

# ULFA News



## The Collective Bargaining Primer

Stay up-to-date with the proceeding of ULFA's bargaining by checking out the Bargaining Blog ([ulfa.ca/bargaining](http://ulfa.ca/bargaining)) and reading this edition as the bargaining team explores the question, *What happens if bargaining goes past June 30, 2018?*

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## ULFA Statement on the Use of Student Evaluations of Teaching

ULFA has completed a review of the literature on the use of Student Evaluations of Teaching (SET) and has compiled a recommendation regarding their use.

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## Copyright Corner

In this edition, Dr. Rumi Graham updates ULFA members on Fair Dealings Week, copyright website migration, and Screening Films in Classroom and Extra-Curricular Settings.

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# The Collective Bargaining Primer

## “WHAT HAPPENS IF BARGAINING GOES PAST JUNE 30, 2018?”

A question we have heard over and over again at our “Meet and Greet” sessions and other presentations is “What happens if bargaining goes past June 30th?”

### **DIFFERENCE BETWEEN THE OLD AND NEW SYSTEMS**

Under our old system of bargaining, this really wasn't an issue, since our terms and conditions did not have an expiry date, and we were required to submit any impasse in economic benefits negotiations to an arbitrator for Final Offer Selection (FOS). Our schedule for negotiations under this old system assumed we would get things done before the contract expired. While we occasionally missed that deadline, we were never more than a month or two late. Pay differences were handled retroactively.

Under the new system, however, the end of the contract is much more significant.

1. Our terms and conditions (e.g. including such core values as academic freedom and tenure) now have an expiry date unless they are renewed (previously only economic benefits had an end date);
2. We cannot reach an impasse until after the contract has expired (i.e. the impasse resolution mechanisms like formal mediation, lockout, or strike can be invoked only after June 30th).
3. Because there is no automatic arbitration and because Handbook terms are not automatically renewed, we must negotiate until we reach agreement. Negotiations are therefore highly likely to go past the end of the contract much more commonly in the future than they did in the past.
4. The bulk of our currently planned negotiating sessions are scheduled for July after the contract ends.

### **SO WHAT DOES HAPPEN AFTER THE CONTRACT EXPIRES?**

The short answer is that things continue exactly as they are until one of three things happens:

1. We reach an agreement;
2. Job action (Lockout or strike) interrupts negotiations;
3. Negotiations continue for two years beyond the end of the contract.

The first of these is, of course, the most likely scenario—though we can't say now how long it might take.

As we've said repeatedly in our sessions, we believe that the second option is relatively unlikely. In the unlikely event that job action occurs, however, ULFA has built

up sufficient reserves to support its membership through an average length job action—and we recommend that members build up a small amount of savings (for somebody with an average salary of \$115k/year, probably between \$1200 and \$3600 should be sufficient).

The third is extremely unlikely and there is also some uncertainty as to whether this rule from the Code applies to the Post Secondary Sector during the five year “Statutory Freeze” that established the Faculty Associations as Unions.

### **WHAT DOES “CONTINUE EXACTLY AS THEY ARE” MEAN?**

When we say things “continue exactly as they are,” we mean that our contract stays in force during negotiations until settlement, job action, or two years have passed.

It means that all language that does not have an explicit end date in the contract continues in force:

1. Tenure remains in effect;
2. You continue to have academic freedom and enjoy the protections of our discipline, grievance, and appeal processes;
3. You keep your health benefits, pension plans, tuition benefits, academic freedom, eligibility for promotion, etc.
4. If you are eligible for tenure, promotion, a continuing contract, or study leave, you can still access those processes;
5. Your professional supplement will be paid “on or around July 1” as required by Schedule B.05.1;
6. Those who are eligible for merit or career progress increments will receive them (see 32.04 and 32.05.2—Merit and Career progress are paid out on June 30th and so would have to be paid out anyway);
7. You will receive a cost of living adjustment (COLA) on July 1 equal to the average of the February to February Canadian and Alberta CPI (Schedule A.02.1. For this coming year, we know that COLA will be worth 2.2%).

