

FACT SHEET – AUFA-AU Bargaining

Earlier, employer representatives released a “Fact Sheet” correcting what the employer views as “factual inaccuracies and misleading information regarding the intent and impact of AU’s bargaining proposals.”

We disagree with this characterization. It is our position that AUFA communications to members have been forthright, accurate, and honest. And while we won’t comment on the intent behind the Board’s proposals, we are happy to reiterate our concerns about what impact the Board’s proposals would have on our members, and the future of the institution.

Further, it is our view that the employer’s “Fact Sheet” is itself a highly massaged document designed to minimize the negative implications of the employer’s proposals, while at the same time casting those same proposals as reasonable, even beneficial, revisions to our collective agreement.

What follows, then, are the employer’s assertions about its proposals (in *italics*), followed by our understanding of how those proposals will affect AUFA members.

1 PATTERN BARGAINING

The two-year wage freeze proposed by the Board and agreed to in principle by AUFA is in line with what is happening across the Alberta Public sector. It is misleading to imply that either party is responsible for the current situation within the province or could realistically propose anything that does not conform to the pattern established for public sector bargaining in the province.

AUFA has neither said nor suggested that anyone is responsible for “the current situation within the province.” In fact, and as the FACT SHEET correctly notes, AUFA has agreed in its December counter-offer to two years of 0% increases in member salaries, and has readily acknowledged that this has been the pattern across the public sector in Alberta. We do dispute, however, that this represents a true ‘wage-freeze,’ given cost of living increases to the tune of more than 2% this past year alone. In recognition of this, and in anticipation of better days to come, we have also proposed arbitrated wage re-openers in years three, four, and five.

What the employer does not mention is that while two years of 0% increases has been the public sector pattern, this has usually been accompanied by improvements to collective agreement language. As we have repeatedly made clear, the employer’s proposals demand instead numerous concessions to our collective agreement.

2 Appeals

The proposed appeal committees are intended to make the process for appeals fairer and unbiased.

We disagree. As you know, AUFA members enjoy leave to appeal employer decisions on probation, merit increases, and promotion. It is our position that the appeals committees described in the current Collective Agreement are both fair and unbiased. Broadly, the employer's appeals proposals are a solution in search of a problem, and further, represent a substantial concession.

The employer's proposal would remove Appellants' existing right to challenge without prejudice 1 Appeals Committee Member.

At the same time, the employer's proposal would allow the Chair of Academic Appeals Committees (who as a VP generally has a pro-employer interest) to remove any Appeals Committee Member if the Chair suspects bias. The employer's proposal has no apparent mechanism compelling the Chair to show evidence of bias.

The employer's proposal would remove probationary Professional AUFA members' right to appeal the denial of permanent status. Instead it would allow the President to terminate Professionals at any time within their probationary period, leaving terminated Professionals with no recourse but the more time-consuming and costly grievance procedure.

The employer's proposal would remove the right of Professional Staff to elect Appeal Committee Members and offers no guarantee that all Appeal Committee Members will be Professionals.

The employer's proposal explicitly places the onus of proof on the Appellant, not the employer.

3 PROFESSIONALS ON PROBATION

In the Board's proposals, the length of probationary period for Professionals is being reduced from two years to one, bringing them in line with post-secondary standards. Contrary to what was suggested in AUFA communication to its members, there is no attack on Professionals in this or any part of the Board proposal.

AUFA is not necessarily opposed to reducing the length of the probationary period for Professionals from two years to one. AUFA is, however, opposed to the employer's related (but unstated above) proposal giving the President the power to terminate Professionals at any time within their probationary period. It is difficult for us to see how this is not an attack on Professionals.

Employees would have the ability to grieve probationary decisions, which puts pressure on the Board to ensure that the cause of any termination during probation is well-considered and fair. Probationary decisions would not be subject to appeal under the Board proposal.

AUFA, of course, supports well-considered and fair behaviour from anyone. But as the employer well knows, substituting AUFA members' right to appeal termination decisions with the right to grieve them is more time-consuming and costly for terminated employees. The grievance process costs around \$40 000, is run by expensive lawyers, and takes around 1 year to complete. Appeals are cost-neutral, are done in-house, and must be completed within a tight timeline.

There is no financial incentive to the Board to terminate probationary employees, rather there is a financial disincentive to the Board due to the increased costs of recruitment, onboarding and training when a hire does not work out.

This is a puzzling "fact." If the Board is concerned with the Collective Agreement's financial implications, then why would it want to increase its costs by eliminating probationary Professionals' access to cost-effective appeals and opening itself up to costly grievance procedures?

4 DISCIPLINE

Proposed discipline language would suspend AUFA members' pay immediately when an employee is suspended for a period not greater than two months or dismissed for cause. While it is fact that the Board's proposal does include language that would suspend a Member's pay in certain circumstances this does not reduce the Board's requirement to ensure that disciplinary action is expeditiously investigated, documented and concluded in a fair and unbiased manner.

AUFA is pleased that the employer agrees its proposed language on discipline constitutes a concession. Our current Collective Agreement ensures that the Board cannot impose severe disciplinary measures like pay suspension and termination until the Staff Member has a chance to appeal the decision. It is our position that the employer's proposal allowing the employer to suspend AUFA members' pay immediately is fundamentally unfair and entirely unnecessary.

AUFA has other concerns with the employer's discipline proposals as well.

For one, the employer's proposal would have discipline investigations be done by 'the employer' as opposed to an AUFA member's immediate supervisor who actually knows the employee and the nature of his or her work. This might seem like an innocuous change. It's not. By our read, it imperils the existing collegial nature of our workplace, unnecessarily escalates otherwise normal workplace disagreements, and potentially means that an HR executive or external consultant will investigate disciplinary issues on the employer's behalf.

