

ULFA News

November / December 2014



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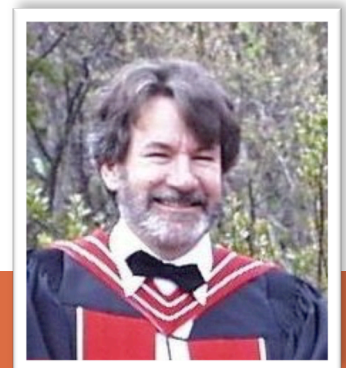
Word From The President

I'd like to focus this month on a particular issue that underlies many concerns that ULFA has had cause to raise with senior administration recently over proposed university policies. As some of these policies bear on important and timely issues, such as the transition from the Personal Security Policy to a proposed Harassment & Discrimination Policy, ULFA is anxious not to delay an unnecessarily broader review.

However, some policies of late have been drafted in which members of academic staff, absent a disclaimer or two, are folded in with everyone else to what we consider the detriment of our membership.

If this sounds like we think we are special, well, let's just say that we are very often quite different in ways that are central to the institution's mission and reputation. Some of these ways are detailed below courtesy of recent work by Professor John Baker, a Professor of Philosophy at the University of Calgary:

(a) Academic staff have academic governance roles and duties within the University that in effect make them more like management than simply employees. These include:



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Word from the President continued...

- (i) development of academic and strategic plans for University, Faculty and Departments;
- (ii) development of research policies;
- (iii) development of educational programs for University, Faculties and Departments;
- (iv) as members of GFC, they exercise executive decisions on range of issues as set out in the Post-Secondary Learning Act.

(b) They have rights that are different in kind from the usual employees' rights, rights that make their decision making and actions that of autonomous agents, independent of what other organs of the university (e.g., Board of Governors, Senate/GFC, Senior Administration) require or try to require of them. These academic freedom rights are in three areas of their work as academics:

- (i) their research – both intra and extra university;
- (ii) their educational activities – both intra and extra university;
- (iii) their decisions and action in academic governance activities – both intra and extra university.

(c) They have roles and duties to authorities beyond the university that 'employs' them:

- (i) as members of academic bodies *beyond the employing university* – e.g., CAUT, SSHRC, NSERC, etc.;
- (ii) as editors of and referees academic journals;
- (iii) as evaluators of other universities and of programs in other universities,
- (iv) as scientific advisors to public bodies,
- (v) as ethical, political and legal advisors to public bodies, to governments, to unions, and so on.

As I noted earlier, making a case to be 'set apart' can easily be seen as making an argument that we are 'better' than others, but it is my hope that demonstrating such differences should be seen to enhance, not denigrate the very important support roles taken by other members of the university community. We couldn't do our work without them.

Returning to the question of policy proposals, ULFA's approach to review is as follows: Review generally begins when the draft documents are directed to ULFA, AUPE, etc. ULFA Executive then parses the document into what is immaterial with respect to terms and conditions of employment (and may therefore be commented upon by any individual member of academic staff who wishes to do so) and what is material, in which case ULFA Executive will ascertain the extent to which the proposal would either violate existing Handbook language (triggering a grievance if enacted) or require negotiation as prescribed by the Faculty and Sessional Lecturer Handbooks.

So you may rest assured that the interests of our Members are being well represented as the redefinition of policy takes shape.

You are the academic staff of this university.

Know it and show it.

John Usher
ULFA President

Committee Updates

Grievance Committee

My September report indicated that two member complaints had advanced to Article 22.03 of the Grievance Procedure. Upon recommendation of the Grievance Committee— Ilsa Wong, John Vokey, Marinus Swanepoel, Dawn McBride, Mary Kavanagh, Shahadat Hossain, Don Gill—and approval from the Executive, ULFA has since filed a combined individual/policy grievance under Article 22.06 based on the first of these complaints. The second is still in process. Additionally, one group concern and two individual concerns have been brought to ULFA’s attention during October.

