

# Négociations 2011 Negotiations

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**Please note: This bulletin is intended for information only.**

## NEGOTIATIONS UPDATE #6

### 1. KEY MESSAGES

- Negotiations are ongoing with the employer and the APUO negotiating team has worked diligently and successfully over the past seven months to resolve many concerns.
- However, several very significant issues remain, including the employer's proposal to introduce what would essentially be a new type of teaching-only professor.
- Given this, and the broader context of employer-faculty bargaining across the province, it is possible that the process may become increasingly difficult. For this reason, we encourage you to read this and subsequent bulletins very carefully.

### 2. RECAP – THE NEGOTIATIONS SO FAR

- As outlined in [Negotiations Update #1](#), APUO followed a rigorous member consultation process to determine its bargaining positions in preparation for negotiations with the employer, including
  - A large-scale consultation of all our members to identify which issues the APUO should focus on;
  - Extensive work by the Collective Bargaining Committee (CBC) to develop positions that would address those issues; and
  - Unanimous votes by the CBC, the Executive Committee and the Board of Directors of the APUO in support of those positions.
  - In total, we estimate that the various consultation, proposal development and evaluation efforts represent approximately 1,300 person-hours of work
- Since then, our negotiating team has gone to extraordinary lengths to make itself available to engage with the employer.
  - The APUO proactively requested meetings more than a year ago, before collective bargaining even began; to discuss the Letters of Understanding that dealt with what we suspected would be the most contentious issue: the employer's desire to create new teaching-only positions.
  - The APUO requested to meet with the Employer to begin formal collective bargaining beginning in April. Negotiations began in earnest in June.
  - Since meetings began in June, our negotiation team has spent close to 100 hours at the bargaining table, plus more than 110 hours of collective team preparation (tactical discussion, writing of proposals, etc.).
  - Our negotiating team was able to present the full set of APUO proposals early and clearly in the negotiations process and have sought to propose creative and fair solutions.
  - The members of the team also willingly cleared schedules and cancelled academic travel when the employer asked for intensive negotiation sessions in November.

### 3. UPDATE – WHERE WE ARE NOW

- There has been some real progress.
  - There has been progress, with both parties tentatively signing off on a number of issues. As well, both parties have withdrawn a number of contentious positions in order to increase the likelihood of reaching a negotiated settlement.
- However, the APUO and the employer remain far apart on several fundamental issues that remain outstanding.
  - I. Key Outstanding Issue #1: Addressing Workload Issues
    - As outlined in [Negotiations Update #2](#), one of the key preoccupations of APUO members is workload. In particular,
      - A concern that workloads have significantly increased overall;
      - that there is often little transparency about how individual members' teaching loads are assigned; and
      - that the time and energy involved in resolving disputes on workload is lengthy and cumbersome.
    - Up to this point, discussions have moved slowly on that important issue. The employer has yet to accept one of APUO's proposals on workload issues, and has only suggested one alternative method on how to address these concerns. Though long and complex, discussions on that issue are still on-going.
  - II. Key Outstanding Issue #2: Teaching-Only Professors
    - As outlined in [Negotiations Update #4 and #5](#), the most extreme proposal on the negotiating table is the employer's proposal to create a teaching-only professor position. This employer proposal would create a class of professors who would
      - teach 200% the normal course load (normally 8 courses/year);
      - teach 3 semesters a year;
      - not be allowed to teach or supervise at the graduate level;
      - not be allocated sufficient time to undertake research in his/her discipline (for the purposes of annual reviews and tenure and promotion decisions, the only type of research that would be recognized for this class of professor would be research on general pedagogical issues, or what is called 'scholarship of teaching and learning');
      - be required to receive student evaluations that fall within the top quartile of their faculty to receive promotion to associate professor and tenure; and
      - be required to win 'national or international' teaching awards to be promoted to full professor.
      - Be up to 15% of the faculty body (between 190-233 positions at current APUO membership levels)
    - Although the APUO has listened to the employer's concerns and has been willing to discuss alternatives to this proposal, the employer has refused to back-down from its original position.

### 4. WHAT IS THE PROCESS FROM HERE/WHAT HAPPENS NEXT?

- Regular negotiations continue.
  - The APUO is committed to doing everything possible to find solutions to the outstanding issues in ways that protect and strengthen the quality of university education.
  - The APUO negotiating team is therefore scheduled to continue meeting with the employer to negotiate a settlement that is acceptable to our members.

