



Copyright Corner

A new update regarding Copyright is now available.

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Annual General Meeting

The AGM is scheduled for Friday, April 15, 12:00-3:00 pm in TH204
We hope to see you there.

For more events check on page **8**

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Report on the CAUT Forum for Aboriginal Academic Staff

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Quote of the Month

“The only thing we have to fear is fear itself”

- Franklin D. Roosevelt

A Word from the President

Welcome to 2016, my colleagues.

It's just a bit before the holidays as I write this, so I'm assuming you won't be reading these remarks until January has arrived.

I thought I'd bring you up to date on the state of our Association since my last message to you. Some of these comments formed part of my report at the Fall General Meeting.

First, we haven't any news of the Ministry of Advanced Education (AE)'s planned revision to the Post-Secondary Learning Act (PSLA) to bring it into compliance with the Supreme Court of Canada (SCC) ruling asserting our right to strike, nor do we as yet have any inkling of when such word might come. We do know that the government is obligated to ensure compliance with the SCC by the end of March 2016, so that when the government does move, it will have to do so quickly.

A Word from the President continued...

If there is an opportunity for providing commentary on what the government's plans are, then ULFA expects to mount several town hall-style sessions on short notice so that we can discuss what the proposed changes will mean to us, and what we should then be saying to the government. We expect to share ideas with our counterparts at AU, UofC and UofA (the whole Confederation of Alberta Faculty Associations (CAFA) gang), too.

We're also expecting an invitation to participate in the broader review of post-secondary education (PSE) the government is undertaking. Since Lori Sigurdson is the minister responsible not only for AE, but also the ministry behind the much debated Bill 6 on farm safety, we suspect the PSE review's timeline may have slipped a bit. This review is to take place against the backdrop of our promised two-year 2% p.a. Campus Alberta grant growth, so more concrete news about the review will have to come in the new year.

This will have an impact on the business of the Association, of course. Those of you on hand for the last Annual General Meeting might remember proposed by-law changes didn't go through, and the expectation we had was that we could address those for this fall. That got bumped by the developments with government and the right-to-strike discussions. That means by-laws will now not be actively discussed until spring, and given the government's PSE agenda, we might not revise our by-laws until next fall.

I know, I know. No one sheds tears over by-laws.

Other news at the Fall General Meeting that you might find worthy of your attention: Dan O'Donnell, our Handbooks Committee Chair and Handbooks Chief Negotiator, earlier this fall answered the call for the post of Associate VP (Research), and when he made the short list, he apprised us of this development and in light of the possible conflict of interest, he recused himself from both the ULFA Exec and his ULFA committee work. Unfortunately for him (and fortunately for us), he did not win the post, and we're delighted to have Dan back participating fully in ULFA affairs.

We've also had developments on the grievance and economic benefits fronts since our last newsletter, which I expect Don Gill and Saurya Das will discuss elsewhere in this issue of the newsletter.

Our pension plan's sponsors met at the end of October to discuss recent actions of the plan's trustees. Our pension plan conducts an actuarial valuation every two years, and the most recent one, using data as at December 31, 2014, determined yet another unfunded liability. This is partly a result of using new mortality tables that better capture the greater longevity of our group, and partly a result of lowering what some would say were overly rosy estimates of what our plan's investments were able to earn (more accurately, the discount rate for the plan was revised downwards to 5.95% from the generous 6.25% that was used in the previous valuation).

As a result, the trustees have authorised a contribution rate rise from 27.06% to 28.5% of salary, effective July 1 of 2016 (for the UofL, employees and employers share the plan costs equally). This has sparked renewed interest in controlling the costs of the plan among both faculty association sponsors and employer sponsors, and to that end, the Sponsors have undertaken to re-examine the suite of plan design changes that you might remember voting on a

(continued)

A Word from the President continued...

couple of years ago. Those changes were approved in votes held by the faculty associations of UofL, UofA and UofC, and by the Board of the UofL. However, the critical support needed by both the VPs(Finance) of each of UofC and UofA was not forthcoming, and the planned changes were never implemented.

