

FA Executive July 1, 2013 – June 30, 2015

President:	Jacqueline Holler
Vice-President:	Erik Jensen
Past President:	Lee Keener
Secretary & Member-at-Large	
SLI representative:	Julie Howard
Treasurer:	Wendy Fellers
Members-at-Large:	
Faculty representatives	Ken Prkachin Stephen Rader Matt Reid
Librarian representative	Eleanor Annis
Term representative	Jason Morris
Grievance Officer:	Fiona MacPhail
Executive Director:	Donna Plourde

Newsletter Highlights:

- *President's Message*
- *Vice-President's Message*



Certification Drop-in Open House
Faculty Association Office
12:00 pm – 1:00 pm

February 14,
March 6, March 20

Spring General Meeting
Friday, March 21, 2014
12:00 pm – 1:30 pm



A MESSAGE FROM THE PRESIDENT

*Jacqueline Holler, President UNBC-FA
Associate Professor and Chair, History Program*

As most of you know by now, this week we received Arbitrator Ready's award in our 2012–2014 contract negotiations. This issue of the newsletter discusses the award and its implications for the UNBC-FA and its members: for you.

First, the award: Mr Ready awarded a **general wage increase (GWI) of 2.5% effective 1 July 2012, and**

another GWI of 2.5% effective 1 July 2013. This was the sole ruling in the award, despite the fact that we had proposed numerous non-monetary and monetary changes (as have been detailed before). This award will be implemented by the administration in several stages. First, full-time permanent and term members will receive their retroactive pay on 7 March 2014. On 21 March, the administration will issue a retroactive payout for all currently employed (Winter 2014) part-time members of the UNBC-FA. From these dates forward, pay will be at the adjusted rate. Part-time instructors employed during the period of the contract but no longer employed will be paid no later than 2 May. Other elements of the implementation and transition to the new agreement (remembering that there were language changes in articles we agreed to) will be discussed between the parties.

When I presented the details of this award to those of you who were able to come to the presentation, I was struck by your faces. Members' faces literally fell when they heard the contents of the award. **What about the 21%?** What about our rock-bottom CDIs and broken salary structure? What about our carefully constructed, evidence-based case on *all* of our proposals?

All members saw, or had the opportunity to see, the administration's brief. As Mr Ready observed in his award, **nowhere did the administration deny the vast gulf between the salaries of faculty members at UNBC and those of their colleagues at comparator institutions.** Mr Ready reproduced Figure 3 from the UNBC-FA brief in his award, calling it "persuasive evidence as to the UNBC faculty's low/bottom salary standing relative to the salaries received by faculty at other representative institutions performing similar work (or arguably lesser work in the case of those comparators lacking a research profile or graduate student supervisory responsibilities" (10) In fact, the administration did very little to contest the UNBC-FA's arguments or evidence.

As you know from the administration's brief, the University attempted (in a rather half-hearted manner) to plead inability to pay. This attempt was roundly dismissed in Mr Ready's award, when he said, "Such [financial] characteristics do not, by any measure, create the impression of a dire financial circumstance, or of a situation preventing the institution from reordering its spending priorities" (14). He noted in particular that **"the Board of Governors has further specific discretion to move funds to self-determined priorities."**

Then why this ruling? The answer lies in the nature of an arbitrator's work and in what the University argued—not in its brief, which has been made public, but in its oral submissions. We have not discussed this with members before, because we thought it improper to make public what had gone on at the hearings until Mr Ready had made his award.

Now we can tell you, however, what the administration argued before Mr Ready. I would like to reproduce for you the following, a verbatim copy of the administration's counsel's words as he attempted to persuade the arbitrator to deny our proposal:

The justification for that [the UNBC-FA's compensation proposal] is the comparison between the salary levels at the University of Northern British Columbia and the salary levels elsewhere...That differential is a product of the bargains the parties have made over the years. Those bargains may from one party's perspective or another have been good, bad, or indifferent. They may in hindsight to one party or another have taken on a different quality than seemed justified or was a product of the bargaining imperatives that drove the parties at the time they made the bargain. What the Faculty Association is really doing in its submission to you is asking you to redo and remake and rebargain unilaterally the compensation structure which [sic] they negotiated with the university over many years.

In those moments, speaking only for myself, I believe the scales fell from my eyes. In other words, **the administration's perspective on our rock-bottom salaries is that they are the outcome of our own bad bargaining in the past**, and we are therefore dreaming in technicolour--or, as the university's counsel repeated over and over through the hearings, exhibiting "an air of unreality"—if we expect them to rise to industry-standard levels. Far from exhibiting concern about the situation, at arbitration the administration said *we did this to ourselves*.

When this was mentioned at the arbitration presentation earlier this week, a few members were so gobsmacked that they came up to me afterward and said, "But when we took 0, it was because of PSEC!" The answer, obviously, is that we should not have accepted 0 regardless of PSEC. Others said, "But we accepted deals in the spirit of supporting the university!" And the answer to this is the same. Others noted that, in good faith, they had once accepted the administration's argument that because we were a "young" faculty our salaries were a bit lower, but in time they would rise to industry norms. That hoary and worn-out argument came out again in this round, even though (as you know) we're now an "old" faculty relative to our comparators.