In other words, unless we settle, are locked out or go on strike, or (maybe) find ourselves still without a settlement after two years, almost everything in our contract continues as is: your benefits stay in place, you have access to the same freedoms and rights, and your pay will continue to rise through COLA and, if you are eligible, career progress, and merit.

## **BUT IF THE CONTRACT IS EXPIRED, CAN'T THE UNIVERSITY JUST REFUSE TO HONOUR ITS TERMS?**

The continuation of the contract is required under section 130(1) of the Labour Relations Code and is known as “Bridging” or a “Statutory Freeze”:

### **Bridging of collective agreements**

**130(1)** When notice to commence collective bargaining has been served under this Act, a collective agreement that applies to the parties at the time of service of the notice is deemed to continue to apply to the parties, notwithstanding any termination date in the agreement, until

- (a) a new collective agreement is concluded,
- (b) the right of the bargaining agent to represent the employees is terminated, or
- (c) a strike or lockout commences under Division 13.

We triggered this when we issued our various [notices to bargain](#) earlier this Spring (in fact, this is why we issued two notices to bargain, even as we were waiting for the [Labour Board to rule](#) on our contention that there was only one collective agreement: by issuing the notices to bargain, we ensured that the bridging provisions would come into effect no matter which way the Board ruled; in the end, of course, they ruled in our favour).

Just as importantly, it is both a grievance and an unfair labour practice (which ULFA can appeal to the Labour Relations Board) if the employer attempts to stop any of these contractual rights. This means that the University cannot refuse to honour any of the terms of our current collective agreement while negotiations are ongoing.

## **So why would we settle? If we are receiving a pay increase when the contract expires, shouldn't we try to stall negotiations for as long as possible?**

Given this freeze, you might think it would be in our interest to try and stall negotiations as long as possible. Some unions in the Province (e.g. the Nurses, Teachers, and the U of C), after all, have settled for 0% pay increases for two years. If we were faced with the option of settling a contract and receiving 0% or not settling and receiving an automatic Cost of Living Adjustment of 2.2% (and we have received no indication that we are), a smart strategy might seem to be to avoid settling.

There are several reasons, however, why we want to make every reasonable effort to enter into a new collective agreement:

1. We are legally obliged to. Under Section 60(1) of the Code, both the employer and the Union are required after a notice to bargain has been served to “bargain collectively in good faith” and “make every reasonable effort to enter into a collective agreement.” Deliberately stalling negotiations in order to benefit from the bridging provisions could be inconsistent with this duty;
2. There is no reason to believe that our final settlement must mirror those of the unions that settled before the provincial budget was announced. The Nurses and the Teachers negotiate on a province-wide basis, and the agreement the U of C just settled is from last year (their contract expired in 2017). Moreover, while the government has been clear that they expect the universities to be careful stewards of their budgets, they have also been clear
  1. That [there is no mandate](#) requiring them to reach a specific settlement with the Faculty Associations;
  2. That they have provided the universities [stable and consistent funding](#) (2% plus backfilling the tuition freeze) consistent with previous years, and expect to see them use this funding in a similar fashion;
  3. That they are [critical of policies like the 4% across the board cuts instituted at the U of A](#).
  3. **Pay increases awarded during the bridging period may be subject to retroactive deduction, depending on the nature of our final settlement.** In other words, the final settlement may require members to pay back money awarded during the bridging period if the final settlement is less or different from the awards made after the contract expiry (this provision applies to COLA only: career progress and merit awards fall are actually awarded this year before the current contract expires, rather than under the bridging provisions). It is possible to mitigate the effect of this, through mechanisms like a compensatory signing bonus; but on the whole, it is better to try and avoid the potential problem.
  4. Prolonged negotiations can lead to labour unrest, uncertainty, and potentially drops in student numbers and poorer working conditions both during and after negotiations.

In the end, we are better off with a contract than without one. The bridging provisions, however, provide some continuity while we work towards negotiating our new agreement.

