



#3

Negotiations News



Bargaining information for OPSEU members in the CAAT-Academic Division

Bargaining is under way

Bargaining dates set for June, July, August

In keeping with legislative requirements, on June 3 the union sent notice to bargain to the Council, which acts on behalf of the colleges. On Monday, June 8, the union negotiating team met face-to-face with the management group.

Bargaining is well under way. Bargaining dates have been set through June, July, and August.

The management group is chaired by Rachael Donovan, Senior Vice-President at Fleming College. Other members of the management group are:

- George Burton, Vice-President, Enrolment Management and Student Services at Loyalist;
- Nancy Hood, Director of Human Resources at George Brown;
- Renee Kenny, Associate Vice-President, Business Development at Centennial;
- Glenn Toikka, Vice-President, Finance and Administration at Cambrian;
- Don Sinclair, Executive Director, the Council;
- Morris Uremovich, Associate Director, the Council;
- Christiane Émond, Consultant, the Council.

The management group is assisted by Wallace Kenney of the law firm Hicks Morley.

The employer introduced its approach to this round of negotiations by saying it was directed by a set of values. The employer said:

We will make every effort to maintain and improve the working environment for our faculty so that they have every opportunity to

contribute to our students' success. We acknowledge that Colleges are public institutions and the importance of maintaining our responsibility and accountability to the public we serve. We need to ensure students can easily access our programs when and where they need them. We wish to encourage academic excellence for our learners. We endorse innovation and creativity in bringing resolution to the issues. We will maintain the highest degree of integrity. We will be working towards a sustainable positive bargaining relationship with the Union and its members through co-operation and problem solving with the employees' bargaining agent.

Time will tell if management's negotiating style is true to its stated values. The union demands, particularly those concerned with workload improvement and academic freedom, are consistent with and support these values. The Union will be tabling workload proposals that are in keeping with the unanimous recommendations of the Workload Task Force (see story on page 2).

The Task Force recommendations will provoke discussion of how workload is calculated. The Union is committed to **no concessions** in bargaining and the Task Force report offers recommendations that afford faculty greater control over workload calculation.

The report of the Task Force recognizes the need for provisions for improved collegiality and academic freedom. Faculty concerns in this area were clearly recognized by the Task Force.

The Workload Task Force Report – and how it relates to bargaining

After the 2006 round of bargaining, arbitrator William Kaplan established the Workload Task Force to make recommendations on workload issues in CAAT-Academic bargaining. In March 2009, the Task Force submitted its unanimous report.

Kaplan appointed Wesley Rayner, an arbitrator who is a former professor and dean at the University of Western Ontario Law School, to chair the Task Force. Morris Uremovich, an employee of the Council and a member of the management bargaining team in 2003 and now 2009, was appointed as the colleges' nominee. Marcus Harvey, Ph.D., whose job title is Professional Officer (Policy & Research) for the Canadian Association of University Teachers, was OPSEU's nominee.

A basic finding of the Workload Task Force was that there was a need for the parties to address deficiencies and weaknesses in the college system relating to academic freedom, collegiality, and respect for academic professionalism.

One of the conclusions of the Task Force is that for the majority of programs and teachers the basic structure of the formula system works adequately. However, the report finds that the application of the formula is problematic and makes recommendations to deal with this.

While the report is not ideal, it still addresses a number of issues

that college faculty have expressed through their demands. The Task Force Report highlights seven areas:

- flexibility;
- preparation;
- evaluation;
- complementary functions;
- professional development;
- workload dispute mechanisms; and
- professional standards and relationships.

Flexibility

Recommendation (i) addresses the issue of flexibility with the intent of "...finding a mechanism or structure that permits the parties to determine when and how the formula should be modified." The Task Force includes a subset of recommendations to limit the extent to which any flexibility might be incorporated into the collective agreement.

Preparation

The Task Force acknowledges that there is a difference between curriculum development and class preparation. In their opinion, when the "... modification meets a certain level (affecting 20% or more of the course content) the time spent on the conversion should be treated as curriculum development and added to the SWF according to the provisions made by the Collective Agreement

in Article 11.01 D3 (ix)."

Evaluation

The Task Force stresses that "the determination of evaluation methods should flow from consultations between [teachers] responsible for delivering the courses and the manager responsible for the overall program. Where teachers and managers cannot agree on evaluative methods, their dispute should be resolved through the existing appeal mechanisms and the decision of the WMG (or the WRA)."

Notes on terminology:

The **Workload Monitoring Group** is a joint union-management group established at every college under Article 11 of the collective agreement between OPSEU and the colleges.

Under Article 11 of the collective agreement, **Workload Resolution Arbitrators** have the power to rule on individual workload disputes where the WMG is unable to come to a resolution. Decisions made by WRAs are final and binding on the college, the union, and the teacher in question.

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Further, “The underlying practical issue in the area is how the decision to adopt a particular evaluation method is made.... [T]his practical issue masks more fundamental questions of academic freedom, professional expertise, and collegiality.”

The Task Force recommendation for evaluation is that, “We recommend that for each program and/or course the evaluation methods be set in a consultative process by the affected faculty as a group and the academic manager and with the manager’s approval placed in the course outline. All teachers are to abide by that outline. Any disputes between the faculty and the manager emerging from that consultative process are to follow the normal dispute resolution procedure, i.e., the WMG and the WRA.”