So when even the spirit of compromise and mutual (we thought) sacrifice in the pursuit of the university's mission can be turned back against us, I would argue, it is time for a change in our relationship with the administration. If you have not already done so, I urge you to sign a certification card. And as we move very quickly into negotiations and consultations with members, please make your voice heard—within the Association, and to the administration. We can and must build a stronger relationship with the administration to safeguard our own interests—and, I would argue, the academic mission of this university.



A MESSAGE FROM THE VICE-PRESIDENT

*Erik Jensen, Vice-President UNBC-FA
Professor and Chair, Physics Department*

One of the most common topics of discussion we have heard from members as we have engaged them in the certification discussion was about the Arbitration and the prospects for moving toward what we sought but could not achieve from negotiations. Now we have heard from Arbitrator Ready.

When we were preparing for the certification drive over a month ago we wrote in the FAQ <http://unbcfa.ca/certification/certification-faq/>:

Q: Can't we rely on arbitration to resolve difficult negotiations like the last one?

A: Currently, we rely on arbitration as a last resort in negotiating. The last round of negotiations demonstrated that we face significant challenges in bargaining on both monetary and non-monetary issues. We were unsuccessful in negotiating any significant changes to non-monetary items. In general, these are the items on which arbitrators are most reluctant to rule. When it comes to monetary items, it should be noted that arbitrators are notoriously conservative and loath to make any "breakthroughs." So we cannot rely on arbitrators to award us what we cannot win for ourselves...

This is precisely what we see in the recent decision report. Having compelling arguments in our favour is not enough to make progress through arbitration. The Ready report accepted and reproduced the Association's salary comparator graph (see p. 10) and acknowledged our low/bottom relative salary scale. Mr. Ready then awarded 2.5% each year on only one limited monetary issue (despite being convinced that the University has the ability to pay more, see p. 13-14 of the decision), and ruled on none of the non-monetary ones. In his decision he quotes Arbitrator Taylor (UBC 2013 decision) "*Having considered its arguments for each, I find that these matters are best left to the parties in collective bargaining. Arbitrators are generally reluctant to intervene in such matters absent clear and compelling justification, for precisely that reason.*"

Arbitrators will not make monetary awards that they judge could not have been obtained through "normal" bargaining. Since we have an established track record from previous negotiations, there is no basis for an extraordinary award. On non-monetary items, we cannot expect to make any progress through arbitration (the Catch-22 of Arbitration). This makes it clear that we are faced with a simple choice: to continue along this established path, or to make a substantive change in direction in our relationship with the Administration.

The first step in this change was the decision to go to Arbitration— the Faculty Association could not accept a negotiated settlement along the lines proposed in the Administration's take-it-or leave-it offer. The Administration refused meaningful mediation with Mr. Ready, leaving Arbitration as the only option available under our existing Agreement.

The next step must be certification under the BC Labour Relations Board. This will allow us to pursue the monetary, workload and other non-monetary issues in a more robust negotiating environment, and also give the Association better tools to enforce and maintain the provisions of the Agreement between negotiations.



A MESSAGE FROM THE UNBC-FA CHIEF NEGOTIATOR

*Ted Binnema
Professor, History Program*

What does the arbitration award mean for the next round of negotiations? Most superficially, it means that not a single article that the UNBC FA brought to the table during the last round of negotiations is now resolved. It also confirms that we cannot expect that interest arbitration can assist us in achieving any of our goals—whether in relation to salaries, workload, or any other issue—in the next round of negotiations.

With arbitration now clearly *not* an option for the coming round of negotiations, if we go through the next round without having certified, we need to expect that we will be able to make very little progress on issues important to you—whether they be related to salaries, workload, or conditions of work.

The team bargaining on your behalf will do our best whether we are certified or not. But if we are not certified, we need to expect that the administration's bargaining team will approach negotiations in the coming round much as they did in the last one. If they do so, they will again refuse to discuss our proposals on workload and on other aspects of our working conditions—indeed may well attempt to decrease your control over your own working conditions, and decrease your benefits.

We also need to expect that our employer's salary offer will fall short of settlements at other universities in the country. If average faculty salaries at UNBC were about 21% behind sector-norms in 2010, we will do well if we prevent them from falling to 25% below the norm when the university celebrates its 25th anniversary this coming year.

If we negotiate our next agreement after certification, the administration's bargaining team will be required by law to bargain with us in good faith. That means that, if the administration's bargaining team approached the table the same way they did last time, we could point to the BC Labour Relations Code, and draw upon the Labour

Relations Board, to compel them to negotiate with us in a genuine and sincere effort to arrive at a fair negotiated agreement. Then your bargaining team could realistically expect to achieve the UNBC FA's goal of securing for you the compensation, workload, and conditions of work that are enjoyed by other faculty at comparable research universities in Canada.