The most significant of the proposed changes would have seen a reduction in the generous early retirement provisions of the plan, reductions which could help ease the growing cost of the plan. The worry of both sponsors and trustees is that the plan as it exists is getting steadily more expensive, and we don't see any easing of contribution rates until the mid-2020s when some of our earlier-incurred unfunded liabilities are eliminated. Hence the interest in the previous plan design changes [I know, no verb there].

Finally, I'll close this lengthy epistle by mentioning that, together with the President of the Lethbridge College Faculty Association, we met with our other MLA, Maria Fitzpatrick just before the Fall General Meeting. Both our Associations were able to discuss matters of interest to us, and she assured us she would be keeping her caucus mindful of the issues we raised.

It could be a truly entertaining semester.

David Kaminski,
ULFA President



Committee Updates



Economic Benefits Committee

Hi Everyone,

Hope you had a pleasant Fall Term. I would like to remind ULFA members that the Economic Benefits negotiations (Schedules A and B of the Faculty Handbook) with the Board of Governors will commence shortly. The ULFA Economic Benefits Committee, responsible for these negotiations from the ULFA side consists of Olu Awosoga, Christopher Burton, Carla Carnaghan, Rumi Graham, Trent Takeyasu and Saurya Das (Chair).

We have received comments and feedback from some members regarding the forthcoming round of negotiations. If you have questions or comments, please feel free to let me or any other member of the EBC know.

Meanwhile I will keep the membership informed via the ULFA Newsletter and communiqués as required.

Saurya Das,
Chair, Economic Benefits Committee





+ Report on the CAUT Forum For Aboriginal Academic Staff

Surviving and Thriving in an Age of Austerity

The Canadian Association of University Teachers (CAUT) holds a conference every two years to enable Aboriginal academic staff from post-secondary institutions across the nation to come together to network and share experiences about being an Aboriginal educator in Eurocentric-based PS institutions. The 2015 forum, the 5th of its kind, was held in Winnipeg, Manitoba, November 6 & 7th, 2015. Leading Aboriginal educators from across the nation (Jo-Ann Archibald, Marie Battiste, Sheila Cote-Meek, Rainey Gaywish, Dan McDonald, Lindsay Morcom, David Newhouse, Craig Proulx, D'Arcy Vermette, Robin Vose, Cynthia Wesley-Esquimaux and Gregory Younging) were keynote speakers and session facilitators for this two-day forum to address how Aboriginal staff can survive and thrive in an age of austerity. The forum focused specifically on the Truth and Reconciliation outcomes and what their implications for moving forward in such times might be for Aboriginal educators in post-secondary education.

This year, participants were assigned to one of five breakout teams to address seven key questions around indigenizing the academy based on TRC recommendations. These included:

- What does it mean to indigenize the academy, given institutional co-option of “indigenization”?
- What is austerity’s impact on Canadian universities and colleges?
- In building inclusive academic cultures, what challenges do we face within our institutions and how can they be overcome as we move forward to implement the recommendations of the TRC?
- Informed by experience, what are some strategies that need to be developed to build inclusive academic cultures?
- What are the challenges and pressures for Aboriginal academic staff to conform and succeed in PS institutions that obstruct indigenizing the academy?
- Academic associations exist to advance their members rights but how open are they to addressing the concerns and struggles of their Aboriginal members?
- How can academic staff work with their associations to make positive change in their workplaces?

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CAUT Forum For Aboriginal Academic Staff continued...

From these discussions it was felt critical issues impacting Aboriginal academic staff success include:

- Maternity and parental leave
- Cultural and personal family leave
- Lack of mentoring
- Accommodation
- Tokenism
- Marginalization/alienation/isolation
- Unrecognized credentials
- Need for recognition of Indigenous Knowledge in hiring and promotion
- Excessive/invisible workload
- Discrimination in promotion/tenure
- Lack of recognition for Indigenous oral tradition academic pursuits and performances
- Bullying/harassment
- Valuing individual performance over collective benefit and good
- Need for Indigenous pedagogies (land-based learning, protocols, Elders, etc.) in the classroom.

