PRESIDENT'S VOICE: The Dilemma of Good Citizenship, by Elizabeth Hanson

The moral challenge of balancing teaching, research, and service during a global pandemic

By Elizabeth Hanson
President, QUFA

When, at the beginning of the pandemic, QUFA and the University negotiated variances from the Collective Agreement (CA) in order to permit the University to deal with the emergency, QUFA approached the matter with a moral understanding: that our Members were going to make sacrifices in order to keep the university whole. In return, we sought and gained assurances that the University would recognize these sacrifices in its administration of the rewards system of the university, more commonly known as personnel decisions. More concretely, the requirement that faculty figure out how they were to teach remotely meant that extra time would have to be put towards teaching—and not even towards the disciplinary content of teaching, but to learning about software, how online attention spans work, and how to design assessments that don’t expose students to the privacy invasions of proctoring software. Research was torpedoed not just by the closure of labs and libraries and the cancellation of travel, but by the time-sucking logistical challenges of remote delivery. What made this state of affairs particularly hard is that all this effort likely wasn’t going to make anyone’s teaching better this year than it was before 13 March 2020—just less bad than it would have been had there been no preparation for remote delivery. No one was going to excel; nevertheless, people pretty much opened a vein in this effort to keep the university going. As a result, the university—the platform on which we perform all the endeavours of our disciplines—will get through this crisis.

The moral bargain described above is a particularly hard one for academics and for university administrators. While unstinting work is part of the ethos of a research university, sacrifice is not—or at least not the kind of sacrifice I just described: toil without hope of excellence to maintain the platform on which future excellence—the excellence of others—might flourish. This is not to say that many of our Members don’t routinely make these sacrifices. Heads of departments lead lives of constant sacrifice, and some do see their units flourish as a result of their efforts.
Others are not afforded that satisfaction because no matter what they do, the flourishing of their unit is not an institutional priority. Continuing adjuncts are structural sacrifices, their teaching labour furnishing the conditions for others’ research. Members of equity-seeking groups often sit on an inordinate number of committees while doing extra emotional labour on behalf of students from the same groups, in an effort to make the future university more inclusive than the present one. Faculty who meticulously mark essays sacrifice their time, taking students more seriously than they often take themselves. My librarian and archivist colleagues no doubt know what their version of sacrifice looks like—I focus on faculty here because their work is what I understand. My point is that these positions or activities are sacrificial, and are experienced as such precisely because the ethos of the institution is not. That ethos derives from the institution’s character as a research university and is discernible in personnel processes—merit, renewal, tenure and promotion—the criteria for which are set out in the CA and which tend to reward individual achievement as recognized by disciplines or research communities.

Article 15 of the CA sets out academic responsibilities: teaching (or professional practice for librarians), research, scholarly or creative activity, and administrative and professional service. A full-responsibility faculty appointment entails all of these, but the notional 40%-40%-20% split for faculty is nowhere specified in the CA. There are full-responsibility faculty with different balances—Canada Research Chairs have greater research expectations attached and therefore fewer teaching obligations, while a handful of appointments in the sciences are “teaching intensive,” with a heavier course load and lighter research expectations. Continuing adjuncts mostly have teaching and course-related service responsibilities, but no research expectations or committee service requirements. All personnel processes must be conducted in a manner that recognizes the terms of the Member’s appointment, with the exception of promotion to professor for continuing adjuncts, which requires that the Member’s research be either “distinguished” or of “continuing high quality” if they have made “exceptional contributions in teaching,” even though their appointment has included no research responsibilities. Note that Article 30.6.7, which lays out the criteria for promotion, adorns research and teaching expectations with adjectives like “distinguished,” “high quality,” and “exceptional.” With respect to service, though, it simply states that “the Member is also expected to have made a contribution to the successful operation of the department, unit, faculty, or university.” Symmetry in the language with respect to research and teaching was fought for by QUFA, but the fact that continuing adjuncts, who have only ever been compensated for teaching, cannot avail themselves of 30.6.10 that provides that “where the applicant’s required responsibilities in scholarship or research … are minimal, primary emphasis shall be placed on teaching” tells you something. Article 42.2.2.10, which sets out criteria for merit, provides that “very good or excellent performance in any or all of teaching, research, and service may result in a merit score above ten,” but then notes that 15 or 20 “normally reflect[s] excellence in teaching or research.” The language of this article, which is too lengthy to quote because it nervously keeps qualifying and reversing itself, leaves open the possibility that service might get you recognition, but then makes clear that, really, it won’t, unless you do just the amount and kind that will not impede research. Service is the seasoning, not the dish, and if the dish is hearty, you only need a soupçon.

