

# MAFA NEWSLETTER

**Mount Allison Faculty Association**  
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**November 2014**

## **PRESIDENT'S MESSAGE**

As the semester draws to a close MAFA members have reached the near-conclusion of the arbitration process which began with the Memorandum of Agreement on Binding Arbitration that we signed with the Employer on February 16, 2014. We are now closer than ever before to settling our new Collective Agreements.

This newsletter is unusual for the length and detail of the Grievance Report. MAFA has been experiencing an expansion in the number of violations of the Collective Agreement in the past 18 months, with a marked increase in the last six months. In 2014 alone a total of 22 grievances have been filed. The injurious management practices that we witnessed in this past round of collective bargaining are plainly evident in the Employer's approach to administering our Collective Agreements this year. Longstanding provisions in sensitive areas such as tenure and promotion have been breached, our system of performance evaluation has become a testing ground for the abuse of authority, and policies and processes bearing on carefully negotiated language in the Collective Agreement are announced and implemented without any consultation with the union. Since the strike and especially since the nonconfidence vote there has been a concerted on- and off-campus campaign to rehabilitate the public image of Mount Allison as a fair and reasonable Employer. But for those of us who work here, and, as the Grievance Report testifies, above all for those members whose working lives have been directly affected by the Employer's disregard of the Collective Agreement, the reality is very different.

A Collective Agreement is not a catalogue of best practices, to be followed when expedient. It is a contract, an exchange of promises between two parties who earn the right to make promises by demonstrating a capacity to keep them. In its chronic violation of the Collective Agreement the Employer has demonstrated a willingness to break its promises. Whether the trust that has been lost as a result can be recovered remains to be seen.

We are mindful of the courage on which this association is based. It is the courage to speak up, even when the entire room is falling silent. It is the courage to stand up for each other, even when that means standing the gaff. Holding the line and pushing it forward during this round of collective bargaining has required this kind of courage, from the first sessions at the negotiating table way back in June 2013 through to the strike and the submission of the final arbitration documents in October 2014. Defending our new Collective Agreements against their erosion under this administration will require this kind of courage.

In the meantime, we dance.

Loralea Michaelis  
President

## REPORT ON ATLANTIC CANADA FACULTY ASSOCIATION MEETINGS

I attended the fourth annual meeting of Atlantic Chief Negotiators at Saint Mary's University (SMU) organized by ANSUT (the Nova Scotia version of FNBFA) on October 18. The meeting was attended by representatives of about 10 associations from Atlantic Canada. We discussed a wide range of issues from recent experiences in bargaining to concerns administration initiatives.

I was particularly interested to hear about the recent collective bargaining experiences at the Nova Scotia College of Art and Design (NSCAD). Their employer has retained Brian Johnston for the last two rounds of collective bargaining. They have been unable to determine his fee, but estimate it at \$250,000 for each round. NSCAD shares another characteristic with Mount Allison: their Board chair, Grant Machum, is a partner at Stewart-McKelvey, as are our current and one of our past board chairs (James Dixon and Brian Johnston). The question arises as to whether it is a conflict of interest for a partner at a law firm to hire another partner at the same firm to do work for the university.

A few other universities in the region have retained lawyers for collective bargaining. UNB used a lawyer in the 2010 round of negotiations. The cost of legal services for three contract negotiations (full-time, part-time, graduate students) was reported in Senate as \$870,000, with \$330,000 of that amount for the conciliation board process.<sup>1</sup> Disclosed legal fees at NB universities are available from FNBFA.<sup>2</sup>

The national trend of evaluating academic units using the Program Prioritization Process (PPP) has spread to Atlantic Canada. StFX is just concluding its process and has a report.<sup>3</sup> The Nova Scotia

government may be intending to fund universities in a more fine-grained way which could lead to de-funding or selective-funding of programs rather than universities.

I learned of some contract provisions which may be of particular interest to MAFA members. At Acadia, the class-size for a part-time instructor is limited to 60 students. At NSCAD a course with more than 90 students comes with a course release and so is effectively two courses. The association at SMU (SMUFU) receives 2.77% of the total salary mass to pay for health benefits from their employer and about \$40 per pay period from each employee. The health plan is administered through a trust by the association. According to a report MAFA commissioned, at MtA the Employer pays 1.51% of our salary towards health benefits.

