



University of Northern BC Faculty Association

Newsletter

June 2013

FA Executive July 1, 2011 – June 30, 2013

President:	Jacqueline Holler
Vice-President:	Erik Jensen
Past President:	Lee Keener
Secretary & Member-at-Large	
SLI representative:	Julie Howard
Treasurer:	Raymond Cox
Members-at-Large:	
Faculty representatives	Karima Fredj Jennifer Hyndman Stephen Rader
Librarian representative	Gail Curry
Term representative	Wendy Fellers
Grievance Officer:	Kerry Reimer
Executive Director:	Donna Plourde

Newsletter Highlights:

- *President's Message*
- *Recent Mediation/Interest Arbitration Decisions in BC:*
 - *Simon Fraser University
 - *University of Victoria
- *Attack on York University*
- *CUFA-BC New Release: E-Book on Academic Governance*
- *CAUT Aboriginal Forum*
- *Distinguished Academic Award Recipient: Dr. Kathy Lewis*
- *2013 University Achievement Awards Recipients*
- *Search for UNBC-FA Grievance Officer*



A MESSAGE FROM THE PRESIDENT

Jacqueline Holler, President

Association is greatly appreciated. Welcome to **new executive** members Eleanor Annis, Han Donker, and Matt Reid. And of course, welcome back to those who are returning to new terms: Erik Jensen, Julie Howard, Stephen Rader, and Wendy Fellers. Thanks also to Lee Keener, who has been serving as Past President for the past two years and who has graciously agreed to serve in this capacity until December 2013. Our recent executive elections were a testament to the vitality of the UNBC-FA, and I am proud to continue to serve as your president. On a final note, I would like to offer particular thanks to Kerry Reimer, who has served almost two terms as UNBC-FA **Grievance Officer** and whose term comes to an end on 30 June. The role of GO is particularly demanding, and Kerry has served admirably; his thoughtfulness and commitment have benefited our membership immensely throughout his term. Kerry, we wish you a very productive sabbatical, and a restful one too—you've definitely earned it!

This newsletter also comes to you on the very eve of **mediation**. On Monday, 10 June, we begin two days of mediation with arbitrator Vince Ready. The negotiating team and I have engaged in much preparation, and we are ready to discuss and defend our proposals. I am proud of the professionalism and dedication of our team.

I wish I could be as sanguine about the conduct of the administration. However, that aspect of our preparation has left me disappointed and, indeed, rather disillusioned.

In the process of preparing for mediation, the Faculty Association has requested information from the administration relative to the institution's financial position. This is a normal part of negotiations, and our entitlement to such information is clear. Despite the clarity and legality of our requests, however, such information has been presented slowly and reluctantly, and only after repeated requests from our legal counsel. Moreover, our reasonable requests for specific information were answered with general, publicly available documentation.

Even more troubling to me was the administration's position that the UNBC-FA had received this information in negotiations—and that I, as UNBC-FA President, already receive it in the normal course of business. These contentions are simply not true.

What's particularly unfortunate about this situation is that it seems to continue a pattern--foot-dragging and uncommunicativeness--set in our negotiations in the autumn. And it needn't be so. UBC, for instance, was cooperative in granting its FA full access to the information it sought. Our own administration's conduct seems much less than cooperative by comparison.

Monday morning will show whether Mr Ready's presence is able to foster meaningful commitment to negotiations on the part of the administration. You may be sure that your team and I are prepared to roll up our sleeves and get to work. In the two years since we began our work, we have remained committed to your rights and interests, and we look forward to advancing those next week.

You hold in your hands the last newsletter of the 2011—2013 executive cycle. I would therefore like to express thanks to **outgoing executive** members Raymond Cox, Karima Fredj, Jennifer Hyndman, and Gail Curry. Your engagement with and support for the work of the



Photo courtesy of UNBC



RECENT MEDIATION/FINAL OFFER ARBITRATION DECISIONS IN BC:

Simon Fraser University
&
University of Victoria

Final Offer Selection Arbitration: Simon Fraser University

Faculty negotiations between the SFU administration and SFU Faculty Association commenced in the Spring 2012. Failure to reach agreement by the end of November 2012 on monetary issues proposed to fix salary scales compelled the SFUFA to seek arbitration. The SFU administration cited they were constrained by the Public Sector Employers Council (PSEC); however, arbitrators are not bound by PSEC guidelines which are not legislation.