I apologize for that tedious tour of the CA. The language simply tells us what we already know, which is that service is the poor cousin among faculty academic responsibilities. Time consuming, disruptive of focus, often emotionally exhausting, unless we ruthlessly refuse most of it, it will procure a defeat of what the CA construes as greater work by lesser tasks. Teaching fares a little better, but not much, particularly in view of the long institutional reliance on the deeply flawed USATs as a proxy for actual evaluation of teaching. Those flaws, my involvement with the development of QSSET has taught me, include thoroughly documented bias with respect to gender, race, and class.
size, and the misleading and lazy practice of calculating and comparing means. Meticulous marking, teaching difficult or controversial subjects, or large introductory or required courses, or just being a different kind of body from the majority of your students—none of these are efficient routes to teaching recognition. There are exceptions: white men often do well in the front of a large class if they are not old, boring, or speaking heavily accented English. And other complications of this analysis might be called for. I suspect that balancing research and service might be easier if your research involves administering large grants and overseeing research teams, tasks that are homologous with some administrative ones. I have also observed that some people undertake a lot of service because they see themselves as natural stewards of the institution, while others do so because they feel they have to remake the institution if they are going to survive in it and being oppositional is more thankless. I think that is the position that Black and Indigenous faculty now find themselves in, and one that I have seen many women occupy over the three decades I’ve spent at Queen’s.

However, while it is important to recognize that in many ways we are not all in this in the same way, these specifications are somewhat beside the main point I want to make here, which is that all of our collegial subjectivities, are structured by the relationships, and indeed our own which is that all of our collegial specifications are somewhat beside not all in this in the same way, these recognize that in many ways we are.

My point, I want to be clear, is not to denigrate research, which I think is the distinguishing feature of universities. When we negotiated reduced teaching loads for new appointees, first sabbaticals at 100% of salary, flexibility in workload in article 37, QUFA was trying to hardwire support for research into our working conditions, and thereby distribute that support equitably. But the moral bargain of the pandemic, which the University sought and which QUFA agreed to, suggests that the moral indignation at the relentless moral indignation at the relentless claims of faculty seeking to be excused from teaching, sometimes because of research ambitions, but also because of family obligations, (either way, he thought, they cost the department), then engage in a retention battle for reduced teaching for himself that provoked precisely the same moral indignation in his successor. “Learn to say ‘no’” women faculty have long instructed each other about service, as though we were protecting one another, but from the point of view of the woman who is running a department, or an Indigenous faculty member who knows that if he doesn’t sit on a particular committee reconciliation will just be just a branding exercise, that way lies sociopathy. If the pursuit of excellence makes you heedless of fairness, then it’s a morally degrading pursuit.

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GRIEVANCE CORNER

Common Misconceptions About the Grievance and Arbitration Process

Some clarifications about what can be grieved, the purpose of the grievance arbitration process, and what rights QUFA Members have

By Peggy Smith
Grievance Officer, QUFA

QUFA staff are contacted on a daily basis by Members seeking advice about workplace disputes and how to resolve them. Often, those conversations start with an indication from the Member that they either want to resolve the matter by filing a grievance, or in the alternative, that they want to avoid arbitration at all costs as they are fearful of retribution and added conflict.

Over the course of my term as the QUFA Grievance Officer, I have addressed many misconceptions about what disputes can be grieved, the purpose of the grievance and arbitration process, the Member’s rights, and the role QUFA plays in the decision-making process. I thought it would be helpful to respond to these questions by providing a quick review of the negotiated grievance and arbitration procedure found in Article 19 of the Collective Agreement (CA), and the QUFA policies on carriage and referring grievances to arbitration.

Not All Disputes Can Be Grieved

Article 19 defines a grievance as being “any dispute or difference, arising out of the application, interpretation, administration, or alleged violation of the provisions of this Agreement.” QUFA staff are trained to help to identify issues that can be resolved through the grievance process and those that cannot, and we play an important role in helping Members to understand the process.

For example, the University has the right to enforce its policies, and communicate concerns and expectations about performance. Members are expected to respond to such direction and can be disciplined for failing to comply under Article 20. The right to grieve such discipline may be limited to the question of whether the discipline was reasonable and proportionate as required by the CA. For clarity, QUFA cannot and does not grieve every instance of discipline; there has to be a breach of process, fairness, or reasonableness for grievance to be an appropriate response.