Andrew Irwin  
Chief Negotiator

## REBUILDING YOUR MAFA DEFENCE FUND

During the strike earlier this year MAFA was able to provide non-taxable strike pay of about \$1000 per week including the bonus paid at the end of the strike. Somewhat over half of strike pay was funded by strike benefits from the CAUT Defence Fund (just under \$600/week). The rest was possible because MAFA has its own \$200,000 Defence Fund.

MAFA's By-laws provide that if the Defence Fund falls below its mandated size (as happened last February) there is a temporary increase in our dues rate. The temporary rate increase was set at 0.3% of salary some years ago. When the Fund returns to its full value the dues rate reverts to normal (currently 1.1%).

Your Executive has carefully considered the rebuilding rate of the MAFA Defence Fund in today's climate of aggressive employer tactics.

In order to assure timely access to the full Defence

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p/files/TFReport\_FINAL.pdf

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<sup>1</sup>See bottom of page 6:

[http://www.unb.ca/secretariat/resources/pdf/fredericton-senate-minutes/2010-11/fredsenmin\\_25jan2011.pdf](http://www.unb.ca/secretariat/resources/pdf/fredericton-senate-minutes/2010-11/fredsenmin_25jan2011.pdf)

<sup>2</sup>[http://www.fnbf.ca/images/Overview\\_of\\_legal\\_costs\\_of\\_NB\\_universities.pdf](http://www.fnbf.ca/images/Overview_of_legal_costs_of_NB_universities.pdf)

<sup>3</sup>[http://sites.stfx.ca/academic\\_vp/sites/sites.stfx.ca/academic\\_v](http://sites.stfx.ca/academic_vp/sites/sites.stfx.ca/academic_v)

Fund when needed, the Executive is bringing a proposal to next week's General Meeting. It will enhance rebuilding of the Defence Fund and is planned to ensure that the Fund is restored by autumn of 2016, while affecting the average member's bimonthly take-home pay by only about \$5. The proposed By-law change will increase the emergency temporary rate from 0.3% to 0.5% effective January 1, 2015. Like strike pay, your MAFA dues are completely tax deductible.

## GRIEVANCE REPORT

At the time of the September newsletter, there had been 11 grievances filed in 2014. Now the number has risen to 22. The eleven new grievances cover a number of areas.

In addition, I'd like to report that we have now received two arbitration decisions on grievances filed over the summer.

The numbering system introduced last year is very handy: we refer to grievances by the calendar year, followed by the number of the grievance that year. The most recent grievance filed is thus 2014-22.

### Grievances over the operations of the Tenure and Promotion committee

The Tenure and Promotion committee is established by the collective agreement. The committee consists of the Vice-President, Academic and Research, as Chair, the Deans, 4 elected faculty members, and 3 faculty members elected as alternates. Its role is to grant (or refuse to grant) tenure or promotion.

Grievance 2014-08, concerned violations which we allege took place in the Tenure & Promotion committee during 2013-14. As noted in the September newsletter, this grievance did move on to an expedited arbitration. The union grievance was filed in June, the grievance meeting with the Employer occurred at the beginning of July, there were two days of testimony in September (the 5<sup>th</sup> and the 24<sup>th</sup>), and a half-day on October 17 for final arguments. The final submissions were made on October 24. The arbitrator, Mr. Guy Couturier, rendered his decision on November 14.

The main violations MAFA alleged were the decision of the subcommittee, under its Chair, to write "evaluative" letters, which explained why the committee granted tenure or promotion. The letters were then placed in employees' Official Files. While some of the letters celebrated the achievements of faculty members, some comments were very negative, even for those who were granted tenure or promotion. MAFA argued that the T&P subcommittee was not authorized to write such letters. The arbitrator found for MAFA.

