



# News & Views

*April 11, 2006*

**BULLETIN #1**

## **A Transition Point**

After much study and discussion, UGFA Executive and Council believe that our relationship with the Administration has reached a significant transition point. We believe it is time to look for a more effective way for UGFA to represent faculty and librarians at the University of Guelph. At the Council meeting on April 6, a motion was passed, with overwhelming support, **“That Council approve an immediate card-signing drive, with a view to certification of UGFA.”** This is the initial step that is needed to bring UGFA under the Ontario Labour Relations Act, which would give us the advantage of formal tools to deal with issues and a process for resolving differences. This is not to suggest that we are mired in rancorous discord, but rather that we are encountering many situations, on diverse topics, for which it is difficult to reach satisfactory solutions in a timely and integrated manner.

Currently, the Special Plan Agreement (SPA) is our contractual agreement with the University Administration. The SPA and the Faculty Policies document govern terms and conditions of employment for faculty and librarians at the University of Guelph. However, the SPA provides little in the way of a dispute resolution mechanism. When we approach the administration with an issue, we go to “discuss”, not to negotiate. If agreement is not reached, then there can be no satisfactory resolution of the problem. In contrast, a collective agreement is not just binding in principle, but swiftly enforceable, under the Labour Relations Act, in a way that the SPA can never be.

Why unionize now? UGFA representatives have been working hard, representing the faculty in numerous simultaneous discussions with the Administration, with respect to - possible changes to the long-term salary scheme ("the grid"), the Administration's request to negotiate changes to Benefits, renegotiation of the SPA, and Faculty Policies. In some of those discussions, we seemed to be making a bit of progress, while "treading water" in others, and fighting hard not to lose ground elsewhere. UGFA representatives have become frustrated and discouraged not only with the slow pace of action on these issues, but also with the difficulties of coordinating decisions. Thus, UGFA intends to become your certified bargaining agent.

You will probably have many questions about this decision and its implications. A more detailed *News and Views* will be sent to you shortly, and in the meantime, we refer you to the UGFA web-page ([www.uoguelph.ca/~facassoc](http://www.uoguelph.ca/~facassoc)) for “Questions and Answers” regarding certification. Membership meetings have also been scheduled for **Tuesday April 18 (McNaughton 113), 1:00 -3:30 pm; and Wednesday April 19 (MacKinnon 031) 10:30-12:00 am and Wednesday April 19 (Macdonald Institute MINS 300) 2:00-4:00 pm.** We will very soon be contacting you individually, and asking you to sign a card to certify UGFA as your bargaining agent.

The UGFA Organizing Committee.

Ed Carter, Glen Filson, Susan Hubers, David Josephy, Roz Stevenson

# Representing YOU !!!

Under the Special Plan Agreement, UGFA is recognized by the University as the representative for faculty and librarians in respect to salaries, benefits, and terms and conditions of employment. UGFA Executive and Council want to ensure that the Association is able to represent the membership in the most effective way possible. After much study and discussion, it has been proposed that UGFA should become certified as a collective bargaining agent - a **union**, under the Ontario Labour Relations Act.

We recognize that many people have a philosophical aversion to “unions”, just as there are those who philosophically embrace them. However, UGFA Council and Executive have taken the initial steps towards certification as a union for pragmatic reasons - we believe UGFA needs the “toolbox” provided by the Labour Relations Act to represent you effectively.

## CERTIFICATION F.A.Q.s

**Q1: Our Special Plan Agreement is a contract, and legally binding under common law. What possible advantage is it to have a collective agreement under labour law instead?**

**A:** A key difference is that contracts are written by lawyers, and often the wording is “the best we could get at the time”. Pursuing a remedy to a dispute with the University in civil court for a violation of the SPA would involve significant amounts of money and time. Indeed, the prospect of suing is effectively zero, because even if we were to commit the money and time needed to bring such an action, civil courts will rarely intervene to settle a labour dispute. In comparison, the Labour Relations Board is set up to give a reasonably quick, inexpensive, and effective way of resolving a difference. In addition, the LRB is familiar with reading the intent of agreements concerning workplace issues. Access to LRB protocols is probably the most important motive for certification.

**Q2: Why don't we just add a dispute resolution option to the Special Plan Agreement, if that's the big problem?**

**A:** Arbitration is fine when you are *below* the general average, as the arbitrator will tend to move you up to close to average. But you never gain ground, as they won't put you ahead of the pack. Also, we need a dispute resolution mechanism that covers things besides salary issues - such as benefits, pensions, academic freedom, intellectual property, workload, etc. A certified association has the right to raise *any* issue for bargaining - and, if necessary, for dispute resolution. (In fact, most of the time, you manage to work things out, as the dispute resolution mechanism puts pressure on to settle things.)

