

# MAFA NEWSLETTER

## Mount Allison Faculty Association

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March 26, 2010

It's only

**96**

**days until the expiration of our two collective agreements...**

### ANNUAL GENERAL MEETING

The Mount Allison Faculty Association will hold its Annual General Meeting on Monday, April 12<sup>th</sup> at 3 pm, in Avarad Dixon Room G12.

At this meeting we will elect a new executive, receive committee reports, and approve the 2009 audited financial statements.

Afterwards, we will hold our Retiring Members' Party, beginning at 4:30 pm, at the University Club.

This year, we will be honouring Paul Bogaard, Rebecca Burke, Jack Stewart and Lex Wilson, all of whom are retiring.

Please be sure to attend both events!

The current Collective Agreement comes to an end in three months (on July 1), but under provincial law, it remains in force for one year unless replaced by a new contract. Although in the past we have negotiated throughout the summer and fall before arriving at a new agreement, it is our hope this year to move more quickly. It is simply better for all of us at Mount Allison to resolve the uncertainty that labour negotiations occasion, and, as you can read in the Chief Negotiator's report, changes in the government's treatment of negotiations also make delay undesirable.

We hope to have a good turnout for the AGM and the Retiring Members' Party on April 12. Later in April (the 28th), the AGM of the FNBFA will be held at Mount Allison.

Rick Hudson, President

### CHIEF NEGOTIATOR'S REPORT

*Stephen Law, Chief Negotiator for the Mount Allison Faculty Association*

On February 18, 2010, the NB Minister of Post-Secondary Education, Training, and Labour decided to appoint a Conciliation Board to make recommendations regarding the negotiations between the administration of the University of New Brunswick and AUNBT, the faculty association at UNB. This marks the second time in recent years that a Conciliation Board has been appointed for negotiations in the university sector in New Brunswick. In February of

### PRESIDENT'S MESSAGE

As you can read elsewhere in this newsletter, MAFA is busy preparing for negotiations, which will begin shortly after convocation. There is still a lot of work to be done, but the Collective Bargaining Committee is hard at work, and our Negotiating Team is also getting ready.

2008, the Minister of Labour appointed a Conciliation Board to make recommendations regarding the negotiation between the administration of the Université de Moncton and ABPPUM, the faculty association at U de M.

*We must take seriously, therefore, the possibility that the Ministry of Labour will decide to appoint a Conciliation Board to make recommendations regarding the negotiations between the Mount Allison Faculty Association and the Employer.*

In May of 2010, the MAFA negotiating team and representatives of the Employer plan to begin negotiations aimed at reaching a new collective agreement. If these negotiations result in a tentative agreement, the negotiating teams will recommend this package for acceptance. If the Board of Regents and the membership of MAFA vote in favour, the agreement is ratified. Sometimes additional steps are needed before the negotiation teams settle upon a tentative agreement.

The most common additional step is conciliation. Conciliation is a process separate from arbitration or mediation. The conciliator is a provincial public servant named by the government on the request of the parties. It is not normal practice for contract negotiations at Mount Allison to involve mediation or arbitration, but almost all of our negotiations over the years have involved conciliation.

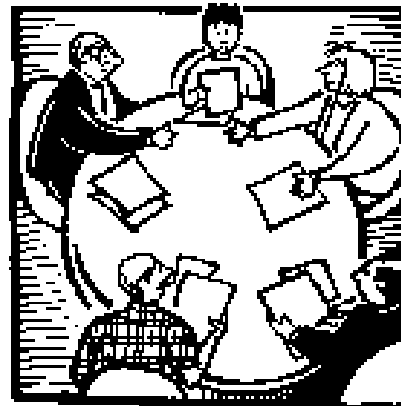
Conciliation is a process intended to facilitate successful negotiations and it is a step required by law before there can be a strike or lock-out. The Employer may choose to lock-out its employees to increase pressure to settle and to save money on salaries during the lock-out. A strike is a work stoppage intended to pressure the Employer to settle. Neither can occur prior to conciliation. Conciliation does not mean a strike or lock-out is inevitable: in fact, *in the last two bargaining rounds, the bargaining teams of MAFA and of the Employer arrived at the basis for a tentative agreement during conciliation in December, with no Conciliation Board, no strike, and no lock-out.*

Prior to 2008, the practice had been that a conciliator would assist in bargaining, if one of the parties requested conciliation. If the conciliator did not see that an agreement was imminent, a "no-board" report was issued and, after seven days, the parties could proceed to workplace action such as strike or lock-out. The "no-board" report in this case is a recommendation against the appointment of a Conciliation Board. Regardless of the report from the conciliator, the

Minister of Labour may decide to appoint a Conciliation Board but in the past has refrained from interfering in the usual steps of the negotiation process by taking the unusual step of appointing a Conciliation Board.

