

AT A GLANCE

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This issue of our “Grievances *At-a-Glance*” bulletin will provide you with a brief summary and status of a number of grievances with which the Association is active.

As we move forward, the Association will be focusing further effort to communicate the details of grievance activity to the membership. It is essential that you understand the important principles that are being defended when a grievance is filed either on behalf of a member or on behalf of the Association itself. Soon, we will be launching a new electronic grievance database in conjunction with our website. It will be a valuable resource for communicating information about our grievance activity to each of you.

The UPEIFA *Grievance and Discipline Committee* is responsible for all Association activities under the *Grievance, Arbitration and Discipline* sections of the Collective Agreements for Bargaining Units #1 and #2. The *Grievance* procedures are provided in Article F-2 of each Agreement, while the *Discipline* procedures are given in Article F-6.

It is vital that Members know their rights under the Collective Agreements and that each of us takes responsibility to ensure that they are respected. The *Did You Know* section of this bulletin will help in this regard. Get your paper copy of your Collective Agreement from the Association office, or find it on our website at www.upeifa.org.

Should you have any questions regarding any of the Committee’s activities, or should you be concerned that your Collective Agreement rights might have been violated, you should contact the Chief Grievance Officer immediately.

- **Union membership while holding excluded management position.**

An Association grievance was filed in response to the Employer’s assertion that an individual holding a management position which is specifically excluded from the union’s bargaining unit can simultaneously hold a faculty position within the union. This action arose after a faculty member was appointed to an “excluded” position and the Employer maintained that the individual could continue to carry out his duties as a union member.

The Collective Agreement is clear and specific regarding who can be a member of the union and, thus, who can do its work. “*Dual status*” situations, like the Employer allowed to occur in this matter, pose serious challenges to the integrity of the union’s bargaining unit.

This grievance recently went to an arbitration hearing. The Arbitration Board ruled strongly in favour of the union stating that the Employer violated the Recognition Article A-3 of the Collective Agreement.

During the arbitration, however, the Employer identified a second “excluded” management position occupied by an individual who, at the same time, holds and has held sessional contracts. The Employer argued that, since the Association had not acted on this situation, it should be “*estopped*” from proceeding with the original grievance.

The Association was not aware of this situation, however, and upon being advised found it necessary to file an additional Association grievance on this issue. This additional grievance

DID YOU KNOW?

- There are two types of grievances - a *Member grievance* filed on behalf of an individual Member or a group of Members and an *Association grievance* filed on behalf of the Association.
- All grievances must be filed by the Association; Members cannot file grievances directly.
- Grievances must be filed within 20 working days of the date of the events giving rise to the grievance or within 20 working days of the date when the events giving rise to the grievance ought reasonably to have been known, whichever is later; **act quickly and don't delay**.
- If the Association is not satisfied with the Employer's response to a grievance, it has the right to refer it to a hearing in front of an independent arbitration board.
- **Contact the Chief Grievance Officer if you are concerned that your rights have been violated.**
- For more info, see Article F-2 of the Agreement or contact your *Grievance and Discipline Committee*.

was filed prior to receiving the Arbitration Board's decision in which the Board ruled that there is no obligation on the union to take affirmative action to find out how the employer is actually administering the Collective Agreement. This additional grievance is in the very early stages with more to report later.

- **Sabbatical Salary: 80% vs 85%.**

An Association grievance was filed with respect to the Employer's refusal to honour its clear agreement, reached with the Association during our last round of negotiations, regarding sabbatical leave salary. This agreement was that those beginning sabbatical leave as of July 1, 2006 would receive sabbatical salary at an increased level of 85% of normal salary.

Despite negotiation documents which were exchanged at the table and which clearly indicate this agreement, the Employer has maintained that only those who applied for sabbatical leave after July 1, 2006 would be eligible for the increased salary. Two such documents are summarized as follows: 1) the Employer's April 4, 2006, 1:30 pm proposal which states that "*The 85% of sabbatical salary shall be effective July 1, 2006*", and 2) the Association's April 4, 2006, 5:00 pm proposal which states that "*The Association accepts the Employer proposal dated April 4, 2006 at 1:30 pm that the 85% of sabbatical salary shall be effective July 1, 2006*".

A full six months after the Association first brought this issue to the Employer's attention and only days before a scheduled arbitration hearing, the Employer has finally indicated that it will pay sabbatical salary at the 85% level retroactively to those who started sabbatical leaves on July 1, 2006. We will report more when the full details of the resolution of this grievance are known.

