

QUFA VOICES

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FYI

QUFA Working For You

New Benefits Savings for FLABU Members

By John Holmes
Department of Geography



FLABU members who elect to take the supplementary medical insurance benefit will have noticed on their

May salary advice that the premium deduction for this benefit was \$0. In the last round of FLABU collective bargaining, QUFA placed a high priority on improving the benefit package for members. One result was that the University agreed to pick up 100% of the supplementary medical premium beginning 1 May 2007. This results in a savings to members' monthly take-home pay of \$56.99 (for those with family coverage) or \$14.82 (for those with single coverage).

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CAMPUS IMAGES

Congratulations, QUFA Founders!



Greg Allain, CAUT president, attended QUFA's Spring General Meeting on 30 April to award eighteen QUFA "founders" the CAUT Dedicated Service Award. Please see page 4 for a list of the recipients.

Please send your own original campus images to mayr@queensu.ca.

QUFA OPINIONS

Copyright Advice: Do We Want It?

By Laura Murray
Department of English



Do you doubt your grasp of copyright law? Do you find yourself in situations that require you to know more about

it? Many faculty, instructors, librarians, and students who would rather not think about this topic at all are finding it occupies considerable time and causes no little stress. They may wish that somebody else could help them to negotiate ownership arrangements in joint research, clear permissions for Internet posting, decide whether the terms of a publication contract are reasonable, or know whether and how they can extract clips of a DVD for screening in class.

Increasing numbers of postsecondary institutions are hiring copyright officers to advise faculty and students. At McMaster University, according to the *McMaster Daily News*, Chabriel Colebatch “works closely with faculty members and researchers in all university departments to offer insights into copyright and to help each university commercialize its copyright.” At the University of Calgary and other institutions, the library is the main source for copyright advice. Lethbridge College and Carleton University provide some support from within media services. At Queen’s University, PARTEQ helps researchers on the patent end of IP, and David Bruce at the Office of Research Services vets contracts with research funders, but no resources exist for most users or creators of copyright material. It seems time to ask whether it is appropriate for Queen’s to offer more copyright advice or help--and if so,

where that responsibility should lie. These turn out to be difficult questions.

A fundamental fact is that students and academic staff own their own copyright. The Report of the Senate Ad Hoc Committee on Intellectual Property (approved by the Senate in 1991; approved by the Board of Trustees in 1992) describes this ownership practice as essential to the nature of the university: “Ownership by creators is inextricably bound up with academic freedom; some would say it is its chief safeguard” (5.1). Thus, while employees in most other arenas do not own intellectual property they create in the course of employment, university faculty do and have done according to longstanding custom. Article 16.2.1 of the Faculty and Librarians’ Collective Agreement states the default that “all intellectual property is owned by the Members who create it.” Article 14.2 of the Sessional Adjuncts’ CA states that “intellectual property created by the Member in her/his capacity as a Sessional Adjunct is owned by the Member.”

The Faculty and Librarians’ CA does qualify the norm of creator ownership of intellectual property. Article 16.2.1 permits other ownership arrangements to be made in advance according to requirements of certain funders. Article 16.3 provides that “the University has a non-exclusive, royalty-free, fully-paid-up licence to use for non-commercial educational and research purposes, all intellectual property developed by Members.” (In this regard, the Sessional Adjunct CA differs significantly: its Article 14.2 states that “The University has no right to ownership or licence to use intellectual property developed by a Sessional Adjunct as part of his/her employment as a Sessional Adjunct at Queen’s” (emphasis added)).

According to Article 16.4 of the Faculty and Librarians’ CA, “members who wish to exploit the commercial potential of patentable intellectual property and computer software must report, in writing, to the Vice-Principal (Research) prior to seeking protection or commercialization.” If PARTEQ is an appropriate vehicle for such commercialization, revenue sharing is required. These revenue-sharing provisions do not apply to copyright materials.