Despite its name, a Conciliation Board is very different from the conciliation procedure. A Conciliation Board is a 3-member panel. Each party to the negotiations names (and pays for) one member of the Board: the union side person and the employer side person. These two side persons choose a third person to serve as Chair. The Board receives submissions from each party and then issues a report with recommendations. Once a Board is appointed, it has 14 days to make recommendations to the Minister but the Board's deadline may be extended at the discretion of the Minister of Labour. In the case of the Université de Moncton, the Minister called for a Board on February 18, 2008, but the Board did not schedule its final hearings until late June 2008 (an agreement between the parties was reached earlier in June, so the Board never finished its work). The Board's recommendations are not binding unless both parties agree in advance in writing to be bound by the recommendations. Seven days after the report is released by the Minister of Labour, the

Employer may lock out its employees or the Association may go on strike (given a successful strike vote).



Timing is important. In the past, the parties at Mount Allison have called for conciliation toward

the end of the Fall Term, but now that may be too late. The appointment of a Conciliation Board that takes three months or more to complete its work may effectively delay the possibility of a strike until after classes are over for the Winter Term. Since a summer strike does not put as much pressure on the Employer as one held in the Winter or Fall Terms, faculty unions have come to view these appointments of Conciliation Boards as an unfavourable development which in the long term may actually harm the university by causing the uncertainty around labour negotiations to continue for months. Further, a long delay before settlement poses additional problems. Since the provisions of a collective agreement continue in force only for one year following its expiration, if no contract is reached by June 30, 2011,

the Employer would then be able to impose terms and conditions of employment. For example, our members might be required to teach 6 or 7 courses per year.

Typically, neither party starts negotiations with the intention of calling a strike or locking out its employees. But the threat of work stoppage keeps the negotiating teams at the negotiating table, making proposals designed to move the process toward a tentative agreement. The appointment of a Conciliation Board can serve to delay and interrupt this process.

At the University of New Brunswick, AUNBT did not expect the Minister of Labour to interfere in collective bargaining in this way. Many commentators have observed that there is not likely to be any strike at UNB until after the summer, after their collective agreement is no longer in force.

"AUNBT is surprised by the minister's decision to appoint a conciliation board because it interferes with the process of free collective bargaining and is rarely done. When negotiating teams fail to reach a collective agreement despite the assistance of a conciliation officer, usually the minister responds by making what is called a "no board" announcement. Soon after, the parties enter a legal strike/lock-out position. Appointment of a conciliation board delays that timing. It will take weeks to appoint conciliation board members, schedule and conduct hearings and then submit recommendations to the minister. During all this time the parties have no inducement to return to the bargaining table with new proposals."

<http://aunbt.caut.ca/documents/FAQSCBoard.pdf>

What does this mean for MAFA? Will our situation be as deteriorated as that of AUNBT?



No, since we can see this coming. Some minor concerns arise: the necessity to file

for conciliation several months earlier than usual, reduced reliance on a conciliator to assist the negotiation process, the need to evaluate carefully any recommendations which issue from a source external to Mount Allison University, and the financial implications of paying for the union side person and, perhaps, some of the cost of the Chair of the Conciliation Board.

The four areas of impacts of this new use of Conciliation Boards are:

a) **Timing:** in past negotiations, we have moved to conciliation in the Fall. This time, we will need to move earlier. Negotiations will continue in the presence of the

conciliator and if a Board is appointed negotiations may continue while the Board carries out its process. MAFA members should be prepared for this outcome: early conciliation is only a sign that the provincial government has been changing the usual procedures for collective bargaining.

b) **Reduced effectiveness of the conciliator:** as noted earlier, in the last two contract rounds the negotiating teams of MAFA and of the Employer arrived at the basis for a tentative agreement in December during conciliation. But if conciliation has been turned into a step to pass through on the way to making submissions to a Conciliation Board, it would no longer be as successful in getting the parties to come to an agreement, since it will no longer be the last step before job action.