- **Health and Safety Policy and discipline.**

An Association grievance was filed with respect to the Employer's adoption of a *Health and Safety Policy* which contains a disciplinary process that can be applied to Association members outside of the disciplinary process contained in the Collective Agreement. The Association maintains that its members can only be disciplined in accordance with the procedures in Article F-6 of its Agreement.

As is, this *Policy* creates parallel and conflicting processes for disciplining Association members and would seriously hinder the Association's ability to protect the rights of its members.

This grievance is in the early stages of consideration. Another report will come later.

- **Promotion for members on term contracts.**

An Association grievance has been filed with respect to the Employer's failure to ensure that the University Review Committee, under the Vice-President Academic Development as its Chair, operates within the authority provided to it by Article E-2 of the Collective Agreement.

The grievance arises out of the Committee Chair's determination that a Faculty Member on a term contract is not eligible to apply for a promotion under Article E2.4 of the Collective Agreement. The Association maintains that the promotion process applies to all Faculty Members, which by definition includes those members on term contracts, and alleges that the Chair exceeded the Committee's authority by taking such a position and refusing a term-contract Faculty Member access to the process.

This grievance is scheduled to proceed to an arbitration board hearing. Another report will come later.

- **Terminal degree requirements for tenure.**

An Association grievance has been filed with respect to the Employer's failure to ensure that the University Review Committee, under the Vice-President Academic Development as its Chair, operates within the authority provided to it by Article E-2 of the Collective Agreement.

The Association alleges that the University Review Committee inappropriately established and subsequently applied incorrect criteria for terminal degree requirements in considering tenure applications.

This grievance is still in progress. More will be reported at a later date.

- **Electronic privacy.**

An Association grievance was filed with respect to the Employer's use of software for the remote management of faculty members' computers. Among many capabilities, this software has the ability to allow full remote access to and surveillance of a faculty member's computer

without the consent or knowledge of the faculty member. This includes control, viewing, file transfer and file execution capabilities.

The Association has been seeking a resolution to this grievance through discussions with Computer Services. In response, Computer Services has developed policies which prohibit the University's use of such software capabilities and governs and restricts the manner in which it is able to remotely install software on our computers. The Association has expressed some concerns with these policies which must be addressed before the Association will consider a resolution to the grievance. More to come at a later date.

- **Integrity in research and scholarly work.**

An Association grievance was filed with respect to the *Policy on Integrity in Research and Scholarly Work*. While this is a Senate policy, it is part of the Collective Agreement.

This grievance was filed in response to the Employer's apparent failure to appropriately address concerns raised by Members with respect to allegations of fraud and misconduct in scholarly work. It alleges that the Employer did not "*deal expeditiously and fairly with any known instances or allegations of academic fraud following approved procedures*".

An arbitration for this grievance is scheduled for this spring. More will be reported at a later date.

A link to this *Policy* can be found on the *Useful Links* page of the Association's website. All members are advised to review this *Policy* and to contact the Association should concerns arise.

- **Intellectual property rights.**

An Association grievance was filed in response to the Employer's stated intention to assume the ownership of the intellectual property rights of several members involved in a research project funded by the ACOA Atlantic Innovation Fund.

At the outset, the Employer indicated that it was necessary for it to take ownership of the

intellectual property so that it could honour its commercialization agreement with ACOA. In other words, according to the Employer, ACOA required this to be the case.

While the members involved are committed to the commercialization goals of the project, the Association maintains that it is not necessary for them to give up their ownership rights in the process. So, the Association sought clarification directly from ACOA as to whether or not the Employer's action is consistent with its policies. The Employer subsequently acknowledged that

its actions were not required by ACOA but has continued to maintain that it must own the intellectual property.

An arbitration for this grievance is scheduled for this spring. More will be reported at a later date.

Members who are involved in an Atlantic Innovation Fund project or who intend to apply for funding under this program are advised to contact the Association if you have any concerns about intellectual property ownership rights.

The University of
Prince Edward Island



Faculty Association

UPEI Faculty Association Grievance and Discipline Committee

**Contact: Robert O'Rourke, Chief Grievance Officer
School of Business, 566-0441, orourke@upeifa.ca**

The Committee's Terms of Reference can be found on the GRIEVANCES page at www.upeifa.org.