Detailed outcomes of the discussion circles will be summarized and presented in a final report to come in the New Year.

In the outcomes, barriers to success for Aboriginal academic staff were identified at all levels: emotional, physical, spiritual and intellectual. Members of the Aboriginal PSE working group and CAUT staff are developing an *Aboriginal Awareness Training Workshop* for faculty associations to raise awareness about Aboriginal histories and Indigenous Knowledge and to provide strategic advice to academic faculty associations about how they can best support Aboriginal academic staff. The goal is to initially offer a one-day workshop divided into two parts. The first half would be to develop a general awareness among participants by dispelling myths about Aboriginal peoples and developing a portrait about the situation for Aboriginal academic staff across the nation. The second part of the workshop would be focused on providing faculty associations with concrete strategies to build more equitable and inclusive institutions and better employment conditions for Aboriginal academic staff. Given the U of L's Academic Plan, the Strategic Plan, the People Plan, and the variety of initiative of the Aboriginal Education Committee, in my opinion it would be beneficial for ULFA to bring this workshop to the U of L.

There are many initiatives afoot with the TRC Calls to Action. It is a challenging time as we bridge cultures and begin to discuss how best to move forward and implement the recommendations. It is critical Aboriginal academic staff have voice and be significant players in this. The next CAUT Forum for Aboriginal Academic Staff will be in 2017. Given the changing climate, to me this is too far away. If we are to bridge cultures and move forward we have to continually have dialogues about how best to do this. That being said, the forum was excellent and enlightening and it was an honor to attend on behalf of the University of Lethbridge Faculty Association.

Michelle M. Hogue (PhD)
Assistant Professor / Coordinator First Nations' Transition Program
Faculty of Arts & Science





+ Copyright Corner

New U of L Copying Environment

As of January 1, 2016 the University of Lethbridge operates in a changed copying environment. We no longer have a blanket licence as a potential permission source for uses of works requiring copyright permission. Investigations have indicated, however, that U of L course-related copying actually reliant on the now-expired blanket licence was exceedingly low. Reproduced course materials instead were found to fall most often within the University's fair dealing guidelines¹ (fair dealing being a users' right under the *Copyright Act*) or within uses permitted under Library licence agreements covering electronic resources.

Academic staff nonetheless remain responsible for clearing copyright permissions for works used in Moodle. If you download many works or just a few into your Moodle course, it is necessary in each case to determine if permission is required, and, when needed, obtain it. Feel free to contact Betsy Greenlees or me in the University Copyright Advisor (UCA) office if you would like help with permissions clearance. Alternatively, you can avoid the need for permission analyses by using links instead of downloaded files. Here, too, we are happy to help you identify stable links to Library-licensed content you wish to use as course materials.

Note that from Spring 2016 forward, if you use a restored Moodle course containing works for which needed permission was provided by the blanket licence that expired December 31, 2015, you must either obtain copyright permission to reuse those works or remove them from your Moodle course. This requirement is explained in more detail in the October 2015 letter to the University community from the Vice-President (Academic) & Provost.² Again, feel free to let Betsy or me know if you would like help in assessing the copyright and permission status of works in a restored Moodle course.

The Year Ahead

Postsecondary Tariff

Over the past five years, Access Copyright (AC) has submitted two proposed postsecondary tariffs to the Copyright Board of Canada for 2011-2013 and 2014-2017. On July 3, 2015 the Board ruled that examination of the two tariffs will be consolidated; a hearing is scheduled for January 19 to 25, 2016.³ Whether a tariff becomes mandatory for all users upon Board certification has been a disputed matter for some time.⁴ This question now looms large for institutions choosing to clear permissions outside of a blanket licence, since AC's view is that certified tariffs are mandatory.

Copyright Corner

A ruling delivered by the Supreme Court of Canada on November 26, 2015 in part addresses this very issue. As a result, we now have judicial guidance on how to evaluate the 'mandatory tariff' theory espoused by AC and other copyright owners and agents.⁵ In short, the Court does not share AC's view that certified tariffs become mandatory for all users.