Both the Grievance Committee and the ULFA Executive are also in the midst of reviewing—with a wary eye—the University’s comprehensive draft policies on *Harassment & Discrimination* and *Behavioural Intervention*. The purpose of the first, according to the policy itself, is “to support an environment in which members of the University community can work and learn in a collegial climate of respect, free from harassment and discrimination.” While such policies are usually well intended, ULFA is aware of the need to clearly distinguish between the loose concept of “respect” and the established concepts of “harassment and discrimination” on legally protected grounds, as outlined by the Alberta Human Rights Commission. Indeed, CAUT’s last Workshop for Senior Grievance Officers alerted Faculty Associations to the current administrative trend of redefining disrespect or incivility in terms of harassment and hate speech. Because the meaning of “respect” is highly subjective, its enforcement risks becoming highly selective. Of additional concern, then, is the draft policy’s definition of harassment, which is broader in scope than the definition that appears on the Alberta Human Rights Commission website: see

http://www.albertahumanrights.ab.ca/publications/bulletins_sheets_booklets/sheets/hr_and_employment/harassment.asp.

Also potentially problematic is the draft *Behavioral Intervention Policy*’s claim that our members “are expected to promptly report occurrences of worrisome or potentially harmful behaviour . . . to the Behavioural Intervention Committee,” further granting the BIC “*primary* responsibility for reviewing all [such] reported occurrences” [my italics]. However, ULFA would like to point Members to our Collective Bargaining Agreement, which already contains clear procedural language about human rights infractions and the abuse of authority, as follows:

- 11.02.1** The Board recognizes a duty to provide, and Members have the right to, a safe workplace free from unfair discrimination, harassment, or abuse of authority . . .
- 11.02.2** Procedures for the resolution of complaints regarding Article 11.02.1 shall be without recrimination or retribution unless the complaints are frivolous or vexatious.
- a) Complaints about a Member pursuant to this article shall be addressed to the Member, unless the complainant has good reason to fear personal harm or offense. If so, or if the complainant is dissatisfied with the response, the complaint shall be addressed to the Member’s Dean/University Librarian.
 - b) If the Dean/University Librarian cannot hear, receive or act on the complaint(s) in a reasonable time, or should not hear or receive the complaint(s) for reasons of a reasonable apprehension of

Committee Updates

Grievance Committee continued...

bias, the complaint(s) shall be referred to that person among the remaining Deans/University Librarian with the most decanal service at the University of Lethbridge, and this person shall be deemed to be the appropriate Dean/University Librarian in accordance with Article 9. If necessary, the Office of the Vice-President (Academic) shall direct the complaint to the appropriate Dean/University Librarian. The Member shall be informed of the complaint immediately upon its inclusion in the Member's Personal File.

The draft *Behavioral Intervention Policy* also identifies "the BIC Chair (or delegate)" as the party that "will contact the police and/or other emergency services" in the event of "an immediate risk situation." While the *Harassment & Discrimination Policy* acknowledges that it "is not intended to discourage or prevent individuals from exercising any other legal rights they may have," we would like to clarify that our members too have the right to contact the police immediately and directly if they fear for their safety or for the safety of others.

Finally, ULFA's investigation into the ways that Human Resource practices harmonize, or fail to harmonize, with both our Collective Bargaining Agreement and statutory documents continues. Once again, please consult the Alberta Human Rights Commission before signing any blanket medical-release form, such as the one presently on the University's Human Resources website, which gives "consent to the Coordinator, Wellness, (or designate) to contact the medical/non-medical individuals involved with [a member's] illness/condition and treatment" for a period of six months. The legal principle in case law, as cited by the AHRC, is that employers must "ensure they are not requesting more information than needed at any particular time." For more information, see the AHRC's online bulletin entitled "Obtaining and Responding to Medical Information in the Workplace" (<http://www.albertahumanrights.ab.ca/default.asp>).

If you would like more information on a particular issue or dispute, feel free to contact John Usher (ULFA President), Annabree Fairweather (Executive Director), or me.

Wendy Faith
Grievance Committee Chair

Handbooks Committee

Members of the Handbooks Committee are exploring a variety of items which have been brought forward for consideration for this year's negotiations. The committee will be setting priorities for which items will be brought to negotiations, and will be working on the changes which we will be bringing forward when negotiations begin in January, 2015. Our initial meeting with the Board (Article 3 meeting) will take place on December 12; this is designated as a "preliminary meeting to review possible issues" for both sides which might lead to amendments of items in the Handbook.

