

MAFA NEWSLETTER

Mount Allison Faculty Association

email: mafa@mta.ca, Room G2, Centennial Hall Tel: 364-2289 Fax: 364-2288
E-mail: mafa@mta.ca Web: www.mafa.ca

SEPTEMBER 9, 2009

It's only 295 days until the expiration of our two collective agreements...

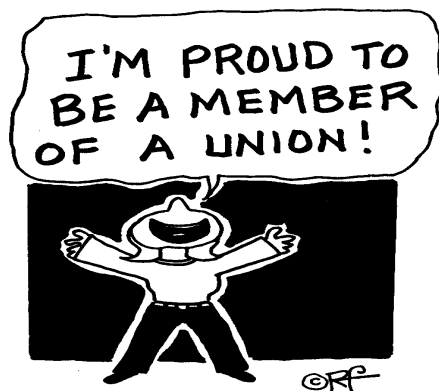
NEW MEMBERS' PARTY!

All faculty members and librarians (and their partners or spouses) are invited to attend the annual MAFA New Members' Party.

Please join us on Friday 25 September beginning at 4:30 pm at the University Club (President's Cottage, between the Avarad Dixon and the Biology buildings). There will be great food and every adult who attends will receive one drink ticket. Spouses and families are welcome, and child care costs and local taxi fares will also be reimbursed (on request, we will be happy to supply you with a blank receipt form at the welcome table).

MAFA will use this occasion to recognize the 1st annual Postdoc Appreciation Day, which is September 24th. (Why not take a Pre/Postdoc/Fellow out to lunch on the 24th?)

We hope that you will be able to attend.



PRESIDENT'S MESSAGE

I'd like to say "welcome" to all our new members, "welcome back" to those returning from leaves, and "hi" to all the rest of us who spent at least part of the summer

here in Sackville.

As you see elsewhere in this newsletter, the MAFA party is set for Friday, September 25, at the University Club. I would like to extend my personal invitation to all our members (and significant others, children, etc.) to come to this highlight of the social scene in Sackville.

Many of us were present last week at Assembly when University President Robert Campbell gave his very positive view of the University's position. Dr. Campbell explained that despite the severe economic crisis of the last year, the University's finances are in great shape, fund raising is well ahead of schedule (to the extent that the JUMP campaign will meet its goals three years early), and even with the expected decline in the "post-secondary age group" in the Maritimes, Mount Allison was able to get its biggest first year class ever. It is notable that if the University can continue bringing in 800-850 new students every year, we are looking at a considerable expansion of the university, on the order of 30%-35% over enrolments when Dr. Campbell arrived only three years ago. I imagine that administrators must now be working on a plan to recruit more faculty and professional librarians to handle the increasing student numbers.

The upcoming year is the last year of the collective agreement and, therefore, will see a lot of activity as our subcommittees work on the union positions for the negotiations to start in 2010. (They are subcommittees of the Collective bargaining committee.) Sixteen subcommittees were established over the summer, and a seventeenth is about to be formed. Chairs have been named and meetings should start later this month.

This year is the 25th anniversary of the first collective agreement between MAFA and the Employer. That agreement was signed on November 4, 1984. We intend to have a celebration of that event at the end of classes in the Fall term, on December 8.

The summer was very busy for the MAFA Executive. Unfortunately it was busy because of an increasing number of grievances. After becoming MAFA President in May, I was able to have one sit-down talk with the Provost, Dr. McClatchie, where I expressed MAFA's view that if the Employer would just follow the Collective Agreement, everything would be fine. As you can read in the Grievance Officer's report, the Employer, in our view, finds it too challenging to actually do so. It is hard to understand why, where there are clearly written rules and procedures - whether in a Collective Agreement or in the University By-law - the Employer feels entitled to ignore them.

Rick Hudson

MAFA ESTABLISHES NEGOTIATING SUBCOMMITTEES AND APPOINTS CHAIRS

As you may know, MAFA's two collective agreements were three-year deals that expire on June 30, 2010. Therefore, MAFA is beginning its preparation for collective bargaining, which it expects will begin next spring or early summer.

The Collective Bargaining Committee, which is comprised of Zoe Finkel (Chair), Jeff Lilburn, Helen Pridmore and Erin Steuter, will coordinate the preparation process.

MAFA has created 17 subcommittees that will address various aspects of the current agreements. A chair for each subcommittee has also been appointed, and they will recruit 2-3 members to look over the agreement, along with best practices at other Canadian institutions, and consult with the membership.