Lawsuits Launched by Collectives

Speaking of hearings set for 2016, you may recall that AC filed a lawsuit against York University in April 2013 regarding York's fair dealing guidelines. This case is scheduled to be heard by the Federal Court in May 2016. As well, we await the outcome of Copibec's November 2014 motion to launch a class action suit against Laval University, the only Quebec postsecondary institution to opt out of blanket licensing.

Potential Statutory Changes

In addition, changes to the *Copyright Act* appear to be required if Canada decides to ratify and implement the Trans-Pacific Partnership (TPP) trade agreement. Article 18.63 of the TPP includes the following clause:

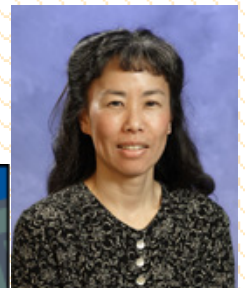
Each Party shall provide that in cases in which the term of protection of a work, performance or phonogram is to be calculated:

*(a) on the basis of the life of a natural person, the term shall be not less than the life of the author and **70 years** after the author's death . . . [emphasis added]*⁶

Under the Canadian *Copyright Act* the duration of copyright is currently 50 years after an author's death, which accords with the Berne Convention (1886). Fifty years beyond a creator's death is arguably already a generously lengthy period of protection. Extending it by 20 years thus seems questionable at the very least, in terms of maintaining balance between the public and private purposes copyright is intended to serve.

As always, if Betsy or I can assist you with sorting out copyright matters, please feel free to contact us.

Rumi Graham
University Copyright Advisor



¹ Guidelines for Copying under Fair Dealing: <http://bit.ly/1NFXz0n>

² VP Academic Letter, October 27, 2015: <http://bit.ly/11C0Geh>

³ Copyright Board of Canada ruling: <http://bit.ly/111X2Vb>

⁴ For an in-depth exploration, see Ariel Katz, "Spectre: Canadian Copyright and the Mandatory Tariff," part 1: <http://bit.ly/11YO7tl> and part 2: <http://bit.ly/2200vKl>

⁵ See the Copyright Website blog post at: <http://bit.ly/1Y7K67e>

⁶ See the Consolidated TPP Text on the Global Affairs Canada website: <http://bit.ly/1NjluJN>

Know Your Rights

Personal Files: Keep it Up-to-Date

There exists a *Personal File* for each and every academic staff member on campus that contains information related to employment and educational history. In fact, all materials considered by a personnel committee (such as a Search or STP Committee) and all materials forming the basis of a disciplinary decision (Article 25) or complaint (Article 11.02) are entered into the personal file. This file is maintained by the Dean/University Librarian and is held in his/her/their office. It is also subject to the university-wide records management policy for retention and disposal.

Far from being the passive subject matter of a file, each Member has the right to interact with the file in very meaningful ways so that it best represents them as academics. Under Article 9 of the Faculty Handbook, Members have the right to:

- inspect their own personal files;
- submit comments upon the accuracy and/or meaning of any of the contents of the file;
- add materials to and be informed about materials added to the file; and,
- equally important, but perhaps less known, is ***your right to request the removal of documents*** from your personal file (Article 9.10).

There is so much to say about Personal Files that, in the interest of keeping this article manageable, let's focus on this last issue of removal. The right to have documents removed from your file is generally important for maintaining the most accurate and relevant information, but it is also more than that. **Removing documents is crucial when it comes to matters of complaints and discipline.**

While these documents must be placed into the personal file, you should know that these documents don't have to remain indefinitely. After a period of time, you may request their removal and you are strongly encouraged to do so. In fact, at the time any letter of complaint and/or discipline are put into the file, consider having a deadline of a year, or some other appropriate period of time, included in the Dean's/UL's letter and then follow up to engage the removal process. This is your file as much as it is the University's; make sure it is up-to-date and that it reflects who you are as an academic.