Handbooks Committee welcomes input on possible Handbooks changes from our members, and we encourage you to contact any Handbook Committee member, consisting of Pamela Adams, Kevin McGeough, Joy Morris, Yale Belanger, Rhys Stevens, and Greg Patenaude, with your concerns.

Phil Jones
Handbooks Committee Chair

Committee Updates

Economic Benefits Committee

I am happy to report the following:

- The ULFA membership overwhelmingly ratified the 2014 economic benefits package following the Special General Meeting on 15 September 2014.
- The EBC has been meeting regularly to research and discuss about the salary and benefits of Sessional Lecturers, and the current system of awarding career progress and merit in the Faculty Handbook. While the former will come up in this year's negotiations with the Board, discussions about the latter may come up in future negotiations in relation to possible changes in the system due to the two-year agreement currently in place. As in the past, we will closely work with the ULFA membership on both issues.

Other than this, there is not much to report. If you have any questions or concerns, please feel free to contact any member of the Economic Benefits Committee, consisting of Shamsul Alam, Roberto Bello, Christopher Burton, Carla Carnaghan, Saurya Das, James Dobbie, David Kaminski, Michael Perry and Trent Takeyasu. I wish you all a pleasant Fall term.

Saurya Das
Economic Benefit Committee Chair

Gender, Equity and Diversity Caucus

I would like to take this opportunity to highlight an important event that is upcoming in the 2014/2015 academic year.

In the Spring semester we will present the 5th Annual Respect and Diversity Week.

The purpose of the week is to initiate and stimulate conversations about respect and diversity on our campus, with the ultimate goal to promote respect and diversity to enhance our workplace. This year's event is currently in the planning stages. If you have any suggestions or would like to be involved, please contact John Sheriff john.sheriff@uleth.ca.

John Sheriff
Gender, Equity and Diversity Caucus Chair



Copyright Update

A Brief History of Fair Dealing in the 21st Century

Every time you choose readings for a coursepack, post an article on Moodle for your students to read, show a video clip in class, or distribute handouts in person or by email, chances are you are making use of fair dealing.

Fair dealing is the provision in Canadian copyright law that allows for fair and legal use of a limited amount of copyright-protected works without permission or payment. It has not been clearly defined in Canadian law, but in the past few years new legislation and case law have begun to shape the boundaries of fair dealing, and helped post-secondary institutions provide clearer [guidelines](#) regarding purpose, amount, effect of copying, and other criteria.

The copyright landscape in Canada changed dramatically in 2012 after two major events. In June 2012, Bill C-11 was passed to amend the *Copyright Act*, including the revision of Section 29: “Fair dealing for the purpose of research, private study, **education**, parody or satire does not infringe copyright.”¹ This is the first time that education has been included as a legal purpose for fair dealing.

In July 2012 the Supreme Court of Canada issued rulings on five copyright cases in one day, in what is often called the “copyright pentalogy,” a series of judgments that, among other things, clarified and broadened the understanding of fair dealing. As law professor Michael Geist says, “the cases provided an unequivocal affirmation that copyright exceptions such as fair dealing should be treated as users’ rights.”²

In response to these precedents, the post-secondary institutions in Canada began to define and implement fair dealing guidelines in order to provide a framework for analysis of fair dealing use based on the expanded understanding of fair dealing in education within the parameters of the law. Prior to 2012, there was very limited consideration of fair dealing in post-secondary copying for educational purposes.

Access Copyright, the organization that has collectively licensed copying in Canada for years, has struggled with the rebalancing of creator/publisher rights and user rights in the Canadian education sector based on the new legal information of 2012. Access Copyright strongly disagrees with the interpretation of fair dealing that most post-secondary institutions have adopted. In 2013, they also increased copy licensing fees from \$3.38 per FTE student (plus 10 cents/page for copying) to \$26 per FTE. This combination has led many post-secondary institutions, including UBC, York University, U of T, and Western to opt out or to let their Access Copyright licenses expire.

In April 2013 Access Copyright filed a lawsuit against York University, alleging that the university’s fair dealing guidelines authorize and encourage copying not supported by the law. The trial date has been set for May 16, 2016. The outcome of this court case will further define copyright and fair dealing in a Canadian context.