## Committee Updates

### Gender, Equity & Diversity

As the academic year draws to a close, it's wonderful to look back and see what the GEDC has accomplished this year. We had a great turnout to Dr. Melanee Thomas' (University of Calgary) talk, "Men are Naturally Better Leaders: Canadians and Political Sexism" in March. She was a terrific speaker, and it's easy to see why she was invited to speak at the "[Big Thinking on the Hill](#)" series for the Federation of Social Sciences and Humanities in April. She's an excellent example of what a U of L graduate can accomplish.

You may also have seen the final Statement on the use of Student Evaluations of Teaching, also featured in this newsletter. It's posted on the [ULFA website](#), and the annotated bibliography which informed it can be found in [OPUS](#). Thank you to last year's committee as well for their initial work on this.

Thank you to those of you who completed our Perception survey; the committee had a look at the preliminary results at our last meeting, and I suspect the analysis of such will be a large part of our work in the year ahead. Watch for another survey, this time on salary equity, which we hope finalized at our last meeting and will send out in the fall.

As negotiations get underway, we hope that the recommendations our committee made to the negotiating team regarding improvements to the legislated [Domestic Violence Leave](#) will be accepted by University Administration, along with other leave improvements.

Thank you to all of the committee members this year: Robert Benkoczi (Math & Computer Science), Andrea Cuellar (Anthropology), Bente Hansen (Music), Caroline Hodes (Women & Gender Studies), & John Sheriff (Past Chair, Math & Computer Science).



Nicole Eva,  
*Chair, Gender, Equity and  
Diversity Committee*





# ANNUAL GENERAL MEETING

## BALLOT RESULTS

Following April's Annual General meeting, there remained outstanding motions regarding ULFA's financial matters and nominating committee report. The motions were sent to electronic ballot, with 30% of our 600 members participating in the voting process.

Summary of Results:

- **Mil rate** increases to 7.5 effective July 1, 2018.
- The **audit** for fiscal year ending June 30, 2017 was approved.
- Allen Accounting has been appointed as the **auditor** for the 2017-2018 fiscal audit.
- The 2018-19 ULFA **budget** was approved.

### Nominations to ULFA's Executive & Standing Committees

All uncontested nominations were elected by acclamation. Chair Jason Laurendeau would like to thank the members of the committee for their efforts during the past few months.

Note: If you have any additional questions, please feel free to contact the ULFA office.

## RESULTS OF CONTESTED POSITIONS

### Vice President / President Nominate

David Kaminski,

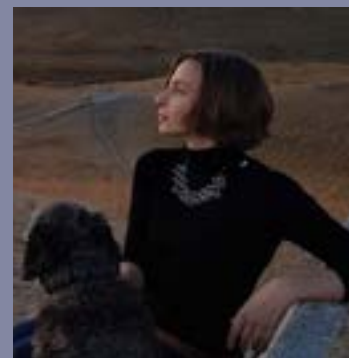
Math & Computer Science Department



### ULFA Representative to the Joint Work Site Health & Safety Committee

Katharina Steven,

Philosophy Department



### **ULFA Statement on the use of Student Evaluations of Teaching**

A review of the literature on the use of Student Evaluations of Teaching (SET) reveals that discriminatory attitudes including but not limited to racism, homophobia, classism, ageism, and sexism are endemic to this form of performance review, especially those that are anonymous. It is therefore the Association's recommendation that SET be used for the purposes of self-evaluation and can not be *required* for the purposes of external evaluations in Salary, Tenure, and Promotion decisions, unless submitted by the academic staff member themselves.

Many of the older studies have been contentious or contradictory, but it does seem that on the whole that women are systematically rated lower than men, especially by male students. Both genders are at a disadvantage if they are gender non-conforming or act outside of what are considered to be stereotypically gendered behaviours. "...women must work harder to demonstrate both warmth and competence merely to be rated equally to their male peers, and they are more susceptible to the negative reactions from others in both domains." (El-Alayli, Hansen-Brown, & Ceynar, 2018, p.3). Racialized faculty also tend to receive lower ratings, as do non-native English speakers. SETs can be more of a measure of likeability, attractiveness, and charisma than actual teaching effectiveness, and students have been show to do equally well (or better) when taught by low-rated instructors than highly rated ones. A review of the literature (attached) overwhelmingly shows the inherent biases in these evaluations.