Similarly, investigating allegations of harassment is a legal obligation imposed on the University by the Occupational Health and Safety Act and the Ontario Human Rights Code, and such action does not in itself constitute a breach of the CA. Should discipline be imposed as a result of the investigation, QUFA must consider the reasonableness and fairness of the investigation process and whether the University’s response was proportionate and progressive as required by the CA and the law. If the process and the response comply with the legal requirements, there may be no breach of the CA to support a grievance.

More commonly, concerns arise over less formal kinds of conflict, and QUFA staff work with Members to see if the conflict can be resolved in a timely and informal way. Disputes often arise as a result of poor communication, or a legitimate misunderstanding of the rights and obligations of the parties involved, and can be easily and cooperatively resolved.

The Purpose of the Grievance and Arbitration Process Is to Resolve Disputes

If the initial assessment of the dispute identified a breach of the CA, and the matter was not resolved through the informal resolution process, the Member may request that QUFA initiate the grievance procedure in Article 19. The stated purpose of the process is “to use every reasonable effort to resolve grievances informally, amicably, and promptly.” In light of this goal, the steps in the process must be followed sequentially and within set timelines, as consideration of the dispute moves to progressively higher levels of decision makers by both QUFA and the University. The ultimate goal is to resolve the matter without arbitration, and negotiations to resolve the matter can continue up to an including the start of the arbitration process, and any time afterwards, with the assistance of legal counsel and the arbitrator.

QUFA Has Carriage of the Grievance

The QUFA protocol regarding representation requires that a Member who wishes QUFA to proceed with a grievance give QUFA control of the process, “allowing the union to decide strategy, mode, substance of representation and advocacy, and how far to take the matter. This form of control is called carriage.” This protocol is consistent with Article 19, and states that carriage of a dispute can be assumed by QUFA at any point in the process, but that only QUFA (and not the Member) can move the matter to Step 2, arbitration. As a result, though a Member’s input will always be sought, there is no free-standing right for a Member to process a grievance to arbitration, and similarly, QUFA can decide to pursue a grievance to arbitration without the Member’s permission.

There Are Multiple Levels of Assessment of the Merits of the Grievance

In addition to the steps outlined in Article 19, if the dispute is not
resolved at Step 1 and the Member wishes to proceed with the grievance, QUFA’s protocol on representation requires consideration of the merits of the case at several levels.

QUFA Grievance Officer: First, the QUFA Grievance Officer will present the facts, legal issues, and the impact of the alleged breach on both the Member and the bargaining unit to the QUFA Grievance Committee and make a recommendation to the Committee on how to proceed.

QUFA Grievance Committee: Following discussion, the Committee will indicate their support for a grievance, or they can recommend closing the file without further action. If the Committee feels that the matter raises a general issue of the University’s interpretation, application, or administration of the CA, they may also recommend forwarding the matter as a policy grievance, rather than or in addition to the individual complaint without regard to the Member’s wishes. The recommendation is forwarded to the full QUFA Executive for consideration.

QUFA Executive: The QUFA Executive reviews the facts of the grievance and the recommendations of the Grievance Committee on a de nova basis, meaning that the facts are considered as if the issue was being heard for the first time. The Executive is not bound by the recommendations of the Grievance Committee.

The statutory duty of fair representation requires that the Executive consider a number of factors in coming to a decision, including the merits of the case, the outstanding labour-relations issues between the parties raised by the grievance, what if any remedies would be available, the financial and labour-relations costs raised by the grievance, and the personal costs to the individual and other members of the bargaining unit.

These factors are applied in the context of the hierarchy of issues that are given priority for serious consideration listed in the QUFA Policy for Forwarding a Matter to Step 2. In sequence, those categories are:

1. job-threatening decisions,
2. serious violations of non-discrimination provisions,
3. major violations of academic freedom,
4. policy interpretations of the CA that significantly threaten the integrity of the CA,
5. excessively punitive action against Member(s) (2-5 are of equal weight),
6. abuse of management rights, and
7. any other University action that in the circumstances is deemed to require QUFA assistance.

Priority does not Guarantee a Grievance

Priority does not create a “right” to a grievance or arbitration process. For example, if a Member is dismissed as a result of an allegation of serious sexual misconduct following a fair and thorough investigation, QUFA would have to balance the impact of that job-threatening action with what may be a legal and moral obligation to consider the impact of that Member’s continued presence on campus on the health and safety of other Members.