As always, whenever you have questions about this or any other process, or if you find yourself in the position of having a complaint or a disciplinary action brought against you, first, contact the confidential office of the Faculty Association at ext.2328, and, second, always bring a fellow ULFA member to any meeting with your Dean/UL/supervisor.

References: While most of the information in this update can be found in Article 9 Personal Files, additional references to personal files can be found in Articles 2.20, 11.02, 20, 21, 23, 24, and 25.



Upcoming ULFA Events & Important Dates

+ Annual General Meeting

When: Friday, April 15, 2016

Time: 12:00 – 3:00pm

Where: TH204

Lunch will be provided and videoconferencing will be available.

+ University of Lethbridge Faculty Association Academic Award

The 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.

The following individuals will each receive \$1,280 for a total of \$8,960:

- Erin Bright
- Nathaniel Grigg
- Phillip Rockerbie
- Gabriel Visentin
- Jessica Vos
- Timothy Vos
- Thomas Wishloff



+ CAUT Nominations

CAUT is seeking nominations for a variety of positions:

- President
- Vice-President
- Treasurer
- Chair of the Collective Bargaining and Economic Benefits Committee
- Chair of the Librarians' and Archivists' Committee
- Co-Chair of the Equity Committee (1)
- Representative-at-large (Quebec)
- Representative-at-large (Aboriginal)
- Representative-at-large (Francophone)
- Two Representatives-at-large (General)

Deadline for nominations to all positions is March 1, 2016. If you are interested in being nominated please use this link and follow the directions:

<http://www.caut.ca/docs/default-source/default-document-library/cautexecutivecommittee-comitedirectionacppu.pdf?sfvrsn=2>

+ Academic Freedom Conference

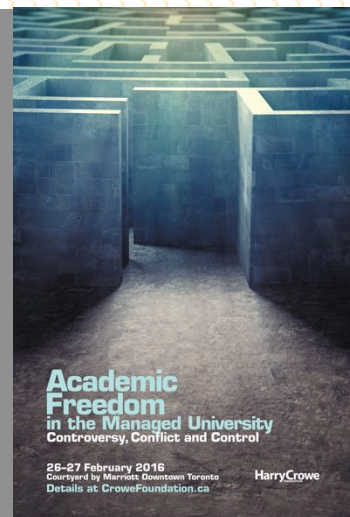
When: Friday, February 26 & Saturday, February 27, 2016

Where: Toronto, Courtyard by Marriott Downtown

The Harry Crowe Foundation will be hosting a conference dealing with Academic Freedom in the Managed University: Controversy, Conflict, and Control.

Although all academic staff members are encouraged to attend, ULFA can provide financial support to one Member to attend the forum. To apply for funding, please contact Derrick by email (antson@uleth.ca) or by phone (2578).

The registration form, hotel information, and draft agenda are available on the CAUT website at <https://www.crowefoundation.ca/registration/hcf-2016/>



ULFA's Executive Committee 2015/2016



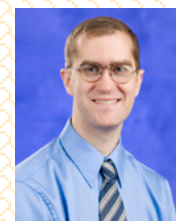
David Kaminski
President



Rob Sutherland
Past President



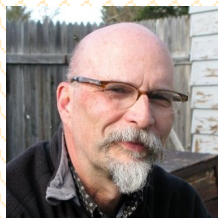
Andrea Amelinckx
VP/President Nominate



Paul Hayes
Secretary/Treasurer



Dan O'Donnell
*Chair, Handbooks
Committee*



Don Gill
*Chair, Grievance
Committee*



Saurya Das
*Chair, Economic
Benefits Committee*



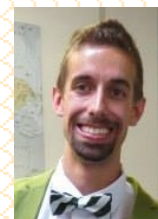
John Sheriff
*Chair, Gender, Equity
and Diversity Committee*



Scott Allen
Ombuds Officer



Annabree Fairweather
Executive Director



Derrick Antson
Professional Officer



Current and past issues of ULFA News are posted on the Association's website (www.ulfa.ca)