In the meantime, when you’re trying to assess fair dealing for your own teaching and classroom purposes, please refer the University of Lethbridge “[Guidelines for Copying Under Fair Dealing](#)” and, as always, feel free to contact the Copyright Office with any questions at copyright@uleth.ca or 403-332-4472.

Copyright Update continued...

¹ Parliament of Canada. (2012). *An Act to amend the Copyright Act*.

<http://www.parl.gc.ca/HousePublications/Publication.aspx?DocId=5697419&File=39#5>

² Geist, M. (2013). *The copyright pentalogy: How the Supreme Court of Canada shook the foundations of Canadian Copyright Law*. Ottawa: University of Ottawa Press, 2013. (An open access version of this book available for free download under a Creative Commons license [here](#) or through the Library catalogue.)

<http://www.press.uottawa.ca/sites/default/files/9780776620848.pdf>

Sandra Cowan
Acting University Copyright Advisor

Nominations for Nominating Committee

With the Fall General Meeting quickly approaching ULFA Bylaws require that we solicit nominations for membership on the 2014-2015 Nominating Committee. The Nominating Committee comprises the Past Chair (ex officio), the President of the Association and one additional member of the Executive, as appointed by the Executive, *in addition to five other statutory Members of the Association*.

The 2014/2015 Nominating Committee to date:

1. A. Will Smith, Past chair, Nominating Committee, ex officio;
2. John Usher, ULFA President;
3. Executive Appointee;
4. Five Statutory Members of the Association to be nominated.

Ideally, nominees will be representative of the various constituent communities of the Association and consideration will be given to gender balance.

The Nominating Committee is active in the spring semester only. Its mandate is to prepare a list of nominees to fill vacancies on the Executive and standing committees of the Association, with the election, if necessary, to take place by electronic ballot following the Annual General Meeting.

Should you be interested in letting your name stand for election to this committee, please email or phone Derrick Antson at antson@uleth.ca or call him at ext.2578. You may also nominate someone who you believe would be well-suited to this committee, as long as the Member is aware of the nomination and would agree to serve if elected.

Member Relations

The Faculty Association is always interested in hearing about how your day/week/semester is going. Whether there has been a recent personal or career accomplishment, the birth of a child, a hospital stay, the death of a loved one, difficulty in the workplace, or an improvement that you feel should to be made, ULFA would like to hear about it. After all, ULFA is here because of its Membership and we like to recognize the significant events of our Members lives.



Please keep us informed by contacting the ULFA office at ext. 2578.

Upcoming Workshops & Events

Fall General Meeting

This year's Fall General Meeting is scheduled for **Friday, December 5 from 12-3pm in room TH201**. The meeting is scheduled for the first day after the day of classes. Lunch and refreshments will be provided at no cost to Members. Videoconferencing will be available to both of the Northern Campuses. Please R.S.V.P. your attendance to Derrick via phone (2578) or email (antson@uleth.ca), this will help us ensure that enough food has been ordered and videoconferencing is not canceled for the Northern Campuses. A provisional agenda will be sent out 3 weeks prior to the meeting.

Salary, Tenure & Promotion (STP) Workshop

The Faculty Association is offering a workshop designed specifically for Salary, Tenure, and Promotion (STP) Committee Chairs and members. The workshop will be conducted by two members of ULFA's Executive Committee. Please join us. Deans and non-committee members are welcome to attend, but priority seating will be given to STP Committee members. Videoconferencing can be available for Members on the northern campuses if requested. Snacks and refreshments will be provided.

Presentations will cover the STP process as well as provide advice on chairing a STP Committee under our Handbook and how the STP Procedures relate to the Handbook. There will also be time for a questions and answer period.

Two workshops will be offered to ensure you can attend.

STP Workshop #1 – Monday, January 12
Room: TH277
Time: 10:00 – 12:00pm

STP Workshop #2 – Tuesday, January 13
Room: L950
Time: 12:00 – 2:00pm

It is not a requirement to RSVP; however, it would be greatly appreciated. To RSVP your attendance, please contact Derrick via phone (2578) or by email (antson@uleth.ca).

