

UMFA Members attend a bargaining update at Knox United Church during the strike in 2016.

UMFA Bargaining Newsletter

CONFIDENTIAL - FOR UMFA MEMBERS ONLY

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Collective Bargaining at the University of Manitoba – Putting it in Context

The UM is a complex workplace with a complex workforce. This is reflected in the bargaining process – UMFA takes many steps to ensure proposals are properly crafted and that Members have lots of input into those demands. Below is an overview of UMFA's moving pieces and how they fit together during bargaining. You'll also find a primer on the Public Services Sustainability Act and our Unfair Labour Practice complaint against the Administration.

- **Where are we right now?**

The Collective Agreement Committee (CAC) and Bargaining Team (BT) were constituted last month and have begun to meet. UMFA has served notice to bargain to the Employer, has held several constituency meetings, and you'll find a bargaining survey in your email shortly. Once that survey is complete, the CAC will review the results, draft proposals, and present them to the Board of Reps for discussion. An SGM and a schedule of meetings with the Employer will be set in the near future.

More details inside!

BARGAINING IN CONTEXT

In this issue:

- Bill 28 and bargaining – some considerations
- FAQs on the ULP (A claim of Bad Faith Bargaining)
- A brief on the bargaining process

ALSO:

- Bargaining survey coming soon!
- Who's on your BT, CAC, Executive
- This week at UMFA...
- Want a constituency meeting? Let's make it happen!

Want to have a constituency meeting in your department? Contact your Board Rep to have one organized. Don't have a Board Rep? Contact UMFA's Executive Director at gfflemming@umfa.ca to set up a meeting, or to find out more about electing a Rep.

A short F.A.Q. on the U.L.P.

(A claim of bad faith bargaining against the UM administration)

- **What's a "ULP" and why did UMFA file it?**

An "Unfair Labour Practice" (ULP) is an action taken by an employer or a union that runs contrary to [Manitoba's Labour Relations Act](#). When someone "files a ULP" they are alleging that a party has committed an unfair labour practice and are asking the Manitoba Labour Board to look at the facts, assess them, and offer redress for whatever wrong that has been done. In this case, UMFA asserts that during the last round of bargaining, the Employer bargained in bad faith when it withdrew its salary offer on the first day of mediation, and this bad faith precipitated our 21 day strike. While they don't tell the whole story, [our basic argument](#) and the [Employer's response](#) can be found on our website.

In essence, UMFA's position is that the administration acted in bad faith because it had no material reason to withdraw its salary offer and had the statutory power and ability to maintain its offer. The administration's argument relies on the direction they claim to have gotten from the Pallister Government and aspects of contract law that UMFA doesn't believe applies to collective bargaining. Testimony before the Labour Board from the administration has since revealed that that 'direction' was equivocal, and it was not specific in regard to what consequences would follow from rejecting it, adding to the argument that withdrawing the salary offer was done without material reason.

The media has reported some of these details, as you may have seen. If you haven't, [they're compiled on our website](#) for you to read.

- **When will the Labour Board make its ruling?**

Final arguments will be made on June 14 and 15 at the Manitoba Labour Board, starting around 9am. The hearings are open to the public, but seating is limited. The Labour Board is on the [fifth floor of 175 Hargrave Street](#).

According to Board procedures, the three-person panel must deliver its decision within three months, with certain exceptions that allow for an extension. It's important to know, however, that first the Board will decide if the Employer has acted in bad faith and what remedies are appropriate. If the Board answers 'yes' to the first question and agrees that redress is in order, there will be a subsequent set of hearings to discuss what exactly that redress will look like.

- **What effect will it have on this round of bargaining?**

Merely filing the ULP tells the Employer that UMFA Members are serious about the question of salary. It also shows the administration that we're serious about protecting the University and its academics from government interference. The media coverage we've received keeps us in the public eye as we continue with the current round of bargaining. These facts alone are important.

A finding against the administration would also send the message that it has a duty to listen more closely to what UMFA Members have to say. The strike itself has also sent that message.

More questions, or want to sit in on the mid-June hearings? Email faum@umfa.ca.

Want to share your thoughts on this round of bargaining? Watch your inbox for the UMFA bargaining survey – coming soon!

