

# NEWS & VIEWS

March 2013

## From the President's Desk

Sharon Alward



On February 13<sup>th</sup>, members of the university community and the labour community marched on the administration building. The labour unions and the student organizations at the University of Manitoba had

been trying, without success, to have the administration hear our concerns, take them seriously and respond. The event was a success and contributed to a changed atmosphere at President Barnard's Town Hall meeting on March 1<sup>st</sup>.

The meeting was held in a larger venue and the attendance was much greater than at previous meetings. Some UMFA Members sent in questions in advance of the meeting and there was a line-up at the microphones at both the Bannatyne and the Fort Garry locations.

There were some notable moments. CAW finally got a commitment from Paul Kochan, Vice-President (administration), that a meeting would be held to discuss concerns with Aramark's management of caretaking services. And President Barnard acknowledged that desktop printers could co-exist with the networked Xerox printers.

The printer issue, along with other issues, had been discussed at a meeting on February 7<sup>th</sup> involving UMFA and President Barnard, Vice-President (academic) Joanne Keselman, Vice-President (administration) Paul Kochan and Associate Vice-President (Human Resources) Terry Voss. At that meeting, UMFA had asked if Members could have their own desktop printers if the printers and toners were purchased with money out of their own

pockets. The response was that the administration didn't think the Xerox contract allowed for that to happen. UMFA provided that information to our Members. We had had no further feedback from the administration on the issues we raised at that meeting, including the desktop printer issue. We were therefore surprised by President Barnard's statement on this issue at the Town Hall and concerned that there was an impression that UMFA was conveying false information to our Members, and so we clarified what we had been told at the earlier meeting. We appreciate now knowing that the Xerox contract does not prevent desktop printing, and although we do not believe that Members should be paying for supports essential to the performance of their duties, at least now there is a choice.

We are glad to see that the administration is taking some of our issues seriously and responding. There was a different atmosphere and energy at the last Town Hall meeting and we hope that will continue. Our preference is, whenever possible, to work with the administration on resolving issues, rather than having to resort to confrontation.

I would like to take this opportunity to thank all of you who came out to express your concerns and to show solidarity with the other unions on campus at both the rally and the Town Hall. I also appreciated hearing messages of support from many of you who could not attend because you were on research/study leaves, were teaching or in clinics, or had previous commitments that you could not reschedule.

We hope that we will soon hear back on the other issues, including unfair treatment of Members that we raised at the February 7<sup>th</sup> meeting. In the past 10 months or so,

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academics and their UMFA reps have been called in to meetings to discuss areas of concern with no advance information such as the details of the alleged misconduct, or the timeframe. As you can imagine, this causes enormous anxiety for Members. This recent strategy shows a disregard for natural justice. It amounts to investigation by ambush. This “employer of choice” seems to have no concern whatsoever for the rights of individuals to know what they are being accused of and to prepare for these meetings by reviewing events and material related to these events, some of which could have occurred at least 12 months previously.

We also hope that, whatever the outcome of proposals to amalgamate faculties, that this process will not be “fast-tracked”. There have been difficulties with many of the

administration’s initiatives (e.g. Desire2Learn, Ad Astra, Concur, centralized printers). The proposed reduction of some existing faculties to the status of colleges has some major problems that are just beginning to be identified.

On the negotiations front, we are continuing our preparations for the next round of bargaining and will be calling a Special General Meeting soon where the proposals will be discussed and approved by the Regular Members of the Association. You will receive further information in the near future.

As always, please feel free to contact me with any feedback on this newsletter, or to discuss any concerns or questions you may have.

## UBC Takes Action to Reduce Gender Salary Inequity

Female faculty who hold tenured, tenure-track or grant tenure (an appointment where salary is paid, at least in part by external funds and may be terminated when funding runs out) positions at the University of British Columbia (UBC) will receive a 2% salary increase in an effort to reduce salary inequity due to gender. This will apply to female faculty holding the rank of Instructor I, Senior Instructor, Professor of Teaching, Instructor II, Assistant Professor, Associate Professor, and Professor.

After reports released in 2007 and 2009 by the Equity Office showed the wage gap between female and male faculty members, the University of British Columbia Faculty Association (UBCFA) and the Provost’s office formed two committees to study the gap: the Pay Equity (DATA) Working Group and the Structural Measures and Resolution Tactics (SMART) group. DATA focused on the quantitative analysis of the pay gap, while SMART looked at structural factors that contribute to the inequities, and studied measures to prevent and rectify gender inequities amongst faculty members’ salaries. A review of the salaries of librarians and archivists did not show a gendered pay gap.