CAUT has recently (November 2017) produced a [Draft Model Clause on the Evaluation of Teaching Performance](#) which states in section 2.2 that "Anonymous commentary, regardless of how it is collected, shall not be seen or used by individuals other than the member" and in section 2.6, "Student opinion surveys shall not be used for teaching performance evaluation". It also stipulates, in section 2.4, that any evaluation should take into consideration all factors about the class include the subject matter, class size, and experience of the instructor, all which have been shown in the literature to affect student evaluations. It goes on to recommend that the context of the course, pedagogical methods used, and the rest of the teaching dossier submitted must be given due consideration. CAUT's website has a short statement on the [Use of Student Opinion Surveys](#) which simply states that "Because surveys of student opinion about teaching to not measure teaching effectiveness, and because research shows that they involve prejudices to the disadvantage of equity-seeking groups, student opinion surveys should not be used in any career procedures and decisions making involving staff."

Other institutions in Canada have been grappling with this issue as well. A highly contentious vote by the U of A's GFC favoured the continued use of SET, but not without [controversy and conflicting evidence](#). The University of Ontario Institute of Technology released a working group [final report](#) earlier this year which notes that the use of evaluations is more useful for formative (self-evaluation) purposes than summative (external evaluation) due to the evidence that SET may not be statistically valid.

Universities in the US have been more successful in creating strong statements advocating against the use of SETs for evaluative purposes; for example, see [TEP Statement on Student Evaluation of Teaching, University of Oregon](#), which based its recommendation on many of the same resources cited in our literature review. See also "[A guide to best practice for evaluating teaching](#)" from the University of

Washington which discusses other ways that teaching could be evaluated for tenure and promotion purposes, and how to counter bias in SET. Some alternatives include peer reviews, alumni reviews, midterm reviews, and self-assessments. Examples of self-evaluative techniques that can generate constructive feedback from students may include but are not limited to instructor administered, stop, start and continue mid and end-term questionnaires or brief self-generated surveys that ask students to identify what they have learned and/or what they see or understand differently as a result of the course content.

The Faculty Handbook has recognized that the evaluation of teaching should not be based exclusively on student evaluations, as stated in Article 12.01.1 Teaching Effectiveness: *“Effectiveness as a teacher implies a concentrated and successful effort to create the best possible learning situation for students. It involves continuing attention to course work, course design and related activities; and to the supervision of students in alternative modes of learning. It may involve participation in seminars and colloquia, the design of innovative methods of teaching, or other contributions to the teaching activities of the University. Effectiveness as a teacher may be assessed by a variety of means including evaluation by fellow Faculty Members and through student appraisals though no assessment will be based mainly on student appraisals.”* This means that evaluations are NOT a required part of the package submitted. It is incumbent on members, department chairs, and Deans to be aware of the many other ways that teaching may be assessed and include, or advise their members to include, those other forms of assessment in their evaluation packages.

In closing, the Association recommends that the use of SET be for the exclusive use of the instructor, and should not be used for evaluative purposes unless submitted by the academic staff member. If they are used, they should be used mid-term to avoid some of the effects, and faculty, chairs, and Deans need to be educated on the potential biases within SET and how to adjust for them. Putting value in other evidence such as teaching materials, narratives around teaching, and peer reviews of teaching and standardizing the use of other measures will render SET unnecessary for summative evaluations.

Approved by the Executive Committee, Meeting No. 13, February 28, 2018



# Copyright Corner

## *Fair Dealing Week*

This year the international celebration of Fair Dealing Week occurred February 26 to March 2, 2018, once again providing an occasion to acknowledge the key role played by fair dealing in U of L teaching, learning and research.

You may recall that in a landmark 2004 case known as [CCH v LSUC](#), the Supreme Court of Canada said the Copyright Act's exceptions to infringement may be "more properly understood as users' rights," chief among which is "fair dealing." In fact, the Court went much further by stating that:

*The fair dealing exception under s. 29 is open to those who can show that their dealings with a copyrighted work were for the purpose of research or private study. "Research" **must be given a large and liberal interpretation in order to ensure that users' rights are not unduly constrained.***

The Library's Research Services Committee has reached out to several U of L faculty to find out how fair dealing benefits their students and their own personal teaching and research practices. When they become available, the results will be shared in the [Fair Dealing Week](#) section of the U of L Copyright website. You may also want to check out [fair dealing Canada](#), a national effort to share scholarly fair dealing stories.