c) **Recommendations from outside the Mount Allison community:** A conciliator makes no formal recommendations that pertain to the terms and conditions of employment. A conciliator typically participates informally in the negotiating process and eventually submits a "board" or "no-board" recommendation. In contrast, a Conciliation Board makes recommendations regarding the terms and conditions of employment to the two parties. These suggestions could range from innovative and exciting to hopelessly unsuitable depending on how thoroughly the Board members understand Mount Allison and how carefully they craft their report. MAFA members should be aware that these recommendations are not binding: there is no requirement that we abandon our understanding of our circumstances in favour of the Board's.

d) **Cost:** MAFA would need to pay the union side person as much as \$1000 per day of meetings of the Conciliation Board (plus expenses), and would need to pay one-half of the expense of the Chair, which could easily amount to \$800 per day. It is likely that a Conciliation Board would cost MAFA between \$20,000 and \$30,000.

The Ministry of Labour sets the rules and the negotiating parties make their decisions in turn. The Ministry has decided to rely more on Conciliation Boards. This development might deliver some benefits for Employers when it comes as a surprise. But as a regular practice, the increased use of Conciliation Boards represents a step backward for labour relations at universities in the province of New Brunswick.

### MAFA HOSTS CAUT COLLECTIVE BARGAINING TRAINING

MAFA recent hosted Neil Tudiver and Chantal Sunderam of CAUT for two days of collective bargaining training. MAFA members who participated included Stephen Law,

Anita Cannon, Rob Cupido, Gina Grandy, Andrew Irwin, Juan Carlos Martínez, Renata Schellenberg, and David Thomas.

## REPORT ON FNBFA

The last year has been a busy one for the Federation of New Brunswick Faculty Associations (FNBFA). President Linda Lequin and Executive Director Gilles Allain have spent considerable time lobbying and networking on behalf of member unions.

Much of this activity involves meeting with Ministers, government employees, and other politicians in order to make sure they understand the concerns of university faculty and librarians and the post-secondary education sector more generally. Other activities include writing press releases, letters to editors and to politicians, speaking publicly on post-secondary education, and so on. Within the FNBFA, the last year was one of review: a new fee schedule was adopted; the office has moved; a new website will soon be launched; and new policies will shortly be adopted. These changes are meant to make the FNBFA more transparent and accessible to members of individual unions.

Overall, the year was a fruitful one; the FNBFA is currently in the process of renewal and should emerge over the next months with increased vitality in order to perform its necessary role in representing all unionized faculty and librarians in the provincial political scene. The AGM of the FNBFA will be held at Mount Allison University on April 28th. For those interested in attending, please contact Geoff Martin at the MAFA office.

Peter Brown

## IMPORTANT DATES FOR FULL-TIME MEMBERS

### May 15

Full-time academic staff will be informed of their teaching duties - Article 12.07(b)

### May 31

Members to be evaluated must submit their reports of professional activities - Article 14.03

Employer and Union will jointly appoint Employment Equity Panel members - Article 16.12(a) and 19.12(a)

### Aug 14

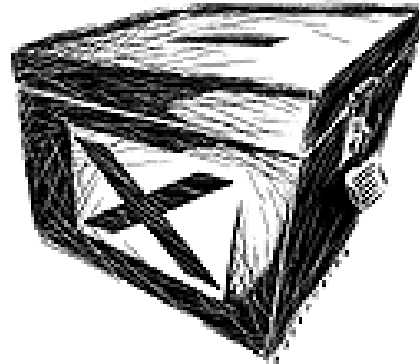
Those applying for early tenure must contact the

Provost, as chair of the Tenure and Promotion Committee, by this date - Article 17.12 (e)-(f)/Article 20.12 (d)

Those applying for promotion must also contact the Provost by this date - Article 17.35/Article 20.34

## CALL FOR VOLUNTEERS, 2010-11 EXECUTIVE

Members in good standing are encouraged to consider offering for the 2010-11 Executive.



If you want more information, please contact Peter Brown (pbrown@mta.ca), Paul Berry (pberry@mta.ca) or Suzie Currie (scurrie@mta.ca), who comprise the Nominating

Committee.

## SCHEDULE OF COMING EVENTS, 2009-10

Please mark these dates on your calendar:

**Spring Annual General Meeting**, Monday April 12th, 3 pm, Avarad 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)*