



University of  
Prince Edward Island  
FACULTY ASSOCIATION

2009-2010 Officers & Staff

MEMORANDUM

David Seeler  
President  
Companion Animals  
566-0886  
seeler@upe.ca

Betty Jeffery  
Vice-President  
Robertson Library  
566-0471  
bjeffery@upe.ca

Wayne Peters  
Past-President  
Engineering  
566-0495  
wpeters@upe.ca

Debra Good  
Secretary/Treasurer  
School of Business  
566-0348  
dgood@upe.ca

Nola Etkin  
Member-at-Large  
Chemistry  
566-0693  
netkin@upe.ca

David Groman  
Member-at-Large  
Aquatic Diagnostic Service  
Pathology & Microbiology  
566-0830  
groman@upe.ca

Gerry Mahar  
Member-at-Large  
School of Business  
566-0411  
gmahar@upe.ca

Jim Sentance  
Member-at-Large  
Economics  
566-0498  
sentance@upe.ca

Susan Gallant  
Office Manager  
566-0438  
sgallant@upe.ca

To: All Members of the Faculty Association

Date: April 15, 2010

Subject: **University Administration Disregards Panel Ruling**

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In a recent letter, written on behalf of President MacLauchlan, the University Administration has confirmed its intent to continue enforcing its mandatory retirement policy contrary to a Human Rights Panel ruling that the policy is discriminatory. The letter says:

*Respectfully, the University believes that it is premature to consider amendments to the Collective Agreement relating to mandatory retirement. We have heard from the Human Rights Commission but the courts may very well take a different view. My sense is that a prudent interim approach is to maintain the status quo. Consequently, we will be continuing our current practices and time lines for mandatory retirement until the matter has been determined by the court.*

Although a stay of the Panel's ruling requires an Order of the Court, which has not been issued, it would appear that the University Administration has decided to implement such a stay anyway while it pursues judicial review of the ruling. The Panel's ruling should have been enough to persuade the Administration to suspend its policy. However, it is clear that the ruling means little to the Administration and that it would rather continue its discriminatory practice until a Court tells it otherwise.

In response, the Faculty Association has asked the Human Rights Commission to issue a cease-and-desist Order which would make it absolutely clear just what the University Administration must do and/or refrain from doing in light of the Panel's ruling. This Order would include: (i) an order to cease the contravention complained of, and (ii) an order to refrain in the future from committing the same or any similar contravention. The Association would then file this Order with the Court, after which time the Administration would be in contempt of Court should it continue to enforce the policy.

Additionally, the Association will be filing grievances under each of its Collective Agreements in regards to the Administration's declared intentions. The Savings Clause article in each Agreement requires that the mandatory retirement language be declared null and void as it is now in conflict with a provincial Statute. Also, a Memorandum of Understanding signed by the Presidents of both the University and the Union commits each to the outcome of the Commission's deliberations. It is clear, however, that the University Administration does not see the need to adhere to either of these pieces of negotiated language.

The law of the land for UPEI is that the policy is gone; it contravenes the Province's Human Rights Act. Make no mistake, the University Administration is in violation of the ruling of the Human Rights Commission if it continues to enforce the policy. Simply, the University Administration can no longer enforce the policy without being in breach of human rights.