MAFA also alleged that the subcommittee made many decisions without all members present, and in fact several decisions were made by email. One decision to promote was made with two members of the committee not physically present. The arbitrator found that given the exceptional circumstances in that particular case, that use of audio-conferencing was reasonable.



Grievance 2014-11 was filed in response to a new set of violations which came to light in the course of investigating 2014-08. The union grievance was filed in August and was also moved to expedited arbitration. There was one day of testimony on October 16, followed by a half-day of final arguments by the lawyers for the two sides on October 30. The arbitrator, Cedric Haines, rendered his decision on November 19.

The grievance had to do with violations involving

the use of external referees, in particular: the requirement of the rank of full professor for external referees for promotion to full professor; the requirement and definition of an “arm’s length” relationship between the candidate and the external referee, including the creation of a document which external referees are required to sign; and requests of more names of external referees beyond the October 1 deadline. On all three counts the arbitrator found that the Employer was in breach of the Collective Agreement. The Arbitrator’s decision was clear. He wrote:

“I hereby declare that:

1. The requirement of the rank of full professor for external referees for promotion to full professor was in breach of the Collective Agreement;
2. The Chair of the Tenure and Promotion Committee’s requirement and definition of an "arm’s length" relationship between candidates and external letter writers, including the creation of a document which external referees are required to sign was in breach of the Collective Agreement; and
3. The decision to request more names of external referees from a candidate . . . was in breach of the Collective Agreement.”

The Couturier and the Haines arbitration decisions reaffirmed the Employer’s responsibility for ensuring that the operation of the T&P Committee does not violate the Collective Agreement. The Couturier decision was also noteworthy for establishing, in reply to a countersuit filed by the Employer, that members of T&P are not violating their duty of confidentiality if they notify the union of procedural faults in the operation of the T&P Committee. This is an important protection for our members on T&P.

The clock has been stopped on Grievance 2014-12 until 10 days after the decisions were rendered in the two arbitrations. This grievance deals with violations we allege occurred in the Tenure & Promotion committee in the current academic year.

Grievance 2014-22 concerns yet other violations in the operations of the T&P subcommittee this year.

### Evaluation Grievances

The four evaluation grievances we have filed are grievances 2014-14, -15, -17, -18. There seems to have been a “spike” in “unsatisfactory” evaluations of faculty in their annual or biennial performance evaluations as issued by the deans over the last two years. Of the four cases we are grieving, two have to do with “unsatisfactoriness” in teaching and two with “unsatisfactoriness” in research. These grievances cover all three faculties. In addition, we are grieving a letter of discipline issued to one faculty member (2014-19) as a penalty for receiving an evaluation of “unsatisfactory.” Disciplinary measures permitted under the collective agreement consist of (i) a letter of warning, (ii) a letter of reprimand, (iii) suspension with pay, (iv) suspension without pay, and (v) dismissal. Grievance meetings have been held with the Employer’s grievance officer (R. Inglis). All grievances have been denied, with the exception of one, where a resolution was offered which is under consideration. We have stopped the clock on these grievances until December 19, by which time we will decide whether to go to arbitration.

### Other Grievances

We have also filed a grievance for a letter of reprimand issued to one of our members (2014-16). The grievance meeting with the Employer’s grievance officer has been held. A resolution proposed by the Employer is still under consideration.

Two related grievances (2014-20 and -21) have been filed regarding a violation of Article 13 on the confidentiality of official files. The union alleges that a member of the administration took information from the official files of several full-time members and of at least one part-time member, and revealed this information to a third party without permission. The grievance meeting with the Employer’s grievance officer has been held. The Employer admitted to the facts of 2014-20, and

offered a resolution that the union is still considering.

There are still four grievances gradually moving towards arbitration which date from before my taking on the position of Grievance Officer. An arbitration date of February 18, 2015, has been set for 2013-07. It concerns the York Street Children's Centre, where the Employer claims not to be responsible for replacing flooring judged necessary by the provincial inspector for health & safety reasons, despite the Memorandum of Agreement with MAFA where it commits to "maintain the facility for the York Street Children's Centre". Arbitration dates are being discussed for grievances 2013-01 (Provost's T&P presentation) 2013-05 (Departmental Annual Reports), and 2014-06 (Sabbatical Replacement Policy).

