



### **Conciliation**

On June 3<sup>rd</sup>, the Faculty Association received word from the provincially appointed Conciliator that dates have been set for conciliation. Your FA negotiating team is scheduled to meet with the Employer's team and the Conciliator on Friday, June 10<sup>th</sup>, and Monday and Tuesday, June 13<sup>th</sup> and 14<sup>th</sup>. How did we get here, and what does it mean?

### **How Did We Get Here?**

The FA and Employer teams met for the first time on February 4<sup>th</sup>. During that time, the Employer delivered its proposals and indicated that if no agreement was reached by the end of June, it would apply for conciliation. The teams met nine more times between February 4<sup>th</sup> and April 27<sup>th</sup>. The Employer was willing to engage in discussions of housekeeping matters and relatively minor clarification of language issues but not the substantive issues on the table. These include the Employer's proposals around discipline, faculty and librarian evaluation tied to step increases, changes to tenure procedures, changes to supplemental health benefits post-retirement, the empowerment of Deans to make teaching appointments outside of a Member's department, and many others. This also includes the FA's proposals for an open hiring process for senior administrators, the creation of an equity committee, improvements in conditions for precarious Members including Sessional Instructors and term CNIs, and other proposals. The FA has not yet tabled a monetary proposal. The teams have spent approximately 35 hours at the table; comparatively, in the 2012 round of negotiations approximately 200 hours were spent at the table.

Meanwhile, on April 13<sup>th</sup>, the Employer presented a pension proposal to the Joint Union table. It demanded a response or counter proposal the next day. The unions indicated that, given the complexity of the issue, they would need the time to craft a proposal and to consult with their own actuary and experts, and would provide a response in early June. The Employer indicated it would shift discussion of pension to the individual union tables (FA, CUPE, and IBEW). The unions maintained the position that pension is under the jurisdiction of the Joint Union table.

On April 26<sup>th</sup>, the Employer attempted to move the discussion of pension to the FA table, and on the 27<sup>th</sup> offered a financial proposal of zero percent for each of the next four years conditional upon acceptance of pension and all of the Employer's other proposals. This was an offer designed for rejection, which is one element of what constitutes bad faith bargaining.

On April 28<sup>th</sup>, the FA filed an Unfair Labour Practice Complaint against the Employer, which, we document, has failed to bargain in good faith. For details read the [Complaint](#) and our [Response](#) to the Employer's Reply to the Complaint. This complaint has been under the purview of the Labour Relations Board in the Department of Justice and Public Safety since that time. Later the same day, the Employer requested the appointment of a conciliator, as they indicated they would in the initial meeting in February. Over the next weeks, two more Unfair Labour Practice Complaints were filed against the Employer in relation to pension negotiations: one by the UPEIFA and IBEW, and another by the two CUPE unions. For a summary read [this message](#).

### **What Does It Mean?**

This is an important moment that calls for us to stand together, to support one another, and to work collectively to protect and defend our interests. And it is a moment of solidarity among the campus unions. The setting of dates for conciliation begins a process that is defined in the province's *Labour Act*. If conciliation fails to produce an agreement, the Conciliator issues a report indicating this. The report is followed by a two-week "cooling off" period, after which the Employer can initiate a lockout and/or the FA can secure a strike vote. The dates set for conciliation position the Employer to lock out Members of the Faculty Association on July 1<sup>st</sup>.

Conciliation can be a useful and productive endeavour when the Parties have engaged in good faith bargaining and have resolved all but a few remaining issues. The FA's complaints allege the Employer has not engaged in good faith bargaining. Over twenty articles from the Collective Agreement remain open and unresolved (and often not even discussed). There is not even a monetary proposal from the FA on the table yet. Taken together, it is clear that conciliation at this point in the process is grossly premature. The FA has presented that position to both the CEO of the Labour Board and to the Conciliator, who claim to operate independently of each other.

The FA, through its legal counsel, has requested in writing and insisted in conversation with the CEO of the provincial Labour Board that the Board be called together to hear the FA's complaints and the other unions' complaints. The response has been that this takes too long. The FA maintains the position that these complaints must be heard and adjudicated before even considering the Employer's request for conciliation. We are seeking a ruling from the Board that the Employer must bargain in good faith. Additionally, and significantly, the pension complainants seek a ruling that the Employer must negotiate pension at the Joint Union table, as pension is shared by (some) members of all campus unions, and following many years of historical practice.

While the Department of Justice and Public Safety appears to find calling the Labour Board together to adjudicate the complaints too complicated (two Board members and a Chair are required), the Department of Labour has moved quickly to assign conciliation dates without consultation with the FA negotiating team. The letter (dated June 3<sup>rd</sup>) indicating dates was issued to the FA following a visit to the Conciliator's office by the Chief Negotiator for the Employer's team earlier that week.

On Monday, June 6<sup>th</sup>, the provincial Conciliator met with the FA's Chief Negotiator and an Assistant Executive Director from CAUT, who, by good chance, happened to be at UPEI this week for a series of meetings with FA committees. The Conciliator was reminded that given the limited time at the table and the number of sections of the Collective Agreement that have not been addressed, conciliation is premature. The Conciliator was challenged on the unilateral setting of dates without consultation with the FA negotiating team. The Conciliator was informed that the potential success of any conciliation effort depends on trust in the neutrality of the Conciliator and the conciliation process. The Conciliator was reminded that the jurisdictional dispute around pension is an element of all the complaints addressed to the Labour Board, that pension cannot therefore be the subject of conciliation, and that to allow that subject into conciliation would constitute interference with the complaints by the Conciliator.

In the meeting and in the [letter](#) following, the FA formally requested the Conciliator to suspend conciliation until the complaints are heard. We have been promised his decision by 5:00 p.m. today. We will continue to keep you informed.