According to the [DATA report](#), there were significant gaps in salary within professorial ranks. For example, the average salary gap for Full Professors was \$6,445.90, while among Associate Professors it was \$6,888.50, and \$7,096.73 among Assistant Professors.

Factors identified by the [SMART](#) committee as potentially contributing to salary differentials included starting salary, career progress increments, discretionary salary increases, salary adjustment, retention pay, top research positions and senior administrative positions.

Following the release of these reports, two jointly formed Pay Equity Recommendation Committees (one each of UBC’s campuses) were created to make recommendations on how to address these issues.

According to UBCFA, “analyses demonstrated a 2% salary gap between male and female tenure stream faculty members that was attributable to gender. The Committees considered various options to address this salary gap ... Each option was evaluated according to a set of criteria as well as the experience of 17 other universities in Canada and the United States. The Committee recommended a 2% increase for all eligible female faculty based on careful consideration of this information, underpinned by the need for a group level solution to address a systemic, group level issue.” The measure will help to close the gap, but may not fix each individual shortfall.

The pay increase came into effect February 28, 2013 and is retroactive to July 1, 2010. For more information, the DATA, SMART and Pay Equity reports are available on the UBCFA [website](#).

## Mandatory Retirement at UM: An Outdated Practice

Under the current UMFA Collective Agreement (section 10.19.2.1), Members who reach their 69th birthday must indicate to the university their intention to either retire or to continue in their current position on a reduced (half-time) appointment beginning at age 70. There is no option to continue in a full-time position.

To our knowledge, the University of Manitoba is now the only Canadian university with a provision in its Collective Agreement that does not allow academics to continue to work full-time regardless of age. The Universities of Brandon and Winnipeg do not have a mandatory retirement provision in their agreements.

This provision can trace its roots back to the spring of 1995 when the UM administration asked the Provincial Government for an amendment to Human Rights Legislation to permit the administration to negotiate clauses in collective agreements that would permit those over age 65 to be treated differently than those under age 65. The administration did not get a response. Then in early 1996, the Manitoba Government proposed, and passed, an amendment to the University of Manitoba Act to enable the university and the faculty association to negotiate compulsory retirement at age 65 or above. This provision is in Section 61.1(2) of the University of Manitoba Act: *“The university and a union or bargaining agent representing the academic, managerial or professional staff of the university may enter into a collective agreement that imposes or has the effect of imposing a mandatory retirement age of 65 years or over on that staff.”* There are similar provisions in the University of Winnipeg Act and University of Brandon Act but no mandatory retirement language currently exists in their collective agreements.

While Section 9(2) of the Manitoba Human Rights Code (HRC) lists “age” among the prohibited grounds of discrimination, Section 12 states:

*“For the purpose of interpreting and applying sections 13 to 18, the right to discriminate where bona fide and reasonable cause exists for the discrimination, or where the discrimination is based upon bona fide and reasonable requirements or qualifications, does not extend to the failure to make reasonable accommodation within the meaning of clause 9(1)(d).”*

However, the UM Act amendment also included the following:

Section 61.1 (4)

*“When a collective agreement is entered into or a by-law is made under this section,*

- (a) the requirement to retire at the age specified in the collective agreement or the by-law is deemed to be a bona fide and reasonable employment and occupational requirement for the purpose of section 14 of The Human Rights Code (discrimination in employment); and*
- (b) section 12 of the Code (reasonable accommodation) is deemed to be complied with.*

In 1997, the university terminated its early retirement plan, which encouraged Members to retire voluntarily and in turn, the university was supposed to recruit new academics, but the administration was not replacing retired Members. Then, in the 1998 round of bargaining, the administration brought a proposal on mandatory retirement to the table. UMFA Members wanted the UMFA bargaining team to put forward a retirement incentive and renewal proposal that would save the university money and guarantee that retiring Members would be replaced. The administration would not consider UMFA’s position and held firm to its own, eventually resulting in an impasse in negotiations as well as a strike vote by UMFA Members. In the end, the result was the option of a half-time appointment starting at age 70, with an obligation that the administration hire full-time equivalent positions to replace Members who retire outright or continue half-time. This obligation to replace retirees was removed in the 2010 round of bargaining.