The subcommittees are:

Academic Freedom and Privacy Rights, Janine Rogers (English);
Appointments, Paul Berry (Commerce);
Benefits, Gina Grandy (Commerce);
Collegial Rights, Ivan Cohen (Classics);
Department Heads, Tamara Small (Political Science);
Equity, Bruce Robertson (Classics);
Evaluations, Renata Schellenberg (Modern Languages);
Intellectual Property, David Fleming (Physics);
Librarian Issues, Anita Cannon (Library);
Monetary Issues, Nauman Farooqi (Commerce);
Retirement and Early Retirement, Berkeley Fleming (Sociology);
Sabbatical/Librarian Leaves, Cordula Quint (Drama);
Tenure and Promotion, Mike Fox (Geography);
Union rights, Bob Rosebrugh (Math and Computer Science);

Unit II (part-time) issues, Toni Roberts (Psychology);
Workload, Diana Hamilton (Biology);

A Childcare subcommittee has also been created but a chair has not been recruited yet.

If you are interested in serving on one of these, please contact the chair.

Once these subcommittees report, the Collective Bargaining Committee will pull together the reports into a negotiating package.

MAFA is pleased to announce that Steve Law (Economics) has agreed to be Chief Negotiator for this round. He participated on the team for the first part-time (unit 2) contract as well as the process that yielded the current contracts.

He will be making recommendations on the membership of the Negotiating Team in the coming months.



GRIEVANCE REPORT

1. *Hiring outside the bargaining unit.* Union grievance. MAFA filed for arbitration on June 11, 2009 over a permanent position advertised for a Library Information Systems Specialist in the Library (appointed to the MASA bargaining unit) with a job description outlining responsibilities which are the responsibilities of a professional librarian. The panel of three arbitrators has been selected and hearing dates have been set for November 3-4, 2009.

2. *Tenure denial.* Individual and union grievances. The arbitration in the tenure denial case which MAFA has been pursuing since January 2009 resumed in June with written submissions by the Employer and MAFA on the question of standing. To consider a case on 'the question of standing' means setting aside any consideration of the

merits of the case itself to determine whether or not the arbitrator has jurisdiction to hear the case in the first place. The Employer argued that the tenure denial case should not be heard at arbitration on a number of grounds: first, that tenure at Mount Allison is not a decision for which the Employer is responsible (on account of the faculty majority on the Tenure and Promotion Committee); second, that Article 17.07 of the Collective Agreement does not allow any decision of the Tenure and Promotion Committee or subcommittee to be submitted to grievance and arbitration; and third, that the provisions for an Internal Review Committee (IRC) in Article 17.25-27 of the Collective Agreement satisfy the requirements of the New Brunswick Industrial Relations Act, which grants to all unionized employees the right to “arbitration or otherwise” on any differences arising in the interpretation of Collective Agreements.

On July 24, 2009 the arbitrator, Geoff Bladon, issued his decision. He ruled in favor of the Employer but did not accept all of its arguments. In particular, Bladon ruled that tenure at Mount Allison is a decision for which the Employer is responsible, and that Article 17.07 disallows grievance and arbitration on the tenure decision itself but does not disallow grievance and arbitration on the processes involved in reaching that decision.

He did however accept the Employer’s argument that the IRC provisions in the Collective Agreement satisfy the requirements of the Act in providing an adequate substitute for an outside arbitration process, and dismissed the tenure denial case on these grounds. This means that the decision to deny tenure at Mount Allison - including the decision of the IRC to which this original decision may be appealed - is not subject to grievance and arbitration. Because it is an interpretation of a provincial statute the arbitrator’s decision affects not only members of the bargaining unit at Mount Allison but all unionized employees in the province and establishes a precedent for the interpretation of similar provisions in jurisdictions across the country. MAFA is consulting with its legal counsel and with CAUT on its next steps in this case.

3. Appointments to the Ron Joyce Centre for Business Studies. Two related union grievances, filed August 4, 2009. The first union grievance concerns a letter of appointment which appoints a member of the bargaining unit to a tenure track position in the Ron Joyce Centre for Business Studies. Article 16.24 of the Collective Agreement requires that letters of appointment specify “the department or departments” to which the member is appointed. Article 1.01(h) defines department as an “academic department or school of the University.”

MAFA’s position is that the Ron Joyce Centre for Business Studies (RJCBS) does not qualify as a department under Article 1.01(h) because it has not been created by Senate. According to the University’s own by-laws, Senate alone is empowered to create academic

departments and schools of the University.