**Q3: The Administration offered Final Offer Selector (sic) on salary negotiations. Doesn't that provide the “teeth” we wanted?**

**A:** In arbitration, the worst option of various possible methods is Final Offer Selection, which is what the Administration suggested be used, rather than a mediated resolution. Also, the proposed FOS would be limited to salary and benefits negotiations, and would not apply to pension issues *or* any non-monetary disputes (e.g. policy). (Other employee groups on this campus have mechanisms for dealing with pension issues, as do other faculty associations). A

concern with FOS is that, if a proposal is within the norms of other institutions, it will be accepted, even if it includes one clause that takes away a fundamental right!

**Q4: Why would we want to have all sorts of non-cash issues on the table when we negotiate?**

**A:** If only salary and benefits are being negotiated, there is little room to negotiate improvements of non-cash working condition issues (e.g. workload, intellectual property) when there *truly* is no more money to be squeezed from the proverbial stone. The more you have to trade off, the more likely you are to reach an agreement.

**Q5: So – the bottom line – what are the ADVANTAGES of certification?**

**A:** Three important points are: (a) Bargaining all your issues at the same time provides a better chance of an agreement. (b) Your agreement with the employer is binding in law, so both sides must live up to it. (c) Members have rights of “fair representation”, so that they can appeal to the Labour Board if they feel the Association has not dealt with them in the same way as other members.

But the really critical advantages are that we would have **tools** to deal with issues, and a **process** for resolving differences. **These are pragmatic, rather than philosophical, reasons for unionization.** It is important to stress that a collective agreement is not just binding in principle, but swiftly **enforceable**, under the Labour Relations Act, in a way that the SPA never can be.

**Q6: But there will be DISADVANTAGES as well, no doubt?**

**A:** Some would suggest a “loss of collegiality”, but they may really mean “congeniality”. It’s hard to assess this as a function of union status as working relationships differ so much between different universities. Unionization does serve to regularize the relationship – and to all intents and purposes, some non-unionized Ontario faculty associations are essentially operating as unions by the nature of their contract language and relationship. When there is an adversarial “us against them” environment, it usually occurs when there is an imbalance of power between the parties, and certification can help ensure a better balance in the relationship.

**Q7: But what would it COST?**

**A:** CAUT assists with initial certification – money and expertise. Beyond that, the mil rate charged to members could increase, depending on what the Association felt it needed to do to operate effectively. For example, we would almost certainly want to contribute to the CAUT Defense Fund, which assists associations who find themselves in strike or lock-out situations. Comparing faculty dues at unionized and non-unionized Ontario universities shows no related pattern of high and low fees. (Oh, and for perspective, the tax-deductible dues paid by a full professor at the University of Guelph are now approximately 22¢ more per month than the union dues paid by campus custodial staff. Assistant Professors still pay less.)

**Q8: Aha! You’ve said the S- word! No way do I want to go on strike! What about the students!?! And my experiments!?!**

**A:** Keep in mind that strike and lock-out situations are rare, though they certainly get in the news when they occur. “Work-action” is an extreme case – and even that can take the form of “work-to-rule” rather than striking. (Perhaps maybe not answering e-mail on weekends?!)

The great majority of contract negotiations and issues are effectively resolved by discussions, sometimes aided by a little help from Labour Board mediation or conciliation processes. Essentially, certification creates a structure that makes it possible for differences to be settled without threatening strike or lockout actions. Ultimately, this is when true collegiality comes into play – both the Association and the Administration are seriously committed to the good of the University, and would not want to act in ways that would damage either the education of our students or the maintenance of excellent scholarship and research.

Collective agreements can include clauses that allow striking or locked-out faculty access to research facilities in order to prevent irreparable damage to research (such as loss of live and/or decomposable materials). It is clearly not in the best interests of the University to compromise the research programs that enhance the reputation (and the resources) of the institution.

**Q9: I know all about unions! Those fat-cat union bosses spend too much time protecting incompetent and lazy workers! I don't want to have to join!**

**A:** Hmmmm... Before you recall a lot of sad stories from diverse occupations, remember that we are talking about our specific academic activities. **A certified UGFA would still be us!** We would not change our long-standing commitment to demanding (and rewarding!) excellence in all our academic efforts - teaching, scholarship and service.

As to the “fat cats”, well, being academics, we know we'd all really rather be in our classes, our labs, working in the library, than sitting a union backroom worrying about working conditions issues and all that stuff! But we also know from past experience that there are competent and hard-working people who have needed UGFA help in the past, when they have not been treated fairly. We need the best possible tools to use in those cases.

If all this doesn't convince you, well, you do *not* have to become a card-carrying member. But the Rand formula requires that you do pay dues because, as an employee, you would still benefit from what the union negotiates. (In fact, U of G already has as condition of employment the requirement that faculty and librarians belong to UGFA or pay equivalent contributions, so nothing would change in this respect.)

**Q10: Who could belong to a certified UGFA? Would librarians still belong? Contract faculty? Department Chairs?**

**A:** We would decide who our “community of interest” was. Although an employer can challenge who is included, our current UGFA membership structure provides a strong precedent for including both tenure-track/ tenured faculty and contract faculty and academic librarians. We might consider including others who carry out faculty roles, such as staff veterinarians and retired faculty who continue to teach formal courses.