## *Copyright Website Migration*

With a lot of help from Library instructional design and systems staff, the Copyright website has migrated to a new platform. The website address remains the same as before, however: [www.uleth.ca/copyright](http://www.uleth.ca/copyright). A new section called [Learn](#) offers the first three tutorials in a planned series that will address a variety of copyright issues relevant to U of L instructors, researchers and students. The new section also hosts the slides and handouts of previous Library Brown Bag sessions on copyright topics such as "Classroom teaching and copyright," and "Options for meeting mandated Open Access."







## Screening Films in Classroom and Extra-Curricular Settings

In the past couple of months I've received several inquiries about copyright and films, two of which I'll share here, as they may be of interest to members.

Q: Is it ok to show my class a film that is streamed from my Netflix account or a film I purchased from iTunes?

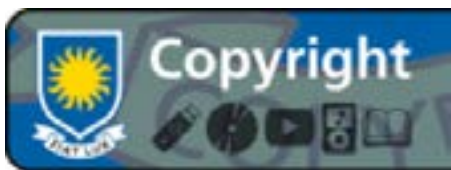
A: Although you may have access to a lawful source or copy of the film, have a look at the fine print of the applicable end-user license agreement you accepted. Most likely it will stipulate that the purchased or subscribed content may be used only for your personal use. Since screening a film in class (or, by extension, in an online classroom setting such as Moodle) constitutes a "public performance," in general, classroom use of a film covered by such an agreement will contravene the license terms. It is rumoured that Netflix will occasionally allow classroom use if they are the only source, but even if the rumour is true, such permission must be sought on a case-by-case basis. If you would like help in trying to obtain permission for a classroom screening of a film covered by a personal-use-only license, feel free to [contact](#) me. (This question is now covered by a Copyright [FAQ](#).)

Q: Are permissions required to show films for student clubs? (Of possible interest to members who are called upon to advise student clubs or groups.)

A: Use of films by student clubs is not covered by the Copyright Act provision for [public performance of films in classroom settings](#). However, since students are among the "Authorized Users" of the Library's streaming video services such as Kanopy, Films on Demand, NFB, and Curio, in general, films may be streamed from these services for student events held on campus as long as the audience consists of U of L students and no fees are charged.

If a student club wishes to screen a film that is not available via the Library's subscription streaming services, they must have access to a lawful copy of the film and must obtain public performance rights for the screening. Two non-theatrical screening rights collectives they may wish to consider are Audio Cine Films and Criterion Pictures. Note, however, that a single-presentation nontheatrical screening license can cost in the neighbourhood of \$200-300 or more. (This question, too, is now covered by a Copyright [FAQ](#).)

As always, if you have copyright questions or would like advice or information on copyright matters in your teaching, research or other U of L work, please feel free to contact me.



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*University Copyright Advisor*

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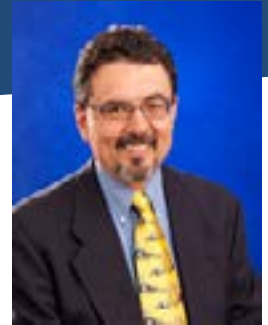
Andrea Amelinckx  
*President*



David Kaminski  
*Past President*



Jon Doan  
*VP/President Nominate*



Richard Mueller  
*Secretary/Treasurer*



Dan O'Donnell  
*Chair, Handbooks  
Committee*



Paul Hayes  
*Chair, Economic  
Benefits Committee*



Bryson Brown  
*Chair, Grievance  
Committee*



Nicole Eva  
*Chair, Gender, Equity  
and Diversity Committee*



Jim Wishloff  
*Ombuds Officer*



Annabree Fairweather  
*Executive Director*



Derrick Antson  
*Professional Officer*

Current and past issues of ULFA news are posted on  
the Association's website ([www.ulfa.ca](http://www.ulfa.ca))