The second related union grievance concerns the appointment of the Director of the RJCBS. This position was advertised as an administrative appointment outside of the bargaining unit but MAFA believes that the responsibilities associated with the position are the responsibilities of members of the bargaining unit. Furthermore, the various processes followed in the appointment of the Director involved violations of the Collective Agreement, in particular: the appointment was made “with tenure” with the consent of a Tenure and Promotion subcommittee but not, as 16.08 requires, the entire Committee and not, as with past practice, with the collegial participation of the candidate’s Department; the appointment process itself was undertaken without the involvement of the entire Commerce Department; and although the Employer maintains that the Director is the Head of the Department of Commerce it has not followed any of the provisions of Article 18 on the appointment of Heads of Departments and Program Directors.

The Employer issued its response to these grievances on September 4, 2009, arguing that there have been no violations of the Collective Agreement in either appointment, most notably: that the RJCBS and the Department of Commerce are “one and the same” and that, since the position of Director of the RJCBS does not fall within the bargaining unit, the provisions of the Collective Agreement either do not apply or, where they do apply, have been followed, or, even where they have not been followed exactly, have been followed closely enough. Even though it agreed to suspend time limits on the filing of these grievances, the Employer also argues that time limits have been exceeded and therefore the grievances have no standing. MAFA is currently considering whether or not to file for arbitration in these two cases.

Loralea Michaelis

MAFA ADDS SOCIAL EVENT TO HONOUR CONTRIBUTORS TO COLLECTIVE BARGAINING

Twenty-five years ago this fall, the MAFA membership ratified our first collective agreement, so MAFA has decided to hold a special social event to honour members, many now retired, who contributed to MAFA's certification under the province's Industrial Relations Act, and who negotiated the first and subsequent collective agreements.

The event will be held on Tuesday, December 8th at 4:30 pm at the University Club.

Members who were here at the time will remember that MAFA was not certified with ease. The Employer opposed the certification, arguing at the provincial Labour Board that faculty and librarians were "managers" and should not be allowed to form a union.

MAFA won that battle and has proven since that it is a responsible member of the community and an effective means for academic staff to defend their rights, including academic freedom, and improve their terms and conditions of work.

We hope to see you there!

UPDATE ON MAFA'S DUES INCREASE

At the Annual General Meeting this past April MAFA members voted to increase MAFA union dues from 1% to 1.1% of salary. That 1.1% of salary is still below the average dues rate for Maritime academic staff associations.

However, because of our on-going legal expenses associated with the increased number of grievances and arbitrations over the last year, MAFA resources have declined below \$150,000. Under By-Law B.4 of the MAFA Constitution, your Executive was required to increase temporarily MAFA dues to 1.4% of salary in order to increase resources above the required level.

The purpose of these savings is to fund grievances, arbitrations or strike action, should any of these become necessary.

To quote from the by-law, "The rate of dues shall revert to [1.1%] when the Executive determines that two successive quarterly financial statements indicate the Reserves have been restored to at least \$150,000."

You will be kept updated regarding our progress towards restoring our Reserve fund.

WANT TO GO PAPERLESS?

We now live in a world in which many people want to minimize the use of resources like paper. Every year, MAFA asks members to contact the office if they want to receive only the electronic, PDF version of this newsletter.

People who said last year that they are content to receive just the efile will continue to receive it. If you get a hard copy over the next few days and you only want to get the efile, please email your preference to us.

Also, if you've changed your mind and want to get the hard copy, please email MAFA and let us know that you want to be added to the paper copy list.

SCHEDULE OF EVENTS, 2009-10

Please mark these dates on your calendar:

New Members' Party, Friday, September 25th, 4:30 pm, University Club.

Fall General Meeting, Tuesday, December 8th, 1:30 pm, Avard Dixon G12

MAFA 25th Anniversary Celebration – Tuesday, December 8th, 4:30 pm, University Club

Spring Annual General Meeting, Monday April 12th, 3 pm, Avard Dixon G12

Retiring Members' Party, April 12th, 4:30 pm University Club

MAFA 2009-2010 EXECUTIVE

Richard Hudson - President (Commerce)

Peter Brown - Past President (English)

Jeff Lilburn - Vice President (Library)

Rob Cupido - Unit 2 (History/Continuous Learning)

Maritza Fariña - Membership (Modern Languages and Literatures)

Zoe Finkel - Collective Bargaining (Geography and Environment)

Gina Grandy - Treasurer (Commerce)

Loralea Michaelis - Grievance (Political Science)