Bill 28 and Bargaining – Some Considerations

As you've probably heard, the Pallister Government has put forward Bill 28 – the Public Services Sustainability Act – which would see salary increases in the public sector frozen at a maximum 0%, 0%, .75%, and 1% for the next four years. More accurately, it sets those max increases to begin only when Collective Agreements expire and are renegotiated, which means the freeze would take place over a rolling four years. Our latest Collective Agreement expired on March 31 of this year, and we have served notice to the UM administration that we want to renegotiate our CA.

The proposed bill also includes language that prevents any increases to benefits packages in that time period. While it leaves salary increase tables untouched (i.e. the increment schedule in [article 24 of our Agreement](#)), it prevents any changes being made to those tables.

While Bill 28 names public sector services as its target, and Manitoba's universities are independent of the public sector, the Bill explicitly names the University of Manitoba (and other universities) as subject to it.

The increases to benefits that were negotiated in the last round of bargaining have also been tangled into this proposed legislation – the UM's Board of Governors approved those increases only on March 21 of this year. If the Bill passes, any changes to benefits that happen on or after March 20, 2017 are captured by the Bill. The Administration reports that the BoG approved the benefits changes on the condition that they not contravene the Bill.

At this point, both because our bargaining ULP complaint has yet to be concluded and the Bill has not yet come into law, it's unclear if the 0% increase in salaries that was forced on us in 2016 will be reversed, or count towards the wage freeze. It's also unclear if our benefits changes will come into force.

Another twist built into the bill is that the Government has to approve any retroactive changes to wages and benefits that are made during the four year freeze period, and any increase has to be offset by savings negotiated during the collective bargaining process. Similarly, counting pre-existing years of 0% salary increases has to be approved by the Government.

Bill 28 is not yet law, and may not become law. However, UMFA has been speaking with a coalition of unions across Manitoba about challenging the constitutionality of Bill 28 if it comes into force – this is because it would substantially interfere with everyone's right to association, guaranteed under section 2(d) of the Charter of Rights and Freedoms. This coalition has recently been formalized as the **Partnership to Defend Public Services (PDPS)**, and is exploring all the legal options available to us.

One of the particularities of Bill 28, which it shares with legislation tabled in 2015 in Nova Scotia, is that even if it's passed it may not become Law. The final clause of each bill states that it only comes into force when 'proclaimed'. This means the Government may try to avoid actually making the Bill law, but reap its 'rewards' through fear. This, too, is being considered by the PDPS's legal team. Direct action – including rallies, marches, and other tactics – will have to also be seriously considered.

In the meantime, let us know what you're thinking – **are salary and benefits still a major bargaining issue for you?** Let us know by filling out the UMFA bargaining survey – **in your inbox soon!**

- The current text of the proposed bill [can be found here](#).
- A summary of the Bill, prepared by legal firm Myers-Weinberg LLP [is available here](#).
- Part of the legislative process in Manitoba is the 'committee stage', where public interventions are heard. Not only did our VP and incoming President Janet Morill make comment to the committee, current President Mark Hudson also sent a letter to the committee on behalf of the Association. That letter [is available on our website](#).
- The Government of Nova Scotia passed a similar bill with the same name in 2015. The [text of that Act is available here](#).