Various things follow from creator ownership of copyright in the university environment. The CA emphasizes that “the owners of intellectual property have the right to make all the decisions concerning the development and use of their property, including commercial use, as long as such decisions are consistent with the University’s research policy and contractual constraints that may apply in individual cases” (Article 16.2.3). It also states that “no creator is obliged to engage in commercial exploitation. The creator is free to publish or use other means to place the intellectual property in the public domain as an alternative to the provisions contained herein” (Article 16.2.4).

Because students and academic staff own the copyright in their term papers, Web sites, and research products, in other words, we are the ones who ultimately decide how to craft that material, whether and how to publish it, and how to exercise our other rights under Section 3 of the Copyright Act: translation rights, conversion rights, telecommunication rights, and so on. We are also the ones who decide how and if to ask permission for material used within our own work or our own classrooms, and we generally have to pay any associated permission fees. Our use of other people’s material may fall within fair dealing or another exception of the Copyright Act, and it

is ultimately we who make the call on that. These responsibilities come along with the rights reserved to us. As the 1992 Senate IP policy puts it, "to foster free intellectual inquiry and creative activity, the University depends on its members to make their own choices" (Section 4.3). It would be helpful to have better information to hand in making these decisions. The problem becomes, what spin would such information have? What are "the University's commitments to society"? You may have noticed the emphasis on commercialization in McMaster's commitment to copyright information. Some of us want to make money from our copyright. A few of us might actually succeed in doing so. But others of us are more eager to disseminate our research than to earn money from it. New mechanisms such as institutional repositories (like Qspace), creative commons licences, and Open Access publishing suit many academic purposes well, and befit work produced with taxpayer money. It is crucial that any centralized copyright information actively promote the full range of approaches.

Another concern with centralized copyright advice is the different interests and inclinations of the university and of each individual member of that institution. For fear of liability, the administration is likely to be much more conservative in interpreting the law than an individual might be. Let's take an example. The Copyright Act says that fair dealing for the purposes of private study, research, criticism, review, or news reporting is not infringement. CCH v. LSUC (Supreme Court of Canada, 2004) fleshes this statement out, stating that

The fair dealing exception, like other exceptions in the Copyright

Act, is a user's right. In order to maintain the proper balance between the rights of a copyright owner and users' interests, it must not be interpreted restrictively. (para. 48)

The Supreme Court goes on to provide five tests for whether, if a given use falls within one of the primary categories, it is fair. But CCH still leaves us, in each case, to decide whether the use does fit into those categories. Is parody criticism? Is reading assigned readings research? Is teaching criticism? If so, you do not have to ask permission for certain uses of copyrighted materials to these ends. If not, you do. Because it's always a matter of interpretation, there is no one definite answer. As you might imagine, individuals will make various calls, but a large

Paul Wiens, Queen's University Librarian, is planning to convene a working group in the fall to explore what form and direction Queen's copyright advising might take.

institution is more likely to play it safe and go for permission.

Two problems arise if we ask for permission in situations where it is unnecessary. One, it takes time and/or money. Copyright owners are often extremely difficult to track down, and may not answer queries even when found. Permissions are an out-of-pocket expense for most faculty and students. The university (or rather its representative, the Association of Universities and Colleges of Canada) negotiated a licence with the copyright collective Access Copyright, but students pay its hefty fees. The second problem is one of principle and legal evolution. If we repeatedly interpret the statute conservatively, or if we disseminate conservative interpretations of it, we weaken the fair dealing defence. We

in effect create a new industry practice that a court would take into consideration in ruling on future copyright cases. Traditionally, the price of quotation in academic research was citation. The citation economy provides incentive and rewards for academic creativity, with its own principles of value: we don't want to throw it over for the copyright economy without thinking about what we would lose. Copyright policies or guidelines ought to arise as much from research practice in various disciplines as they do from the Copyright Act or any lawyer's interpretation of it.