Unlike the UNBC Faculty Agreement, the SFU Faculty Agreement provides for final-offer selection in which both parties submit a proposal and the arbitrator chooses one of the two proposals in its entirety. The arbitrator's decision is binding on the parties. (The UNBC Faculty Agreement provides for interest arbitration, in which case the arbitrator can choose from amongst the items from both proposals or decide on items that are completely different from the items proposed by the parties.)

On December 21, 2012, the SFU administration and SFUFA submitted their proposals to the arbitrator, Colin Taylor, and arbitration hearings took place in mid-February 2013. Prior to the actual arbitration hearing, the parties had the opportunity to continue to negotiate.

On April 30 2013, Mr. Taylor released his award in favour of the administration's position. A copy of the arbitration award can be viewed at:

<http://www.stat.sfu.ca/~cschwarz/SFUFA>

The SFUFA tried to argue that market differential stipends and retention funds demonstrated that the salary scales at SFU needed to be remapped to reflect actual salaries and create a more equitable salary scale system. The arbitrator chose to accept the administration's proposal yet provided no rationale with the exception of alluding to the University's reliance on the provincial government.

Dr. Carl Schwarz, chief negotiator for the SFUFA, stated: *"SFUFA is disappointed in this decision, to be sure. We understand, however, that the Framework Agreement dictates that this is the only process available to us, and that the decision of the arbitrator is final and binding."*

The salary adjustments awarded by the arbitrator include:

- 2% general increase effective July 1, 2012
- 1.95% general increase effective July 1, 2013

In addition:

- 4 merit steps will be added to the top of the Full Professor and Senior Lecturer scales effective Sept 1, 2013

No changes will be made to the salary scales for Librarian/Archivist, Laboratory Instructor, Lecturer, Assistant or Associate Professor ranks.

Bargaining for the next faculty agreement at SFU will start again in September 2013.

Mediation: University of Victoria

Faculty negotiations between the UVic administration and UVic Faculty Association also commenced in Spring 2012. The parties failed to reach agreement at the negotiations table on monetary and non-monetary issues and subsequently proceeded to mediation, which began in October 2012. The mediator was Mr. Colin Taylor. The UVic Faculty Association requested a general wage increase in 2012 and general wage increase in 2013, in addition to an increase in the Career Progression Increment, to a total estimated cost of \$3.9 million. The UVic administration argued that this amount was well outside of the university's ability to pay and declined the Association's proposal.

The UVic Faculty Association attempted to argue that amongst their 21-school comparator group, UVic's salaries rank the lowest and that the administration has the ability to pay a fair settlement, despite the fact that the province has announced a 1.5% projected cut to general operating grants.

The UVic administration responded with an offer of

- 2% general increase effective July 1, 2012
- 2% general increase effective July 1, 2013

In addition:

- all non-monetary proposals would need to be dropped and may or may not be discussed at a later date

Mr. Taylor released his mediation report on December 3, 2012, which included recommended terms for settlement to the parties and strongly sided with the administration's position. A copy of the mediator's report can be found at:

<http://www.uvicfa.ca/pages/negotiations/index.html>

Dr. Douglas Baer, President and Chief Negotiator for the UVic Faculty Association, states:

"...we were shocked that the Administration appears to take the view that these comparatively low salaries accurately reflect both our workload and our productivity....Given the fact data exists undermining both of the Administration's arguments cited in the report, we are not sure what else we can be doing to help the Administration stop accepting this "negative differential".

"In the end, the University regards itself as being one of 21 comparator universities. The University accepts that one will always be at the top, one will always be at the bottom, and the rest will fall between the two" (Mediator's report, p.9"

In other words, someone has to be last, and apparently the administration 'accepts' that is should be us?"

Under the UVic Faculty Agreement, only monetary issues can proceed to interest arbitration (arbitrator will be Mr. Colin Taylor) unless the parties come to an agreement about non-monetary issues. The UVic administration had no interest in sending non-monetary issues to binding arbitration.

The parties will advance their monetary proposals to arbitration (Mr. Colin Taylor will be the arbitrator) in September 2013. The UVic Faculty Association has also announced a certification drive in the Fall 2013.