Under the Labour Relations Act, management *cannot* be included in the workers' group, and that is generally taken as “deans and above”. Department Chairs are by common practice included in faculty unions. Associate Deans fall in a kind of “feathered fish” category, so a recent UGFA decision was to exclude them from membership, as otherwise they could be the basis for a

challenge to UGFA's right to become a certified bargaining unit. Thus, a General Meeting of the membership on April 3, 2006 passed an amendment to the UGFA Constitution and By-Laws which means that Deans, Vice-Presidents, and the President of the University, and some other people with administrative functions can no longer be UGFA members - while they hold those appointments.

We were not enthusiastic about severing – even temporarily – some long-term members, who are certainly “faculty” to the core (or librarians!). We also recognize that sometimes UGFA has had to act to protect the rights of people in such positions. However, we did have to protect the ability of UGFA to represent you. As long as UGFA included members who would be considered management (i.e. could “sit across the table” in negotiations), it could never be the certified bargaining unit for faculty and librarians at Guelph under Ontario Labour Law. The change to UGFA By-Laws was thus made to protect our right to be your representative organization.

**Q11: But isn't getting certified going to be a long complicated process? Wouldn't we be risking good working relations with the Administration? In fact, I'm actually a bit worried about being seen to favour this!**

**A:** The certification process begins when UGFA starts to collect signatures from academic staff members who wish to certify. This card-signing is **confidential**, and the Administration will not know who has signed, only how many. Once organizing begins, **the Administration cannot interfere in the process**, nor threaten or hint at any kind of dire results. (To do so would be sufficient cause for granting immediate certification.) The LRB will require evidence that at least 40% of academic staff want UGFA to be their certified bargaining agent. Depending on how quickly cards are signed, the certification process can proceed quite rapidly. Once sufficient signatures are obtained, an application to certify is submitted to the LRB, with a copy to the employer. **Again, all cards and the names of signators are confidential, and never given to the Administration.** Once the application has been made, the Labour Board will come to campus within 5 working days and hold a certification vote. The results of this vote are reported as soon as voting and counting are complete.

The five members of the UGFA Organizing Committee are charged with ensuring the security and the effectiveness of the card-signing process. This Committee is comprised of the current UGFA President, Ed Carter, Vice-President and incoming President, David Josephy, Past-President Roz Stevenson, and incoming Vice-President, Glen Filson, and the UGFA Executive Administrator, Susan Hubers.

**Q12: But then what? How do we get a collective agreement? What happens to all the things we worked so hard to get in the Special Plan, and Salary Agreement, and Faculty Policies?**

**A:** Under LRB rules, once a certification drive begins, **all present contracts and arrangements continue until a collective agreement has been reached.** So, we would continue under present rules until a collective agreement has been negotiated and ratified.

Developing our current Special Plan Agreement, Faculty Policies, salary and benefits schemes, etc. involved many years of good hard work by both UGFA and the University Administration. As such, it is not unreasonable to consider that this would provide a substantial basis for negotiating a first collective agreement with the University. Recognize that both UGFA and the University have a sincere interest in maintaining things that have contributed to Guelph's past success, and a

genuine desire to build for future institutional excellence.

Could we risk losing things we really like in our current agreements? Sure, but we could also stand to improve or change things that we don't like as much! One thing to keep in mind is that in negotiating that first collective agreement, we would have access to mediation and conciliation processes under the LRB in order to get an agreement in a reasonable time. Those processes look at the currently existing agreements and arrangements in deciding what is a reasonable compromise, so the tendency is to go with the status quo.

**Q13: How can I be sure about this? Just seems odd to consider university professors as trade union workers? Won't people view us with less respect ?**

**A:** Well, recognize that the majority of Canadian – and Ontario – universities already have faculty unions. The first Canadian university faculty associations started certifying in the 1970's, and the number who have certified has continued to grow. Even in Alberta, where they are not allowed to unionize, the associations have a very similar structure to unions. Now, the process to **de-certify** a union is essentially the same as for certification ...sign the cards, apply to decertify, and the LRB takes a vote. No faculty group has chosen to do this, suggesting there is a distinct level of satisfaction with the union approach.

So most Canadian faculty associations are certified, and have stayed that way. In fact, students are sometime surprised to hear that Guelph faculty are *not* unionized! Overall, unionization does not seem to have hurt the image of faculty, as polls asking people how they regarded different occupations have consistently ranked "university professors" highly - up with doctors, rather than with journalists and politicians!

**Q:** Why didn't the UGFA Council conduct a survey or "straw poll" of the membership, before deciding to start the certification drive?

**A:** A straw poll on certification would have been inconclusive, because the response of most members would likely have been "It depends on the circumstances". We believe that our members have confidence in the judgement of their colleagues on the UGFA Council and will now give very serious consideration to the Council's overwhelming vote in favour of the proposal to seek certification.