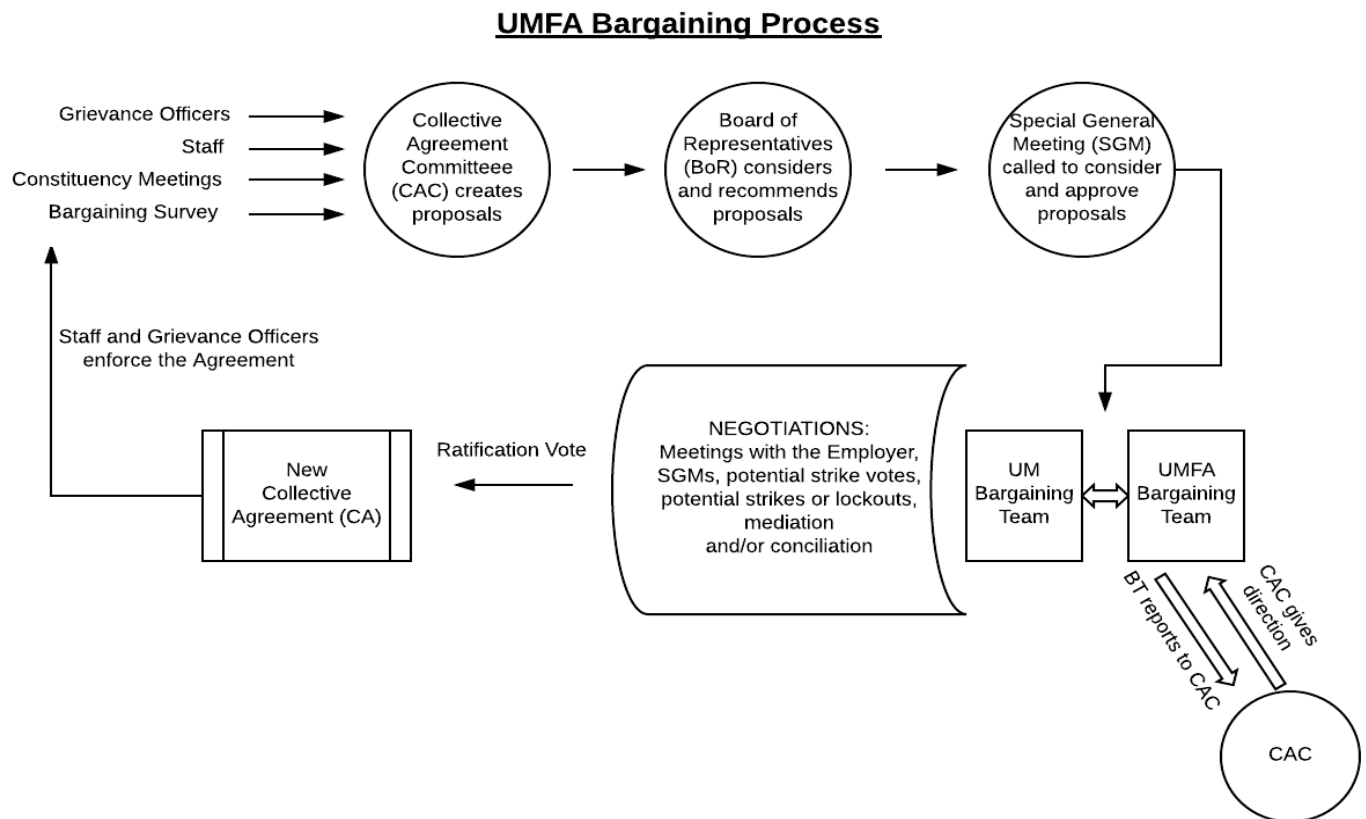
Collective Bargaining – A Brief on Process

The Process

Typically, the process begins as soon as a Collective Agreement is signed: UMFA Staff and Grievance Officers keep track of various issues that arise as the new Agreement is put to use. These issues, along with those raised at constituency meetings, are discussed by the Collective Agreement Committee (CAC). The CAC combines all this information with data gathered through a bargaining survey to create bargaining proposals. Those proposals are then debated by the Board of Representatives, which recommends the proposals to Members, who further debate them at a General Meeting.

With proposals discussed and approved, the Bargaining Team then presents them to the Employer. The Employer also presents their proposals. As negotiations unfold, the Bargaining Team (BT) reports back to the CAC, which debates possible changes to proposals and gives the BT direction on what to communicate to the Employer.

Depending on what happens at the bargaining table, the Executive organizes further constituency meetings, General Meetings, a strike vote, and marches, rallies, and other actions that support the Bargaining Team in their efforts. Once a tentative agreement is reached, the Executive also organizes a ratification vote. If Members think the deal is acceptable, a 'yes' vote turns the tentative deal into a new Collective Agreement.



• UMFA's Committees: Who Runs the Process?

Bargaining is nothing if not a collective effort. The **Bargaining Team (BT)** is one of the most visible bodies that partakes in the bargaining process, and is made up of a Chief Negotiator, a number of Members (four this time), and Staff, each appointed by UMFA's Board of Representatives. The Bargaining Team presents proposals to the Employer and reports to the Collective Agreement Committee on the day-to-day goings-on of bargaining.