Photo courtesy of UNBC



ACCESS COPYRIGHT VS.
YORK UNIVERSITY

*Gail Curry
Data, Map & Government Information Librarian*

York University has been in the spotlight since early April after it was served with a Statement of Claim (the commencement of a legal action) by Access Copyright.¹

The copyright collective has asserted that York educators and students have "reproduced and authorized the reproduction of copyright-protected works, in whole or substantial part." Access Copyright further states that, because of these alleged activities, York is obliged to pay royalties to Access Copyright under an interim tariff.

Joanne Rider, York's Chief Spokesperson and Director of Media Relations told the media that University administration are confident that they are operating within the law, stating that York will actively defend the case.^{2,3}

The initiation of legal action follows the decision by 26 Canadian post-secondary institutions, including UNBC, not to continue operating under the Access Copyright license. Instead, these institutions are operating within Canadian legislation and jurisprudence through in-house licensing, the provision of access to open-access publications, the continued purchase of library materials, direct copyright clearance, and reliance on fair dealing.⁴ Fair dealing guidelines similar to those at York have been adopted at institutions country wide.^{5,6} The decisions to operate independently of Access Copyright were made in light of ten years of jurisprudence, which clearly has encouraged a broad and liberal interpretation of fair dealing; updated legislation, explicitly including educational use under fair dealing; and a continuing trend to a digital environment.^{7,8}

The Canadian Association of Research Libraries (CARL)⁹ and the Canadian Association of University Teachers (CAUT)¹⁰ have decried Access Copyright's move, accusing the organization of trying to intimidate universities into buying what they consider to be an obsolete blanket license agreement. In a letter to Access Copyright, James Turk, Executive Director of CAUT, charges that Access Copyright's only plan is to try to hang on to the past, which, he states, serves no one well. He encourages the copyright collective to drop its action against York and to pursue a genuine transformation of the organization.¹¹

Michael Geist, law professor at the University of Ottawa, has expressed the opinion that, based on jurisprudence and current copyright legislation, Access Copyright does not stand much chance of winning a lawsuit against York.¹² In addition Ariel Katz, Associate Professor, Faculty of Law, University of Toronto, has put into

question Access Copyright's belief that all institutions, whether or not they chose to continue operating under the Access Copyright license, are obliged to pay into the tariff.¹³

York was expected to file a statement of defense by May 23, 2013.¹⁴ It seems that there have been delays,¹⁵ but once the statement of defense is filed intellectual property experts are likely to provide commentary in one or all of the following blogs:

- ARIELKATZ on Intellectual Property, Competition, Innovation, and other Issues:
<http://arielkatz.org/>
- Excess Copyright:
<http://excesscopyright.blogspot.ca/>
- Michael Geist's Blog:
<http://www.michaelgeist.ca/content/blogsection/0/125/>

A lot of eyes will be following this case, as the outcome will have serious implications for the Canadian post-secondary community.

¹Canadian Copyright Licensing Agency (Access Copyright) v York University (8 April 2013), Toronto T-578-13 (Statement of Claim), (FCTD), online:
<http://www.scribd.com/doc/134926954/AC-v-York-Statment-of-Claim-T-578-13-Doc1>).

²"Universities Square Off Against Copyright Group," CBCnews, 14 April 2013,
<http://www.cbc.ca/news/canada/story/2013/04/14/copyright-universities.html>.

³"Access Copyright, Universities Brace for Battle," Huffington Post, 14 April 2013,
http://www.huffingtonpost.ca/2013/04/14/access-copyright-universities_n_3080549.html.

⁴Arno Rosenfeld, "The Great Copyright Battle: UBC's Bold Stand Against Access Copyright," *The Ubysey*, 20 March 2013,
<http://ubyssey.ca/features/the-great-copyright-battle-ubcs-controversial-stand-against-access-copyright/>.

⁵"Fair Dealing Guidelines for York Faculty and Staff," *Copyright and You*, York University, last modified June 1, 2013,
<http://copyright.info.yorku.ca/fair-dealing-requirements-for-york-faculty-and-staff/>.

⁶Michael Geist, "Access Copyright's Desperate Declaration of War Against Fair Dealing," *Michael Geist* (blog), 9 April 2013,
<http://www.michaelgeist.ca/content/view/6818/125/>.

⁷Michael Geist, "The Supreme Court and Canadian Copyright Law," *The Blog*, Huffington Post, 12 July 2012,
http://www.huffingtonpost.ca/michael-geist/post_3640_b_1668663.html.

