



QUFA ALERT!

Queen's University Faculty Association Bargaining Alert

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Bargaining Timelines and Procedures

What are the next steps if an agreement cannot be made at the bargaining table?

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The following article is reprinted from the October 2022 issue of QUFA Voices.

Based on some of the questions we've heard from Members, I am taking this opportunity to let everyone know the "rules and regs" around bargaining in Ontario.¹

Bargaining to renew a mature collective agreement does not have a fixed end date. As long as the Parties agree, the process can happen as quickly or as slowly as the Parties wish. Some unions make it a practice always to bargain a new agreement before the old one expires; others bargain before and after expiry (as we did); or, only after expiration. In Ontario, there are "freeze provisions" that state that as long as the Parties are actively negotiating or agreeing to pause, and until there is a new contract, the terms of the old agreement will continue to apply with respect to terms and conditions of work. In case you're wondering why this didn't apply to salary adjustments this year, they are fixed to dates in our Collective Agreement, and there are none specified for 2022.

FYI

QUFA Bargaining Timeline to Date

The Queen's-QUFA Collective Agreement expired on 30 June 2022. The Parties have met roughly 20 times since the commencement of bargaining on 14 June. Bargaining teams worked on other days on their own to review or prepare proposals. QUFA had presented all of its substantive issues by the end of June. There was a hiatus in July for three weeks, and Queen's countered on all of QUFA's proposals by the end of August. Some proposals were exchanged repeatedly during August and September, including those capturing Grievance and Discipline language, and our Librarian and Archivist proposal. By mid-September, the Parties tentatively agreed on new Grievance and Discipline language.

There has been another unintended hiatus in October because we couldn't find dates to meet. QUFA responded to the bulk of the employer's August counters by 15 September and countered on remaining matters by 14 October. We are meeting in-person next week starting 7 November for four days. No compensation proposals have yet been exchanged.

The tables on the following pages highlight the bargaining timelines on many of the substantive issues presented, including a Reopener Clause, Financial Exigency, the Library and Archives, Adjuncts, EDII, and Defending the Academic Workplace.

When one or both Parties believe that they can no longer make progress "at the table," they can elect to ask the Ontario Labour Board to appoint a Conciliator. The Conciliator works with both sides to move them towards compromise and settlement. One difference during conciliation is that often the Parties' Bargaining Teams stop meeting together as often or at all; more often, the Conciliator moves from "room to room" (or "Zoom to Zoom," as the case may be) as a shuttle diplomat. This can be an advantage if communication styles or personalities were getting in the way of finding compromise. It can be a disadvantage because nuance may be lost. It's best to work with a

Conciliator when the remaining issues are quite clear cut.

Either Party or the Conciliator can decide at any time that this process isn't working and there's still no hope of getting a settlement. One or both Parties can ask the Conciliator to file for a "no board" report from the Ministry of Labour. The Conciliator may also do this if there is no movement towards getting a deal. The "no board" is strangely named based on an older practice where the Ministry could name a "Board of Conciliation" to help the Parties negotiate. A "no board" would be issued when it was clear that a board would be unhelpful. Still today, the "no board" is issued, although to my

knowledge a Board of Conciliation hasn't been assigned to contract negotiations for decades.

When the "no board" report is issued by the Ministry, a 17-day cooling off period begins in which the Parties may still negotiate and may still reach a deal. The 17 days are calendar days, and at the end of this time, both Parties have the legal right to initiate job action. Job actions are not legal until these steps (conciliation, "no board," and cooling off) are taken.

"Job action" is the neutral term that covers actions that employers can take (such as lockout) and actions that employees can take (such as striking). During this new phase, freeze provisions of the old agreement no longer apply, and the employer can choose to do a number of things, including changing the terms of work, or cutting salary, benefits, and access to the workplace (lockout); they can also hire other workers to take the place of locked-out workers. On the other hand, employees can withhold their labour in a number of ways, such as work-to-rule campaigns, rotating strikes, or full strikes in which all workers withdraw their labour. The union needs the assent of members of the bargaining unit in order to initiate a strike action, so a strike vote is usually called before, during, or quickly following Conciliation.

During job action, the Parties can continue to negotiate, and generally


do so quite intensely to end the action as soon as possible. At this point, they must agree on the terms of a new contract and agree on the terms for return to work. Sometimes, employers will take this opportunity to present an offer of contract terms to the members of the union without the assent of the union's leadership. They are allowed to do this once only, and would likely only try it if they believed their offer was actually good enough and it was only union leadership standing in the way. Union members vote on this offer by secret ballot. These votes usually fail.