Following the conclusion of negotiations and ratification of the 1998-2001 Collective Agreement by the UMFA Membership, a number of Members filed complaints with the Manitoba Human Rights Commission against the retirement provision saying it allowed age discrimination. However, the Commission refused to hear the complaints because legislation allows for such a provision to be negotiated. According to the Commission, *“The Manitoba Human Rights Code is paramount over other provincial legislation, unless a specific statute expressly provides otherwise. Amendments to legislation governing universities did so provide, and allow Manitoba universities to negotiate mandatory retirement in their collective agreements. The Commission, therefore, has no jurisdiction in this context, although it certainly does not condone age discrimination.”*

Since that decision, times have changed. There have been numerous decisions rejecting mandatory retirement and, across Canada, mandatory retirement provisions are being eliminated. For example, in December 2011, the Federal Government withdrew sections of the Canadian Human Rights Act and the Canada Labour Code that allowed mandatory retirement for federally regulated employees.

UMFA does not believe that a Member's age determines the ability to perform his/her duties, or that the ability ends or diminishes once someone reaches a set age. It is clearly time for the section on mandatory retirement in the UMFA Collective Agreement to be reviewed.

## Reminder: Annual Performance Reviews

UMFA previously sent out a notification in the December 2012 newsletter on annual performance reviews and is sending a reminder to Members on the provisions of the Collective Agreement.

Section 35.1 of the UMFA Collective Agreement states that annual "performance evaluations are primarily for formative purposes, intended to promote the continued professional development of Members in the course of their individual careers."

The use of anonymous materials is **not** permitted in an evaluation, as per the Collective Agreement. Anonymous materials include any oral or written comment received by the University related to a Member's performance or conduct where the Member has not received a copy of the written comment(s) including authorship. This also

includes written comments provided by students in SEEQ forms. Additionally, as per section 11.1.6 of the Collective Agreement, Members are to be provided with the **original** copy of SEEQ comments by their department head. No copy shall be made of any such comments by the University, and **cannot** be used in any way during a performance review. These comments are solely for the Member's personal use and information.

If you have received a review that is contrary to the Collective Agreement, or has negative comments about your performance, contact the UMFA office ([byapps@umfa.ca](mailto:byapps@umfa.ca) or [lguse@umfa.ca](mailto:lguse@umfa.ca)) immediately. **You are at potential risk if any negative comments about your performance remain in your personal file without being addressed.**

## Over 500 Attend Rally for Action – Efforts To Continue

The February 13<sup>th</sup> rally for action saw over 500 academics, staff and students from the University of Manitoba, as well as retired members and supporters from other labour organizations in Manitoba, come together in a show of solidarity to speak out against recent decisions and actions of the administration. The event, organized by six campus unions, attracted media attention locally and increased the awareness of issues faced by staff and students at the university, such as corporatization, privatization, contracting-out, diminished collegial governance and increased workload.



On the day of the rally, UM President David Barnard sent out a memo announcing a town hall meeting would be held March 1. In his memo, Barnard lists a number of "achievements" reached through collaboration between staff and administration, but he did not acknowledge that there were problems with these items and that multiple concerns had been raised by members of the university community. Many of these "achievements" are exactly the items that were being spoken out against at the rally, like the ROSE initiatives, academic restructuring and the Trailblazer campaign.





Barnard's memo also says *"As an administration, we are accountable to all university stakeholders, including faculty and teaching staff, support staff, alumni, community members, donors*

*and students. These stakeholder groups are represented in our governing bodies, including our Senate and Board of Governors, as well as advisory committees and numerous working groups."* This is another point that was raised at the rally. Collegial governance has been diminished and decisions, like the contract with Navitas and the jury selection for the Southwood golf lands redevelopment, are made without prior consideration at Senate.

The impact of members of six unions coming together in a common cause was immense. Attendees took up picket signs, many choosing to write their own messages, before joining in a march in front of the administration building. Union leaders spoke with passion and conviction on the issues their members face. Their words sent a clear message that this is OUR university too, and that it's time the administration listened to concerns and stopped taking the university down a path towards corporatization, privatization, and a continuing disregard for the working and learning conditions of employees and students. The messages resonated with the crowd, as they cheered and shouted their support.

The strength and solidarity demonstrated at the rally is what is required to get the attention of the administration. In the days following the rally, the



UMFA office received numerous emails with positive feedback about the event and the turnout, as well as emails asking what can be done to keep the momentum going. As several speakers noted in their speeches, this was only the beginning. UMFA will keep you informed on future activities and how you can get involved.

**News Articles of Interest**

*Recent news that may be of interest to UMFA Members.*

**"Call for Transparency"**

Regina Leader-Post

<http://www.leaderpost.com/business/Call+transparency/8060237/story.html>

*Your comments, feedback and suggestions on the newsletter are welcome. Please send any comments to faum@umfa.ca.*

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