⁸Arno Rosenfeld, "Great Copyright Battle"
⁹CARL Condemns Access Copyright's Lawsuit against York University," *News / Nouvelles*, Canadian Association of Research Libraries, 11 April 2013,
<http://www.carl-abrc.ca/news/69/201/CARL-Condemns-Access-Copyright-s-Lawsuit-against-York-University.html>.

¹⁰"Access Copyright Takes York to Court," *CAUT Bulletin* 60. 5 (May 2013),
http://www.cautbulletin.ca/en_article.asp?ArticleID=3650.

¹¹Turk to Roanie Levy, 9 April 2013,
<http://www.caut.ca/docs/default-source/default->

document-library/letter-to-access-copyright-%28april-9-2013%29.pdf?sfvrsn=2.

¹²"Universities Square Off."

¹³Ariel Katz, "Keep Calm, Opt Out, and Carry On," *ARIELKATZ on Intellectual Property, Competition, Innovation, and other Issues* (blog), 8 June 2012,
<http://arielkatz.org/archives/1769>.

¹⁴Howard Knopf, "Access Copyright v. York University – Next Step Due on Thursday, May 23, 2013," *Excess Copyright* (blog), 21 May 2013,
<http://excesscopyright.blogspot.ca/2013/05/access-copyright-v-york-university-next.html>.

¹⁵Howard Knopf, "Access Copyright v. York University – York's Statement of Defense Delayed," *Excess Copyright* (blog), 28 May 2013,
http://excesscopyright.blogspot.ca/2013/05/access-copyright-v-york-university-next_28.html.



JUST RELEASED:
CUFA-BC E-BOOK ON ACADEMIC
GOVERNANCE

*Robert F. Clift, Executive Director
Confederation of University Faculty Associations of BC*

Are academic governance mechanisms up to the challenge of the 21st century? How can we protect academic quality while being responsive to societal and economic needs? Have senates become mere 'rubber stamps' for senior administration decisions? What are the options for governance reform?

These are the questions the Confederation of University Faculty Associations of BC (CUFA BC) explored at its March 2012 conference, Academic Governance 3.0. The papers delivered at that conference, with introductory and concluding essays by the conference organizers, have been assembled into a new e-book, *Academic Governance 3.0 – What is it? How do we get there?*, edited by Richard Kool.

The book features papers from Glen Jones (U of Toronto OISE), Claire Polster (U of Regina), John M. Usher (U of Lethbridge), Robert F. Clift (CUFA BC) and other Canadian academics. The book offers not only a vigorous critique of academic governance in Canada, but also suggests possible avenues for reform that recognize that the contemporary university is a much different institution than when the seminal work on university governance in Canada, the Duff / Berdahl report, was released in 1966.

The e-book is available for download, free of charge, from:
<http://www.cufa.bc.ca/files/Academic-Governance-3.0.pdf>.



CAUT ABORIGINAL FORUM
November 1-3, 2013

Role of Aboriginal Academics in Social and Political Change

CAUT is sponsoring its 4th Forum for Aboriginal Academic Staff, which will be held November 1-3, 2013 in Toronto. Organized with the guidance of CAUT's Working Group on Aboriginal Post-Secondary Education, this will be an opportunity for Aboriginal academic staff from across Canada to get together to share information, discuss issues of common interest and provide advice to CAUT and our member associations. Forum highlights include discussions on:

- Being an Activist Scholar in the Community and in the Public Arena
- Cultural revitalization
- Working with external allies
- Being an Activist Scholar within the Academy
- Educating colleagues and senior administrators

The Faculty Association is seeking funding to send one member to this forum and invites expressions of interest from members who may be interested in attending as a representative of the Faculty Association. Please forward your expression of interest to the Faculty Association Office by no later than: **August 1, 2013.**



Dr. Kathy Lewis and her family



DISTINGUISHED ACADEMIC
AWARD RECIPIENT 2013:
DR. KATHY LEWIS

The purpose of the Distinguished Academic Awards is to acknowledge outstanding accomplishments in research and scholarly work that benefit communities and the public.

"Dr. Lewis' defence of Canada's trade interests demonstrates the immense potential value of university-based research." Rick Kool, President, CUFA-BC

On April 3, 2013, honored guests and dignitaries, university administrators, and academics representing the University of British Columbia, Simon Fraser University, the University of Victoria, the University of Northern British Columbia, and Royal Roads University gathered to recognize three very deserving recipients of the 9th annual CUFA-BC Distinguished Academic Awards.

