

Academic Freedom, the Presidential Veto and Collective Bargaining

Throughout the upheaval of the past six months, the USFA Executive directed considerable efforts toward reaching a settlement at the negotiating table. We reached a tentative three-year agreement on July 30 and ratified it on September 2. We anticipate the Board of Governors will vote on the agreement at their meeting in early October.

We have put together this issue of *Collectively Speaking* in anticipation that the Board will accept the tentative 2014–2017 Collective Agreement. As with the topic of the presidential veto in this issue, we want to acknowledge in future issues the need to find ways to move forward. Over the next few months we will focus on some of the productive changes made to the Collective Agreement.

As you read *Collectively Speaking* this year, we invite you to send us your questions. Also, if your unit would like someone from the USFA to attend a meeting and run through changes to the Agreement, please contact the USFA office.

Academic freedom is a foundational philosophy in our negotiations and agreements with the university, but it was not at the forefront of the plan when the USFA negotiations committee embarked on its latest round of bargaining. Rather, primary objectives included strategies to achieve University Administration's stated goal of faculty salaries in the 75th-percentile of comparator universities and, equally important, to move the working environment on campus towards a more healthy, family-friendly, and female-friendly place of employment.

The events of the summer changed that mandate. Ongoing was the university's pending decision to appeal Arbitrator Sims' decision on the denial of tenure for one of our members because of a "presidential veto" in 2009. And even while senior administrators scrambled to deal with the fallout from the firing of Robert Buckingham for "breaking the silence" and criticizing the university leadership's controversial cost-cutting TransformUS plan, we were alerted to

the potential threat that the President would again use veto power over collegial recommendations for tenure. Two faculty members were singled out and summoned to a "meeting" with the President, their successful tenure recommendations to be on hold until an unknown date.

The Board's decision to delegate veto power to the President on tenure decisions was seen as a direct attack on the long-established collegial decision-making processes at this university. It created an atmosphere of fear among untenured faculty that undoubtedly had a chilling effect and quashed many dissenting opinions on campus, rendering the principle of academic freedom meaningless.

With two members' careers in limbo and the Board's decision to appeal the Sims Arbitration raising the spectre that this egregious abuse of power would recur in the future, the USFA Executive gave a clear mandate: to address the issue of the presidential veto in collective bargaining.

Academic freedom appears as Article 6 in our Collective Agree-

ment, a contract between the university and faculty stating that “all employees, whether tenured or not and regardless of prescribed doctrine, are entitled to the exercise of their rights as citizens and to freedom in carrying out research and in publishing its results, freedom of discussion, freedom to teach the subject assigned in classes, freedom to criticize the University and the Association without suffering censorship or discipline.”

Regardless of this article, the president’s ability to overturn decisions made through collegial processes meant that, in a worst-case scenario, an idiosyncratic conviction, a critique of an administrators’ decision, a conflict of ideology or philosophy, an expression of an opinion contrary to the interests of the university or its funders—indeed, any voice of dissent—could have resulted in the president’s being swayed to deny tenure or promotion.

Raising the issue of the presidential veto at the bargaining table was clearly essential. The University of Saskatchewan Act gives the Board of Governors the authority to appoint faculty members. Our Collective Agreement, which cannot supersede that law, set out the procedure for determining the award of tenure. Until recently, this situation has not been problematic: our collegial processes have successfully provided a longstanding system to award tenure and promotion, and the Board has always accepted the results of

these decision-making processes. Once the Board delegated its authority to the president, however, we found ourselves in an unprecedented situation where a single person determined the fate of faculty members’ tenure. It was in this context that we negotiated changes to the Collective Agreement that are intended to prevent this situation arising again.

Most important, the Board agreed to withdraw its delegation of authority to the president, and in the first article of the Collective Agreement we included a joint commitment: “The parties have respect for and confidence in the collegial decision making processes described in this Agreement.”

In practical terms, changes were made to the Renewals and Tenure Appeals Committee—considered the Achilles heel of the tenure-appeal process by the employer and by many faculty as well—so that it is no longer a randomly-selected committee of members who may lack experience from year to year. It is now a standing committee of twelve tenured or continuing status faculty members (nine employees and three senior administrators) with rolling three-year terms (see

Article 15.9.5.2). The president is now required to advise any candidate who appeals to the Renewals and Tenure Appeal Committee of the Board’s final decision by 30 April. If the decision is negative, the chair of the Board is now required to provide a written statement of reasons for the negative decision to the candidate (see Article 15.12.10). Finally, should the Board try to second guess the positive decision of the collegial decision-making body and require clarification, candidates now have the opportunity to appear before the Board accompanied by a representative from the Association to present their case (see Article 15.12.11).