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While the **Collective Agreement Committee (CAC)** isn't as visible as the Executive Council or the Bargaining Team, it plays an important role in the process: Composed of the Executive, the BT, and other UMFA Members appointed by the Board of Representatives, it solicits information from Members, formulates proposals, and develops bargaining strategy. Staff's expertise and advice are also sought. The Bargaining Team reports back to the CAC regularly during bargaining, and the CAC modifies proposals and strategy as negotiations develop.

During, and even before, bargaining, **The Executive Council (Exec)** is responsible for developing timelines and ensuring that they're met, preparing and releasing communications to the Membership and the media (with the help of staff and the Communications Committee), liaising with other unions and the labour movement, and anything else that needs to be done. It's composed of a President and Vice President elected by the UMFA Membership, the immediate Past President, and five to seven Members appointed by the Board of Reps on the recommendation of the President.

UMFA's **Board of Representatives (the Board, or BoR)** is made up of elected representatives from all over the UM. They are responsible for organizing constituency meetings and communicating with their colleagues about bargaining and sharing that information with the Board and the Executive. Board reps are an important link between the BT, Exec, the CAC, and the Membership as a whole, and have a hand in mobilization, among other things.

However, the highest decision making body at UMFA is a **General Meeting**, constituted when all Members of UMFA are called to discuss specific topics. In the context of collective bargaining, **Special General Meetings (SGMs)** are called to discuss proposals, overall strategy, and strike votes. It's also at a Special General Meeting that a tentative deal is discussed, and a ratification vote taken.

Together, these various bodies make the bargaining process what it is: a dialogue between Members about what the workplace should look like and how to make it a reality.



***Bargaining
is nothing
if not a
collective
effort***

This week at UMFA...



Incoming President Janet Morrill and incoming Vice President Mike Shaw were in the UMFA office this week and spent some time discussing the Collective Agreement and the upcoming round of bargaining.

UMFA Executive Council

UMFA Executive

MARK HUDSON
President
(Sociology)

TOMMY KUCERA
Past President
(Mathematics)

JANET MORRILL
Vice-President
(Accounting & Finance)

MICHAEL SHAW
Treasurer
(Biology)

ALISON CALDER
Executive Secretary
(English, Film & Theatre)

JAMES HARE
Grievance Officer
(Biological Sciences)

MARK GABBERT
Grievance Officer
(History)

Members at Large

BRENDA AUSTIN-SMITH
(English, Film & Theatre)

VANESSA SWAIN
(Dentistry)

ORVIE DINGWALL
(Libraries)

UMFA Staff

GREG FLEMMING
Executive Director

BARB YAPPS
Professional Officer

JASON GISSER
Professional Officer

CANDACE WESELOWSKI
Communications Officer

DEBBIE ABRAHAM
Administrative Assistant (Financial)

ILZE CEPLIS
Administrative Assistant

UMFA Bargaining Team

CAM MORRILL
Chief Negotiator
(Accounting & Finance)

MARK HUDSON
(Sociology)

BRENDA AUSTIN-SMITH
(English, Film & Theatre)

KEVIN SCOTT
(Biological Sciences)

ORVIE DINGWALL
(Libraries)

JASON GISSER
(UMFA Professional Officer)

UMFA Collective Agreement Committee

MARK GABBERT
(History)

BRENDA AUSTIN-SMITH
(English, Film & Theatre)

TOM BOOTH
(Biological Sciences)

ALISON CALDER
(English, Film & Theatre)

ROBERT CHERNOMAS
(Economics)

ORVIE DINGWALL
(Health Sciences Libraries)

JULIE GUARD
(Labour Studies/History)

JAMES HARE
(Biological Sciences)

MARK HUDSON
(Sociology)

RICHARD JOCHELSON
(Law)

TOMMY KUCERA
(Mathematics)

DIANA MCMILLAN
(Nursing)

EVELINE MILLIKEN
(Social Work)

CAMERON MORRILL
(Accounting & Finance)

JANET MORRILL
(Accounting & Finance)

LUKAS NEVILLE
(Business Administration)

CATERINA REITANO
(French, Spanish & Italian)

KEVIN SCOTT
(Biological Sciences)

MICHAEL SHAW
(Biological Sciences)

VANESSA SWAIN
(Restorative Dentistry)

RUBY WARREN
(Libraries)

JASON GISSER
(Professional Officer)

GREG FLEMMING
(Executive Director)