- However, the APUO does not have control over how long the current process of unmediated negotiations will continue, because either party may declare an impasse at any time. The following are the basic stages that would follow if an impasse were to be declared.
- Conciliation is the next stage of the process if negotiations break down
  - According to Ontario labour law, either party in negotiations can choose to end discussions at any point by declaring an impasse. This means that even if one side wanted to keep negotiating, the other could choose to end discussions and force the parties into the next stage of the process.
  - Once an impasse is formally declared, the Ontario Ministry of Labour is informed and must appoint a conciliator within 14 days.
  - The conciliator's role is to meet with both parties to facilitate a negotiated settlement. However, a conciliator has no power to compel the parties to agree to conditions.
- 'No Board' ruling
  - If the two parties do not reach a negotiated settlement with the help of the conciliator, the conciliator issues a 'No Board' ruling indicating that in his/her opinion, the two parties are not likely to reach a negotiated settlement.
- Lockout/Strike/Dissolution of the collective agreement
  - After a no-board ruling, the two parties are usually given a short period to try one final time to find a negotiated settlement.
  - According to Ontario labour law, 16 days after a 'no board' ruling is made, the pre-existing collective agreement expires and the two parties lose all of the rights and responsibilities outlined in it unless (a) the two parties have signed a tentative agreement or (b) a lockout or strike has been called.
  - The two parties can continue to negotiate during these 16 days. However, to preserve the existing collective agreement, either the employer must proceed to lock out the union or the union must go on strike before the 16 day period is over.

## 5. BROADER CONTEXT SURROUNDING THE CURRENT NEGOTIATIONS

- The APUO cannot predict the future direction of negotiations with the employer.
- Traditionally, the employer and the APUO have eschewed forwarding radical changes and thus have been able to reach negotiated settlements, even if this sometimes took a long time to achieve.
- However, over the last several years there seems to be a concerted effort by some Ontario university employers to push for profound changes to the terms of university employment and to use more aggressive negotiating tactics to get it.
- The following are a few examples of recent circumstances at other peer institutions:
  - At Queens University, the employer pushed for dramatic changes in the areas of the pension plan, job security and compensation while "displaying no real effort to compromise or negotiate a settlement...[and] has rejected out of hand faculty association's proposals on how to address issues facing the University" (OCUFA Report, Aug 3/11).
    - In a letter to the board of trustees, Queen's president acknowledged the employer's aggressive strategy by telling trustees that its negotiating approach could lead to "major labour disruptions" that would be "unpleasant and potentially reputation damaging," but that the employer believed it was a necessary step to "achieve success in salary restraint and pension reform."
    - The employer unilaterally ended normal negotiations on June 7. A conciliator was appointed June 17. Conciliation began June 27.
    - As negotiations became increasingly difficult in conciliation, QUFA held a strike vote on July 13. An overwhelming 78% of members of QUFA participated in the vote and 72% of them supported a strike mandate.
    - The employer unilaterally ended conciliation on July 22 and a 'no-board' report was issued on July 29 with a lockout/strike date of August 15.

- After 4 final days of mediated negotiations, the parties reached a tentative agreement on August 15. QUFA members then ratified it with a 90% vote in favour in August.
- At Carleton University, the employer tried to push for a radical overhaul of the requirements and process for tenure and promotion as well as introducing a series of proposals to radically limit academic freedom. The employer withdrew these proposals after Carleton faculty voted 88.5% in favour of a strike vote and the negotiations were resolved by binding arbitration (a process available when only monetary matters are at issue).
- At the University of Windsor, the faculty association managed to fight back against what was called “the most drastic pension concession demands ever tabled at a faculty association bargaining table”. The Windsor faculty union received a 90% strike mandate from its membership and following three days of conciliation, the two parties reached an agreement that was ratified by a 73% vote in favour.
- At the University of Ontario Institute of Technology, the faculty association (UOITFA) ratified a five-year agreement following negotiations that were “drawn out and often difficult”, and included a conciliation process. Members of UOITFA gave their negotiating team an 85% strike mandate before going into conciliation.
- At the University of Western Ontario, librarians and archivists ratified an agreement in September following a strike that lasted two weeks. At Brandon University, the employer hired an external labour-relations lawyer who is also an advisor the Canadian Labour Watch Association (a Vancouver based anti-union organization – see <http://www.labourwatch.com/faqs/decertify-guide/on/general>) to act as their chief negotiator (CCPA Manitoba ‘Fast Facts’ Nov 10, 2011). Faculty members rejected employer demands that would make professors’ tenure and promotion more difficult and claw back faculty income. The Brandon University Faculty Association (BUFA) went on strike on October 12. A tentative agreement between BUFA and the employer was recently reached after 44 days of strike.
- This broader context suggests that these negotiations might be quite different from previous rounds of negotiations at our institution as the employer might choose to adopt similar tactics.

## 6. WHAT TO EXPECT

- The APUO negotiating team will continue to work hard to reach a negotiated settlement that protects the quality of university education and is acceptable to APUO members.
- However, the employer may choose to declare an impasse and force negotiations to the next stage (conciliation) in keeping with the recent strategy of other university employers. Both parties hold the same rights, in that respect, which means that APUO can also choose to declare an impasse and force conciliation, under Ontario labour law.
- The APUO executive will keep you informed of all significant developments. So please watch for future emails.
- As mentioned in the previous update on the survey on the employer’s proposal (rejected by 80% of respondents), APUO will consult its members again to know their position on other proposals, including a more equitable form of Teaching Stream Faculty.

Thank you for your attention to these matters. Please feel free to contact the APUO if you have any questions or comments. Your feedback is always appreciated.

The APUO Executive Committee