Where is this synthesis going to come from? The most important thing in deciding where Queen's University ought to go on this issue is maximal participation of the rights holders:

students, faculty, and researchers. Ultimately, it would be nice to see nationwide organizations such as CAUT and CFS take a prominent role in articulating academic best practices. But they

don't seem inclined to do it yet; they need models of approaches developed in local situations. Within individual institutions and at the national level, libraries can play an important role, since librarians have a longstanding commitment to what we now call "access," and have taken a leading role in public interest copyright advocacy. Paul Wiens, Queen's University Librarian, is planning to convene a working group in the fall to explore what form and direction Queen's copyright advising might take. I will also be involved in this group. We need to know what you need to know, and what your concerns are. Inquiries, suggestions, or offers to participate can be sent to me.

Laura Murray can be reached at laura.murray@queensu.ca.

ANNOUNCEMENT

Help QUFA Make a Difference for You and Queen's

Get Involved in Defining Bargaining Priorities and Positions

By Elaine Berman
Administrative Officer, QUFA



In 2007-2008, QUFA will be bargaining with the University for a single collective agreement for all

current members of academic staff: all faculty, including term, continuing and sessional adjuncts, non-renewable and special appointees, and librarians and archivists.

We welcome input from all individuals and groups during the consultations leading up to the commencement of bargaining and during the negotiations process.

Service to QUFA counts as Service to the University on your annual report to your Dean. See Article 7.5.4 in the FLABU Agreement (2005-2008) or Article 7.3.1 in the SABU Agreement (2006-2008).

QUFA is recruiting interested members to participate actively in bargaining deliberations during the fall term. Some groups will meet once or twice, and others more frequently.

We are seeking volunteers from all current adjunct groups for an Adjunct Committee with members from both bargaining units. This group will be chaired by Cathy Christie, a Continuing Adjunct.

Choices for FLABU members range from the Advisory Committee on Compensation and Benefits; Work Groups looking at Intellectual Property; Research Ethics;

Accommodation for Disabilities; Family-Friendly Provisions; Appointments Issues; Caucuses for Junior Faculty, Non-renewable and Special Appointees, Equity-Seeking Groups, and the Heads' Caucus,

Choices for SABU members range from the SABU Advisory Committee on Compensation and Benefits; Appointment Issues; SABU Workload Issues; Accommodation of Disabilities; Equity issues.

If you have other concerns that are not mentioned, please inform QUFA.

Please contact QUFA to voice your ideas by phone or e-mail, or to find out more about the following work groups, committees or caucuses.

Elaine Berman can be reached at qufa@queensu.ca or x33033.

Colin Galinski can be reached at galinski@post.queensu.ca or x33224.

Ramneek Pooni can be reached at poonir@queensu.ca or x33270.

ANNOUNCEMENT

Contribute to the Next Number of QUFA Voices!

By Robert G. May
Editor, QUFA Voices



The deadline for submissions to the next number of *QUFA Voices* is:

31 July 2007

Let your voice be heard!

Please send your submissions to mayr@queensu.ca.

QUFA PEOPLE

QUFA Founders Receive CAUT Dedicated Service Award

By Robert G. May
Editor, QUFA Voices



At the QUFA General Meeting on 30 April 2007, CAUT President Greg Allain awarded eighteen

QUFA "founders" the CAUT Dedicated Service Award in recognition of their longstanding commitment to the advancement of the Queen's University Faculty Association.

Here is a list of the eighteen recipients:

Grant Amyot
Marvin Baer
Paul Banfield
Annette Burfoot
Frank Burke
Melody Burton
Genevieve Dumas
Donna Ede
Dave Fritz
Liz Fox
Paul Gaskin
Phil Goldman
Elizabeth Hanson
Barbara Kisilevsky
Roberta Lamb
Allan Manson
Karen Rudie
Eileen Walters

QUFA Voices thanks these eighteen QUFA "founders" for all their hard work over the years, and it congratulates them on a job well done.

Robert G. May can be reached at mayr@queensu.ca.