When the union believes they have a tentative agreement that is either satisfactory or represents the best they can get under the circumstances, a member meeting is called to review the new terms, and all members of the bargaining unit are asked to vote by secret ballot (the ratification vote) to accept or reject the new agreement. A failed ratification vote would normally lead to a review of the bargaining mandate and bargaining team, and would mean that the union would have to continue to negotiate. Queen's Board of Trustees is responsible to "ratify" or agree to the terms of a new collective agreement for the employer, and they could similarly refuse to do so.

A positive ratification by both members and trustees means the new contract comes into force and effect,

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and the Parties turn their energies to making the changes they've agreed to.

Those are the timelines and rules we operate with when bargaining.

Note

¹More information can be found here: <https://www.ontario.ca/page/collective-bargaining>

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Reopener Clause	
<ul style="list-style-type: none"> Renegotiate compensation if wage-restraint legislation (Bill 124) is repealed or overturned (Article 43) 	
14 June 2022	QUFA proposal
Outstanding University counterproposal (no formal response to date)	

Prevent a Laurentian-Style Abrogation of the Collective Agreement (CA)	
<ul style="list-style-type: none"> Give the right to trigger financial exigency (Article 38) 	
14 June 2022	QUFA proposal
10 Aug. 2022	University counterproposal (rejection (oral))
13 Sept. 2022	QUFA counterproposal
2 Nov. 2022	University counterproposal (rejection (in writing))

Improve Librarian and Archivist Working Conditions	
<p>The parties are in active discussions on Library and Archives issues including:</p> <ul style="list-style-type: none"> Remove the language that Academic Leaves up to 12 months are “normally” 8 months (Article 33) Create a Library and Archives Council to satisfy CA requirements for a unit-level governance body Ensure library departments are not without an acting or interim Head (in the absence of a regularly appointed Head) for long periods (Article 41) 	
16 June 2022	QUFA proposal (Articles 31, 33, 35, 41, 42, and LOA)
26 July 2022	University counterproposal (Articles 2, 25, 33, and 41)
4 Aug. 2022	QUFA counterproposal (Articles 2, 25, 33, 41, 42, and LOA)
24 Aug. 2022	University counterproposal (Article 31)
30 Aug. 2022	University counterproposal (Article 33 with Adjuncts)
13 Oct. 2022	QUFA counterproposal (Article 31, tabled with EDII)
14 Oct. 2022	QUFA counterproposal (Articles 2, 25, 33, 41, 42, and Letter)
26 Oct. 2022	University counterproposal (Articles 2, 25, 33, 41, and Letter)
2 Nov. 2022	QUFA counterproposal (Articles 2, 25, 33, 41, and Letter)
Outstanding University counterproposal (Article 31)	

Improve the Path to Security for Adjuncts	
<p>QUFA continues to wait to hear from the University on substantive Adjunct matters including:</p> <ul style="list-style-type: none"> Eliminate the requirement for Specific Right of Reappointment (SRoR) Reduce the requirements for General Right of Reappointment (GRoR) by 1 year and equivalent teaching Allow one half course taught as a Postdoctoral Fellow to count toward GRoR Reduce the requirements for Continuing Status Expand the recognition of Continuing Adjunct research by granting further teaching release if they have external funding Creating an alternate route to teaching-intensive tenured appointments for Continuing Adjuncts with Associate Professor status Allow Continuing Adjuncts to add a full service load to their full-time equivalents (FTEs) 	
24 June 2022	QUFA proposal (Articles 15, 25, 32, 33, 42, and Appendix F)
25 July 2022	University counterproposal (Article 15)

27 July 2022	University counterproposal (Appendix F)
15 Aug. 2022	University counterproposal (Article 25)
30 Aug. 2022	University counterproposal (Articles 32, 33, 42, and Appendix Q)
13 Sept. 2022	QUFA counterproposal (Articles 15, 25, 32, 33, 36, and 42; Appendix F countered with EDII in separate proposal)
26 Oct. 2022	University counterproposal (Articles 25 and 33)
2 Nov. 2022	QUFA counterproposal (Articles 25 and 33)
Outstanding University counterproposals (Articles 32, 36, 42, and Appendix F)	
Outstanding QUFA counterproposals (Appendix Q (to be tabled with compensation))	

Improve Equity Language and Processes	
The Parties are in active discussion on issues including:	
<ul style="list-style-type: none"> • Raise the profile of equity-related service work so it can be properly acknowledged and valued by providing examples of different forms it can take (various articles) • Provide training for Heads on bias in faculty evaluation as part of Department Head orientation (Article 28) • Expand the definition of “family” in employment equity considerations related to appointments and Renewal, Tenure, and Promotion (RTP) processes (Article 24) • Create a process for Special Equity Appointments and Targeted Hiring that clearly demonstrates compliance with all legal requirements with respect to QUFA’s role in the process (Article 24) • