associations. I don't think that this is a bad idea, but we still have to bear in mind that even if we restrict travel to the Atlantic region, picking up the relevant experience would consume a great deal of time. I do think that we should consider sending grievance officers or other interested members to arbitration training courses regardless of whether we want to move in the direction of handling our own arbitrations. The relevant training is likely to pay off in terms of how we handle and prepare evidence and documents even if this is to be handed off to the lawyers who will handle the arbitrations. Moreover, we should bear in mind that, at some point in the future, we may face a combination of factors (multiple grievances and strained finances) that would preclude us from going to arbitration unless we were willing to handle at least some of the cases ourselves.

Marc Ramsay



DATES TO REMEMBER



The following are some important dates to keep in mind as quoted from *The Twelfth Collective Agreement*:

◆ October 30

The Dean or University Librarian . . . shall submit a recommendation using the form in Appendix D to the Sabbatical Leave Committee by 30 October. [Art. 24.13(d)]

◆ October 31

An Instructor on a probationary appointment shall be reviewed by his/her Department by 31 October of the final year of the appointment. [Art. 43.41(a)]

Decisions shall be announced [research monies] by 31 October.... [Art. 25.55(c)]

◆ November 1

The DRCs shall review all applications . . . and make recommendations to the URC according to the following schedule:

(a) Renewal: no later than 1 November of the academic year in which the appointment terminates. [Art. 12.21(a)]

◆ November 15

The DRCs shall review all applications . . . and make recommendations to the URC according to the following schedule:

(b) Tenure/Combined Tenure and Promotion to Associate Professor: no later than 15 November of the academic

year during which the application for tenure is made. [Art. 21.21(b)]

The LRCs shall review all applications . . . and make recommendations to the URC according to the following schedule:

(a) Continuing Appointment/Combined Continuing Appointment and Promotion: no later than 15 November of the academic year in which the appointment terminates. [Art. 51.21(a)]

◆ **December 1**

The DRCs shall review all applications . . . and make recommendations to the URC according to the following schedule:

(c) Promotion: no later than 1 December of the academic year during which the application for promotion is made. [Art. 21.21(c)]

The LRCs shall review all applications . . . and make recommendations to the URC according to the following schedule:

Promotion: no later than 1 December of the academic year during which the application for promotion is made. [Art. 51.21(b)]

◆ **December 31**

...the Employee shall be notified of the President's decision [leave of absence] by 31 December. . . . [Art. 24.71]

Employees shall be notified by 31 December whether or not [sabbatical] leave is to be granted. . . . [Art. 24.20]

A more comprehensive listing of dates can be found on AUFA's website:
<http://www.caut.ca/aufa/dates.htm>

EDITORIAL POLICY

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he *AUFA Communicator* is the newsletter of the Acadia University Faculty Association (AUFA) and is intended to keep its members and the Acadia Community up to date and informed. The *AUFA Communicator* is published quarterly during the academic year and serves the following purposes:

1. to provide a means for the free exchange of ideas, views, and issues relevant to the AUFA and the Acadia community
2. to provide feedback and information useful to the AUFA to maintain its effective operation in fulfilling the objectives of the AUFA and its membership
3. to provide documentary records of matters pertaining to the AUFA
4. to serve all the functions of a newsletter

The Communicator Committee, under the direction of the AUFA Executive, takes responsibility for the contents of the *AUFA Communicator*. The opinions expressed in authored articles are those of the authors and do not necessarily represent the opinions of the Communicator Committee. **We encourage your contributions (letters, articles, article summaries, and other pertinent information).** Anonymous material will not be considered for publication; however, under special

circumstances, the *AUFA Communicator* may agree to withhold the author's name. The Communicator Committee retains the right to edit and/or reject contributed material.

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