ULFA Academic Scholarship 2014-2015

The Faculty Association would like to congratulate the successful applicants of the *University of Lethbridge Faculty Association Academic Scholarship*. This scholarship is granted to a full-time student who is the spouse or dependent child of a due-paying Statutory Member of ULFA. Applications are due on September 30 of each academic year and are distributed in October. For more information about the scholarship, please contact the **Scholarship & Student Finances Office** (AH-151).

The following individuals will each receive \$525 for a total of \$8,400.00:

Albertina Bao
Joseph Charlebois-Perry
Dylan Darnell
Dylan Dobbie
Andrew Eng
Nathan Grigg

Jana MacKenzie
Evan Peacock
Lewis Peacock
Jessica Potter
Phillip Rockerbie
Jillian Selinger

Lisa-Marie Swanepoel
Ewan Townshend
Gabriel Visentin
Thomas Wishloff

ULFA Welcomes Amanda

With Annabree's due date quickly approaching ULFA has hired a new staff person to fill the role of Executive Director while Annabree is away. ULFA is excited to have Amanda Jensen join the team for the next few months. Amanda is grateful to have been involved in the not-for-profit industry for about the last 15 years. She started her career managing the Nikka Yuko Japanese Garden, served as the Event and Fund Development Manager of Big Brothers Big Sisters of Victoria, and eventually opened her own business serving in a fund development capacity for non-profit organizations. She has served regularly for the Chinook Country Tourist Association, Big Brothers Big Sisters, Toastmasters International, the Crohn's & Colitis Foundation, and the United Way, as well as on an as-needed basis for many community groups.

This experience is supported by a Bachelor of Management degree from the University of Lethbridge with a double major in marketing and human resource management. She recently completed an MA in Leadership through the University of Guelph.

Amanda reports that she is thrilled to be working for the Faculty Association in Annabree's absence, and looks forward to meeting and serving those that will cross her path.



Baby ULFAn due soon



Hello friends and colleagues,

As I'm writing this, it's hard to imagine what life will be like for me without being in the office and involved in the exciting/complicated/difficult/challenging activities that I see from one day to another. I will miss being a part of something to which I am wholeheartedly dedicated and I wanted to take a moment to thank you for the opportunity to work on behalf of such a wonderful organization. I have been with the Faculty Association for three years now and have learned so much about the history of our institution and the struggles for bettering the lives of academic staff. It's a worthwhile struggle with many triumphs, though it can bring its own unforeseen heartaches as well. During my absence, know that Amanda and Derrick will carry on with the utmost dedication and compassion that they each bring to their positions and, by extension, to you.

It is only because of collective organization that any of us is able to take maternity/parental leave and I am grateful to the Faculty Association for being so supportive of me. Considering that we demand fair and equitable treatment from the broader institution as the employer of our Members, it is reassuring to know the Faculty Association is an exemplar of what an employer should be when accommodating the needs of its employees; that is, ready and willing to uphold the rights of employees under the Employment Standards Code. In all honesty, what a relief this has been for me!

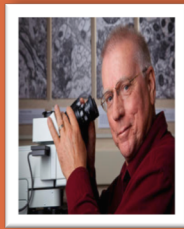
With all of that said, I am looking forward to my family growing by another two feet and being able to take the time to be home. I will see you all in March!

The ever robust,
Annabree

Meet the Executive 2014/2015



John Usher
President



Rob Sutherland
Past President



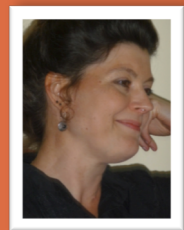
David Kaminski
*VP/President
Nominate*



Claudia Steinke
Secretary/Treasurer



Phil Jones
*Chair, Handbooks
Committee*



Wendy Faith
*Chair, Grievance
Committee*



Saurya Das,
*Chair, Economic
Benefits Committee*



Andrea Amelinckx
Board Rep



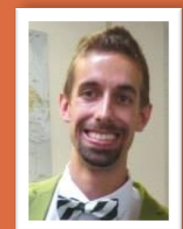
Scott Allen
*Non-Executive Member
Ombuds Officer*



Annabree Fairweather
Executive Director



Amanda Jensen
Executive Director



Derrick Antson
Administrative Assistant

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