For another, the employer's proposal would have both AU and AUFA share the costs of Disciplinary Appeal Panels. This might seem 'fair.' It's not. The employer alone initiates discipline procedures. AUFA would be 'on the hook' for about \$20 000 for each appeal, which might serve as an incentive for the employer to deploy discipline procedures as a way of depleting AUFA's financial reserves. At the same time, having AUFA share the costs of appeals (which, again, it did not initiate), also lowers AU's costs for

initiating discipline procedures, and leads to a potential rise in union dues to compensate in order to represent and protect members effectively and responsibly.

5 GRIEVANCE PROCEDURES

The employer makes a number of characterizations of its proposed changes to the Collective Agreement's grievance procedures. We have been clear about our opposition to these changes.

The employer argues that its proposals do not contemplate *"any limits on AUFA's ability to research grievances or represent their members."* Instead, the employer insists that its proposals would *"make the grievance process clearer,"* would *"streamline the grievance process so that grievances are dealt with more expeditiously,"* and would formalize *"the 'informal' dialogue between employees and their supervisors"* leading to a *"more collegial and respectful relationship."*

AUFA disagrees with the Board's characterization of its proposed changes to the grievance procedure, for the reasons below:

8.03 would eliminate existing neutral final arbitration procedures on Staff grievances relating to employer harassment, giving the Executive Officer first, final, and binding decision-making authority on the matter. AU's proposal, in other words, grants the employer alone the power to decide whether or not a Staff Member has a legitimate harassment grievance. Further, it's difficult to see how this proposed change would NOT limit AUFA's ability to represent its members, since the proposed change contemplates no role for any oversight, from AUFA or anyone else, of the Executive Officer's first, final, and binding word.

8.08 (b) would require that grievances be submitted within 30 days of the violation or within 30 days of when AUFA *"should reasonably have learned that the action or omission occurred,"* effectively ignoring AU's model of operations, forcing AUFA to act on complex grievances to meet an arbitrary window, and ensuring the employer has another way to reject some grievances.

Finally, AUFA is uncertain how *"streamlining the grievance process so that grievances are dealt with more expeditiously"* would maintain AUFA's ability to research grievances or represent its members or how doing so would lead to greater collegiality and respect. "Streamlining," in the Board's proposal really means imposing timelines on processes that are often fundamentally and unavoidably opaque and difficult for anyone to fully appreciate, save for in the fullness of time.

AUFA's Bargaining Analysis on the Board's grievance proposals offered this compelling example:

At present, AUFA can file a grievance alleging a violation of the collective agreement at any time. This arrangement reflects three things:

- 1. The distributed nature of AU means AUFA and AUFA members are often not immediately aware of when AU violates the collective agreement.**

2. It can often take time to AUFA and AUFA members to adequately determine the true nature and extent of the violation.
3. Some violations become apparent only over time and realizing a fair remedy requires correcting errors that often occurred years ago.

For example, AUFA recently won a grievance about AU's repeated re-hiring of term employees over a period of 10 or more years to do "temporary" work. The arbitrator found this behaviour was a violation of Article 5 (Term Appointments) because the work was clearly not temporary.

The evidence required to win this grievance (i.e., that the work persisted year after year) only became clear over time. And a fair remedy requires going back to the first point when it was clear that the work was not temporary.

AU is proposing AUFA be required to submit grievances within 30 days of the violation or within 30 days of when AUFA "should reasonably have learned that the action or omission occurred". This proposal will make it more difficult for AUFA to enforce members' rights because it ignores how AU model of operation affects AUFA's ability to file grievances within tight timelines. It also gives AU an additional way to reject some grievances.

6 BARGAINING

While AUFA declared an impasse during our last bargaining session, there is nothing preventing us from continuing our discussions. February 12 and 13 remain booked for bargaining between our parties and we would like to meet on those dates to present new and different items.

AUFA remains open to continuing the bargaining process at the table. However, and as we made clear to the employer in January, we reached impasse because the employer refused to modify or remove its unnecessary proposals on Appeals, Discipline, or Grievances.

Your members are also our employees. Our respective teams have been bargaining at the table not just for the future of the institution but also for the future of our employees.

Your members and our employees deserve accurate and transparent communication free from misleading embellishment. Everyone in the AU community, especially AUFA members, will benefit from receiving clear and corrected information, as it will provide us with a fair and accurate basis for further discussions. Simply stated, misinformation and inaccuracies hurt us all.

We cannot disagree with the employer's sentiments here. But the suggestion that AUFA has presented its members with inaccurate and misleading information about the employer's proposals insults the intelligence of AUFA members. The employer early in this process made public its own opening offer. Since then, the AUFA bargaining team has provided AUFA members with regular updates on the bargaining process. The AUFA executive has reported its understanding of the employer's proposals via

blogs and emails to members. AUFA's communications committee has provided AUFA members with analytical breakdowns of the nature and implications of each of the employer's proposals.

And AUFA members themselves have engaged in robust and meaningful discussions on the AUFA listserv, where they have shared, considered, and debated the various perspectives, points of view, and concerns about the entire bargaining process, including both parties' proposals. The suggestion that open discussion and debate undermines the clarity of either AUFA's or the employer's positions, frankly, grossly underestimates the ability of AUFA members to analyse critically and assess the various documents and bargaining strategies employed by both parties.

--Eric Strikwerda, AUFA Chief Negotiator