Grievance 2014-13 on the research stipend form for part-time faculty has been settled.

Richard Hudson  
Grievance Officer

**MAFA REPRESENTATIVE'S REPORT ON  
CAUT LIBRARIANS' CONFERENCE**

Got austerity? Get organized. About 60 librarians and archivists from 44 universities and colleges across Canada practiced campaign activism at the 2014 CAUT Librarians and Archivists Conference held at Ottawa's Chateau Laurier Oct. 31 and Nov. 1. The conference, called "From Talk to Action: Building Successful Campaigns," aimed to teach participants how to take an issue such as budget cuts or deprofessionalization and launch a successful campaign designed to restore and protect vital academic roles and principles. "We need to plan and execute campaigns, to get our message out and mobilize others, to apply pressure where it is needed and to force positive change throughout our sector—and, hopefully, the wider society," said Robin Vose, CAUT president, in his opening address.

Toward that end, on Day 1 of the conference delegates studied successes and setbacks of recent campaigns and learned the basics of

communications and design. Panellists from CAUT, CUPE and the Canadian Federation of Students explained the steps they take to transform a problem or issue into a full-blown campaign aimed at fixing the problem or creating social and institutional change. CAUT's Get Science Right campaign, for example, which focuses on the Harper government's science cuts and muzzling of scientists, has generated public debate that shows Canadians "do not appreciate governments who think it's OK to pile records into dumpsters and furnaces," said Robin Vose, referring to the closure and destruction of federal science libraries.

Day 2 of the conference moved from talk to action as delegates broke into six groups and built campaigns around scenarios that might affect academic libraries: crumbling facilities, deprofessionalization, and violations of freedom of speech. Groups presented their campaigns—including posters and press releases—in fast-paced pitches, while CAUT staff played journalists and asked the tough questions any faculty association may face in a campaign that gets media attention.

For me, the conference was a tremendously useful opportunity to learn the concrete steps required to organize a campaign to protect academic libraries.

Laura Landon  
Ralph Pickard Bell Library

**JOINT LIAISON REPORT**

Article 6 of the Collective Agreement allows for representatives of MAFA and representatives of the Employer to meet on a regular basis to review and hopefully resolve any matters of concern – beyond any issues that are currently being resolved under a grievance or arbitration procedure.

The Committee has met four times since the new MAFA Executive started its work in May, and these meetings were held in May, June, October, and November. MAFA has brought many items for discussion to these meetings with the Employer. At the May and June meetings we discussed items such as public disclosure of testing data on lead in the drinking water on campus, the status of the Decanal

Reappointment Advisory Committee in Social Sciences, institutional cooperation through the “U-4 League” and the collective agreements, and the inclusion of “summary and self-reflection” in Official Files.

At the October and November meetings we discussed one ongoing issue from the Spring involving the balance of privacy and intellectual property rights with the rights of students with disabilities seeking accommodation. In addition, we discussed the McCain elevator and the priority of physical accessibility in the McCain building, the role of MAFA members in performance assessment of MASA staff, concerns over changes to procedure in Research Stipends hiring, and recent experience in the evaluation system.

The next JL meeting is set for December 18<sup>th</sup>. If members have any issues or concerns, feel free to contact the MAFA office.

Jane Dryden, Collective Bargaining Officer  
David Thomas, Vice President

## **MAFA 2014-2015 EXECUTIVE**

**Loralea Michaelis, President  
(Politics and International Relations)**

**David Thomas, Vice-President  
(Politics and International Relations)**

**Zoe Finkel, Past President  
(Geography and Environment)**

**Robert Rosebrugh, Treasurer  
(Mathematics and Computer Science)**

**Jane Dryden, Collective Bargaining  
(Philosophy)**

**Michael Fox, Membership  
(Geography and Environment)**

**Richard Hudson, Grievance Officer  
(Commerce)**

**Lori Ann Roness, Part-time Officer  
(Sociology/ MASSIE)**

**Andrew Irwin, Chief Negotiator  
(Mathematics and Computer Science)**