In sum, the results achieved through collective bargaining address the presidential veto from a number of angles. We hope we will not see the Board of Governors undermine our collegial decisions again, and we hope that the University of Saskatchewan will continue to have constructive conversations about the nature of tenure and academic freedom at this institution and across Canada.

“Post-secondary educational institutions serve the common good of society through searching for, and disseminating, knowledge and understanding and through fostering independent thinking and expression in academic staff and students. Robust democracies require no less. These ends cannot be achieved without academic freedom.”

—Canadian Association of University Teachers

To the Wall: The Last Stand for Academic Freedom

The USFA will be hosting an event and dinner in celebration of academic freedom on October 1st. We will be joined by presenters and participants from across North America, including Dr. James Turk, former Executive Director of the Canadian Association of University Teachers, Dr. Robin Vose, President of the Canadian Association of University Teachers, and the President of the American Association of University Professors, Dr. Rudy Fichtenbaum.

Details for the afternoon are:

Location: 241 Arts Building, Neatby-Timlin Theatre

3:00 p.m. “The Contested Terrain of Academic Freedom”

Dr. James Turk, former Executive Director of CAUT and Distinguished Visiting Professor, Ryerson University

4:00 p.m. Panel Discussion: “Academic Freedom in an Age of Conflict”

Dr. Robin Vose, President CAUT

Dr. Carolyn Sale, University of Alberta

Dr. Toni Samek, University of Alberta

Ms. Isabela Vlahu, U of S, President, Graduate Students’ Association

Dr. Howard Woodhouse, U of S, Department of Educational Foundations

Most of us who have joined the academy have a notion that we enjoy academic freedom but many are surprised to find out that, like other freedoms, it is not a well-defined concept and, like the concept of tenure, it is not governed by legislation. Academic freedom is more typically described in mission statements or institutional principles and, of course, in academic collective agreements.

Though academic freedom faced a significant challenge here, the support for the idea of a free university was tremendous. Not only did U of S students and faculty speak out, we were joined by many members of the public. We sensed great support from the media, and it transcended our community. There has been a national and international focus on academic freedom at our University. It is of the utmost importance that there continues to be dialogue and education about academic freedom and its importance to universities. With Interim President Barnhart’s statement on September 9 that “Academic Freedom is alive and well” at the University of Saskatchewan, there could not be better timing for us to come together around this important and fundamental topic.

The Dinner, which will include a brief address by Dr. Fichtenbaum and presentation of the USFA Academic Freedom Award, is being held at the University Club. We have a limited number of seats available for USFA members on a first come first served for the dinner. If you are interested in attending, please contact Tammy Stieb at the USFA office (tammy.stieb@usask.ca) as soon as possible.

The USFA Academic Freedom Award

Academic freedom is the freedom of faculty members to teach or communicate ideas or facts without being targeted for repression, job loss, or imprisonment.

The University of Saskatchewan Faculty Association (USFA) has long recognized the importance of academic freedom to the work of faculty. In fact the USFA was one of the groups representing faculty at Canadian universities who, in the 1950's, came

together to form CAUT and actively defend attacks on academic freedom.

The USFA Academic Freedom award is intended to recognize distinguished contributions to understanding and defending this crucial concept. Recipients may include a person, persons or organization who has contributed to the understanding and advancement of the concept of academic freedom at the

University of Saskatchewan or elsewhere in Canada through the promotion, defence or exercise of academic freedom.

At the first USFA Academic Freedom conference (2005), the award was established to recognize a person(s) who reflects the courage, determination, and tenacity in confronting institutional injustice inherently necessary to champion academic freedom.

Questions about the Collective Agreement or Academic Freedom?

Please contact the USFA office:
usfa@usaskfaculty.ca
Or 966.5609

The Collective Agreement is available at:
www.usaskfaculty.ca

www.usask.ca/hrd.employment_agreements.php

Past recipients of the USFA Academic Freedom Award:

James Turk, Executive Director, CAUT

Gavin Gardner, President USSU, and Jonathan Anuik, President GSA

Michael Hayden, Professor Emeritus

Linda McMullen, Professor, Psychology

Howard Woodhouse, Professor, Educational Foundations

Len Findlay, Professor, English

Claire Card, Professor, Large Animal Clinical Sciences