Complementary functions

The Task Force makes a recommendation to address the relationship between total student contact hours and student demands on faculty members’ time. This issue has been a faculty concern in a number of negotiation rounds. Recommendation (iv) states, “We recommend that the parties negotiate a mechanism to address concerns over increased time needed for out of class student assistance when the total number of students taught reaches levels above the norm. We have adopted the concept of total number of students as the most workable basis for such a mechanism. To accomplish this mechanism, the parties should negotiate the

following components: namely, a threshold number based on the total number of students taught that would reflect the existing notional four hours of out of class assistance now provided, and an escalator that would provide additional hour(s) for student assistance under complementary function.”

Professional development

The Task Force addresses the need for and importance of professional development. Though it does not make a specific recommendation on the subject, the Task Force does note that “...the need for professional development time for training, networking, becoming familiar with changes in the existing technology, and research must be met if the college system is to remain vibrant.” A number of positions passed at the union demand-setting meeting address this issue.

Workload disputes

On the question of the workload dispute mechanism, the Task Force drew two positive conclusions: 1) the total number of complaints does not appear to be excessive, and 2) the system seems to work well. The Task Force Report specifically states that if their recommendations in the area of flexibility are accepted it follows that the Union would have standing before the WRA.

Professional standards and relationships

The dominant theme of the Task Force Report is that

collegiality, academic freedom and professional development are important objectives if the college system is to be vibrant.

The seventh and concluding recommendation of the Report is that “We recommend, therefore, that the parties consider mechanisms that will enhance collegiality, professional development, and academic freedom.”

The bargaining team will use the Workload Task Force Report in addressing a number of issues that union members have submitted to make improvements to the collective agreement.

Why “the Precautionary Principle” matters to your health and safety at work

Community colleges are large, complex public institutions. To ensure the health and safety of students, support staff, administration and faculty, the bargaining team has proposed changes to Article 24.02A of the collective agreement to enshrine “the precautionary principle” as the guiding philosophy of the Health and Safety Committees.

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The precautionary principle is an approach to eliminating hazards before they cause harm and is generally defined as follows:

Where there is reasonable evidence of an impending threat to health or safety, proof beyond a reasonable doubt is not required before taking steps to avert a threat.

The principle of precautionary action has four components:

- People have a duty to take action to prevent harm before it happens. If there is a reasonable suspicion that something bad may happen, then there is an obligation to try to prevent it.
- The burden of proof of harmlessness of a new technology, process, activity, or chemical lies with those who wish to use or introduce it.
- Before using a new technology, process, or chemical, or starting a new activity, people have an obligation to examine a full range of alternatives, including the alternative of doing nothing.
- Decisions applying the precautionary principle must be open, informed, and democratic and must include the effected parties.

Old adages such as “better safe than sorry,” “an ounce of prevention is worth a pound of cure,” and “look before you leap” speak to the common-sense approach of the precautionary principle. Unfortunately, society has been slow to embrace these principles. For example in the 1920s, the petrochemical and

automobile corporations announced that they were going to add lead to gasoline. Public health officials argued that the possible repercussions should be studied first. The corporations won in court and it took almost 60 years to remove this dangerous additive.

Slowly the tide has been turning. In 1996, the American Public Health Association passed a resolution entitled, “The Precautionary Principle and Chemical Exposure Standards for the Workplace.” The resolution recognized the need for the precautionary principle and the need to consider chemicals potentially dangerous until the extent of their toxicity is known.

In 1999, the Ontario Federation of Labour passed a policy paper entitled “Occupational Disease: Shifting the Burden” which called on the OFL and its affiliates to include the precautionary principle in the introduction of new substances, processes or job designs into the workplace.

More recently in January 2007, the final report of the SARS Commission, under Mr. Justice Archie Campbell of the Superior Court of Justice released his report in which he called repeatedly for the introduction and use of the precautionary principle:

That the precautionary principle, which states that action to reduce risk need not await scientific certainty, be expressly adopted as a guiding principle throughout Ontario’s health, public health and worker safety systems by way of policy

statement, by explicit reference in all relevant operational standards and directions, and by way of inclusion, through preamble, statement of principle, or otherwise, in the Occupational Health and Safety Act, the Health Protection and Promotion Act, and all relevant statutes and regulations....

If the Commission has one single take-home message it is the precautionary principle that safety comes first, that reasonable efforts to reduce risk need not await scientific proof....

Perhaps the most important lesson of SARS is the importance of the precautionary principle. SARS demonstrated over and over the importance of the principle that we cannot wait for scientific certainty before we take reasonable steps to reduce risk. This principle should be adopted as a guiding principle throughout Ontario’s health, public health and worker safety system....

...we should not be driven by scientific dogma of yesterday or even the scientific dogma of today. We should be driven by the precautionary principle that reasonable steps to reduce risk should not await scientific certainty.

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In defining the precautionary principle, Justice Campbell relied on the work of a previous commission, the Krever Report on the Blood System in Canada, in which Mr. Justice Krever said:

Where there is reasonable evidence of an impending threat to public health, it is inappropriate

to require proof of causation beyond a reasonable doubt before taking steps to avert the threat.

It would be disappointing if management, for any reason, would reject including the precautionary principle in the collective agreement for college faculty in Ontario.

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