QUFA OPINIONS

Should I Write That Letter?

By Darko Matovic
Department of Mechanical and
Materials Engineering



How do you express your or your group's point of view to a government official? You have the right to

free opinion and expression enshrined in the Universal Declaration of Human Rights, but what is the most effective way to express those opinions? Is it media exposure, a letter to the editor, a play, a street demonstration, work action? Writing a letter to a political representative stands as perhaps the most direct communication you can have with a government official, especially with higher-ranked officials such as the prime minister, a cabinet minister, or a party leader.

While this type of communication is surely direct, is it effective? When musing about this question, my inner devil's advocate puts forward arguments like, "well, it's too easy to be effective," "surely it never reaches the targeted recipient," "it's just a waste of time, energy, and hope," "it's so easy, anybody can do it any number of times, and the fact that many people don't do it just shows that they are smart enough not to waste their time." The more optimistic part of me typically counters with arguments like, "what the heck, if you don't write it, it is guaranteed that it won't reach anybody, and besides, the fact that anybody can do it doesn't mean that they actually *will* do it."

Inner dialogues aside, here is some evidence of the impact of letter

writing. In their 2002 survey in Minnesota and Wisconsin, Alperin and Schultz (2003) found that office visits and sending a letter to the legislator are still the most effective ways to get one's point across. In the words of one legislator for Minnesota, "the problem with e-mail is that one does not have the time to respond to non-constituents, but there is no easy, non-offensive way to sort out the 'political spammers.'" Also, the ability to copy form letters in mass numbers drastically reduces their effectiveness. In that respect, the handwritten letter is by far the clearest evidence of an effort on the part of a writer to deliver a personal opinion.

Various campaign tool kits seem to agree that, in the United States, one handwritten letter is counted by the elected representatives to represent 300 to 500 constituents who didn't bother to write.

QUFA-PACC ... will identify even more issues that call for prompt action.... Stay tuned!

Sometimes, the obvious benefits of letter-writing can be seen in practice. Recently, Stephen Harper and the federal government took a stand against signing a ban on the production and use of cluster munitions. This refusal was particularly shameful, given Canada's previous leadership in creating the landmine treaty adopted by 122 other countries. The position on cluster munitions was reversed after, practically overnight, more than one thousand Ceasefire.ca supporters wrote denunciatory letters to Stephen Harper, other party leaders, and their local MPs. Nancy Ingram of Mines Action Canada, which is leading the campaign to ban cluster munitions in Canada, wrote to Stephen Staples of Ceasefire.ca, "We were told that the letters your supporters wrote definitely helped get this decision made and the issue brought to the attention of the highest levels."

Letter writing also has cathartic effects on the writer; the feeling of advancing an argument, proposal, or just plain gripe to the proper address is a combination of relief and accomplishment with tangible psychological benefits, what Roberto Assagioli (a founder of psychosynthesis) calls "symbolic satisfaction." I can certainly attest to the strong feeling of satisfaction I get when an argument or idea takes shape on paper, particularly when it is flavoured with a bit of humour!

Locally, Kingston had a long, ongoing battle against the proposed incineration of tires and other waste products at the old Bath Lafarge cement kiln, a process that had been granted initial approval by the province, waiving the usual environmental assessment procedures. A citizen group waged a long battle, mainly through letters,

"the only bullets we have," as one writer put it. Through good research, perseverance, and

wit, they managed to reverse the provincial government stand and win the right to a full environmental assessment.

Letter writing can actually be lots of fun. I have organized several letter-writing parties in the past few years, where participants had great time while producing a few dozen handwritten letters. QUFA had two letter-writing sessions this past year, focused on the status of women and academic freedom. In the near future, QUFA-PACC (Political Action and Communication Committee) will identify even more critical issues that call for the prompt action, prepare sample letter templates, and call on members to participate in the ongoing letter-writing campaign. Stay tuned!

Darko Matovic can be reached at matovic@me.queensu.ca.