It is important for you to know, however, that whether or not we are certified, the UNBC FA's bargaining team needs your help during the coming round of negotiations. In short, the bargaining team needs you to let the university's administration know your views.

If the administration at UNBC and their bargaining team believe that you are uninformed and indifferent to the negotiations, and that you are satisfied with your terms of employment, their bargaining team will feel little reason to respond positively to our proposals on your behalf. On the other hand, if they are convinced that you are informed and/or angry, they will be forced to change their approach.

I urge you to find a way that fits your temperament and personality to communicate with administrators at UNBC—even if the particular administrator you communicate with is not part of the administration's bargaining team. If you intend to watch carefully for evidence that they are bargaining in good faith during the coming round, let them know beforehand. If you are looking for them to address the anomalous salary scale at UNBC, tell them.

You should now know that UNBC has the wherewithal to pay you sector-norm salaries immediately without experiencing any financial crisis. Administrators should know that you know that. Your communication with them *will* influence their approach to the negotiating table.

Also, let your FA know your views. Before negotiations begin, you will be asked to complete a survey. Fill it out. And urge your colleagues to fill it out. The results of the survey will not only inform the FA and its bargaining team about your priorities, but will also allow us to communicate your priorities at the negotiating table.

The better the response rate to our survey, the better we know about what you expect from us at the table, and more weight we have behind us when we negotiate. A great response rate will have a direct effect at the table.

Having been a member of the past negotiating team, I can say that each of us on the team was deeply gratified by the countless expressions of support and thanks that we received from you during that very difficult round. For myself, I can say that, without those encouraging words, I would not have been willing to participate again.

In this round, it will be crucial for you—in ways that suit you—to communicate with administrators, to communicate with us, and to stay engaged with the negotiations as they unfold. And if you have button-holed a dean or VP in the hallway, or sent an email, or communicated in any other way, let me know you've done so. It will help our team to know that you've got our backs.



CHRONOLOGY OF THE HISTORY OF UNIONIZATION

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

As part of an interview for *The Tyee* with reporter Tom Sandborn, I was asked to comment on the certification drives at Simon Fraser University and the University of Northern BC. I also prepared a brief chronology of the history of unionization of research/doctoral university faculty in BC and thought this would be an interesting retrospective. Cheers!

Key Dates in the History of Unionization of Research/Doctoral University Professors in BC:

1975 - UBC Faculty Association seeks certification as a union under the Labour Code. The attempt does not gain the required support from professors. A Framework Agreement for Collective Bargaining was subsequently reached between the FA and the University.

1977- Social Credit government introduces Section 80 to the University Act which effectively prohibits university professors from forming unions.

July 1983 - Bill 3 introduced into the BC Legislature to implement sweeping changes to public sector. Bill 3 had the effect of eliminating tenure for university professors, amongst its many other odious provisions. This was a turning point for CUFA BC, causing it to become a more politically-engaged and politically-active organization.

1991 - International Labour Organization (ILO) finds that Section 80 violates international labour conventions to which Canada is a signatory. Social Credit government refuses to remove it.

July 1992 - NDP Government removes Section 80 from the University Act, once again making it legal for university professors to form unions.

Fall 1998 - UVic Faculty Association Goes to Labour Relations Board for declaration it is voluntarily-recognized union under the Labour Code (the Greenwood case).

February 1999 - UBC Faculty Association and the university enter a "voluntary recognition" agreement to recognize the FA as a union under the Labour Code.

April 1999 - UBC Faculty Association applies to the Labour Relations Board to have a CUPE attempt to

organize sessional faculty halted because the Association already represents the sessionals.

May 1999 - Labour Relations Board rejects UVic FA application that it is a voluntarily-recognized union

May 2000 - Labour Relations Board rules that CUPE may not organize the sessionals at UBC because the sessionals are already represented by the voluntarily-recognized union, the UBC Faculty Association.

March 2006 - Royal Roads University Faculty Association is the first research/- doctoral university in BC to certify as a union under the Labour Code.

October 2013 - UVic Faculty Association launches union certification drive.

January 2014 - UVic Faculty Association becomes a certified union under the Labour Code.

January 2014 - SFU and UNBC faculty associations launch certification drives.

Robert F. Clift is the Executive Director of the Confederation of University Faculty Associations of BC. He is also a doctoral candidate at the University of British Columbia with expertise in the politics, governance, management and history of higher education.



Photo courtesy of UNBC

UNBC-FA Certification Committee:

Eric Jensen, *Chair*
Bruce Bidgood
Jenia Blair
Raymond Cox
Wendy Fellers
Art Fredeen
Waqar Haque
Luke Harris
Dawn Hemingway
Jacqueline Holler
Peter Jackson
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Brian Menounos
Umesh Parshotam
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Lela Zimmer/Catharine Schiller
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