It was a privilege to witness one of our very own, **Dr. Kathy Lewis**, receive the **2013 Academic of the Year Award** for her research on pine beetle-infested wood which she used to defend Canada at a Softwood Lumber Agreement arbitration hearing in 2012. Partly as a result of Dr. Lewis' testimony, Canada won the arbitration avoiding a penalty estimated at \$380 million.



Dr. Kathy Lewis, 2013 Academic of the Year, and Dr. Chris Opio, 2012 Academic of the Year



CONGRATULATIONS TO OUR
2013 UNIVERSITY ACHIEVEMENT AWARD
RECIPIENTS!

In the second year of the University Achievement Awards (UAAs), Members of the Association were recognized for their outstanding achievements and contributions in the areas of research, teaching, service, and professional practice/mentorship/stewardship. Award recipients were acknowledged at the Convocation Ceremonies on May 31, 2013. The strengths and achievements demonstrated by all of the nominees for these awards are truly outstanding. The Faculty Association congratulates all nominees for these awards, and especially the recipients:

Achievement Award for Professional Practice, Stewardship & Mentorship

Michael Gillingham (Ecosystem Science & Management)
Jianbing Li (Environmental Engineering)
Linda O'Neill (Education)

Achievement Award for Research

Alex Aravind (Computer Science)
Chris Johnson (Ecosystem Science & Management)
Matias Margulis (International Studies)
Hugues Massicotte (Ecosystem Science & Management)

Achievement Award for Service

Annie Booth (Environmental Arts)
Henry Harder (Health Sciences)
Chris Johnson (Ecosystem Science & Management)
Andrew Kitchenham (Education)

Achievement Award for Teaching

John Sherry (Education)
Tracy Summerville (Political Science)
Andrea Gorrell (Chemistry)
Sean Maurice (Northern Medical Program)
Hiroe Wood (International Studies)



SEARCH FOR
UNBC-FA GRIEVANCE OFFICER

With the departure of Dr. Kerry Reimer for a well-earned sabbatical (effective 1 July), the Faculty Association would like to invite **expressions of interest in and nominations** for the position of Grievance Officer for the term of office 1 July 2013—30 June 2015.

Reporting to and serving at the pleasure of the UNBC-FA Executive Committee, the Grievance Officer bears

primary responsibility for supporting members and providing information relative to the collective agreement and its provisions for the terms and conditions of employment. While the GO takes the lead in pursuing formal grievances, to arbitration if necessary, much of the GO's daily work is more properly classified as member contact and support. Regular responsibilities of the GO include, but are not limited to:

- Meeting with members to provide information, support, and interpretation of the agreement;
- Meeting with the Grievance and Appeal Committee to discuss ongoing issues and potential grievances;
- Accompanying members to meetings with administrators as required and requested;
- Meeting with administrators to discuss grievances and work toward informal resolution;
- Working with legal counsel to ensure best practices in interpretation of the agreement and member support;
- Reporting monthly to the UNBC-FA Executive, and semi-annually to the membership, on ongoing issues;
- Developing skills through ongoing professional development, including liaison with CUFA-BC and attendance at CAUT Grievance Handling meetings;
- Providing advice on agreement issues worthy of renegotiation; and
- Serving in an ex-officio capacity on the UNBC-FA Executive Committee.

The Grievance Officer will have a good knowledge of the agreement and of legal principles and interpretations, and will be able to communicate effectively and clearly both orally and in writing. S/he must understand and honour the principles of privilege and confidentiality. While enforcement of the collective agreement is at the heart of the GO's position, an ideal GO also possesses personal attributes such as calmness, empathy, judgment, and the ability to support members while remaining as impartial as possible.

Under the terms of the UNBC-FA agreement, the Grievance Officer receives the equivalent of two course releases per year.

The deadline to submit expressions of interest and nominations to the Faculty Association Office is **15 June 2013**. The 2013—2015 UNBC-FA Executive will shortlist candidates and conduct interviews in early July, with effective appointment date for the new GO no later than 1 September 2013.

Please note that during the week of June 10-14, office hours will be restricted due to mediation proceedings. We apologize for any inconvenience to our members and appreciate your patience and understanding.