The Right to Appeal

If a Member does not agree with the decision of the Grievance Committee or Executive, they have an automatic right to appeal. Following appeal, if the Member is still dissatisfied with QUFA’s decisions, they have the right to file a complaint with the Labour Board that QUFA failed in its duty of fair representation.

Summary

Contacting QUFA staff early in a dispute is the most important action you can take. This will ensure that the issue is forwarded to the appropriate dispute-resolution process and that the University is given early notice of disputes that could be adversely impacting the health and safety of other QUFA Members. It will also ensure that Members who are experiencing workplace disputes have a clear understanding of the objectives and possible outcomes of the choices they have to assist them in obtaining a resolution to the dispute. Negotiated settlements are the basis for good labour relations, and good labour relations contribute to a better workplace for all.

For More Information

For more information, see the Grievances page of the QUFA Web site and the “Duty of Fair Representation” bulletin on the Ontario Labour Relations Board’s Web site:

https://www.qufa.ca/member-services/main/grievances/


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QUFA VOICES
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Updated Guidance on Handling Allegations of Student Harassment of Faculty
How to file a complaint under the interim complaints procedure

By Peggy Smith
Grievance Officer, QUFA

Here is some updated guidance on how to file a complaint of student harassment under the existing Interim Workplace Harassment and Discrimination Policy and Complaints Procedure,¹ pending the completion of the procedure under the new Harassment and Discrimination Prevention and Response Policy, to be approved by March 2021. This guidance comes from the Minutes of Settlement, 23 October 2020, Article 21 Grievance, Queen’s University/Queen’s University Faculty Association.

If a faculty member claims that a student has engaged in harassment, they will first raise those concerns through consultation with a supervisor or manager. If those concerns are not fully addressed and resolved by way of such consultation, the faculty member may file a complaint, as defined in the Interim Workplace Harassment and Discrimination Complaint Procedure, with Human Resources. Human Resources will work with the Faculty Relations Office to determine, on a case-by-case basis, who will take primary responsibility for a complaint.

The relevant University office with primary responsibility for the complaint will provide the faculty member with a decision as to whether it will proceed with an investigation. If the decision is not to proceed to an investigation, the faculty member complainant will be advised in writing that the complaint has been reviewed, and that the allegations do not support the allegation of harassment. QUFA and the faculty member reserve the right to grieve the decision.

The University may also find that, although there was no basis for an investigation, the complaint raised general concerns about culture or environment that should be addressed. If there is another process or resource at the University that would be more appropriate for the subject matter of the complaint, the faculty member will be advised of this, and the matter will be referred to the applicable Dean or University Librarian.

If the University decides to investigate the complaint, at the conclusion of the investigation, the University will ensure that any faculty member who was alleged to have experienced harassment is informed in writing of the outcome of the investigation and the corrective action taken, if any. Such notification shall be provided in accordance with the procedural requirements of the QUFA Collective Agreement (CA). QUFA and faculty members retain their rights under the CA, including the right for QUFA to grieve the outcome of a complaint under article 19 of the CA. The University maintains the right to defend the grievance, including on whether the matter is arbitrable. The University and QUFA agree to comply with the Memorandum of Agreement, dated 11 April 2020, for the review of any investigation report.

Note

¹http://www.queensu.ca/humanresources/policies/workplace-issues/interim-workplace-harassment-discrimination-policy

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Virtual Public Lecture

Pension Investments:
Fiduciary Obligations and the Challenge of Climate Change

with
Murray Gold
Senior Partner, Koskie Minsky LLP

Everyone Welcome

Climate change presents a world historic challenge, and by all accounts, humanity will have to commit significant resources to the greening of the economy over the coming decades. Pension plans are long-term pools of capital, and may be important sources of funding for new energy sources and more efficient production and living arrangements. But pension funds are legally mandated to invest their assets to provide retirement income for their members; they are not political organizations, nor are they social-purpose vehicles. This talk will explore the imperatives of climate change and the evaluate the role that pension plans can play in the coming transition.

Murray Gold is a Senior Partner in Koskie Minsky LLP. He advises pension and benefit plan boards and sponsors across Canada. He is a Climate Expert with Canada Climate Law Initiative. He is a member of the Advisory Board, Sustainable Finance, Corporate Governance and the Law, Osgoode PD Certificate Program.

Thursday 10 December 2020
2.30 p.m. – 4.30 p.m.
via Zoom

Please RSVP to Elizabeth Polnicky (ep43@queensu.ca) for Zoom details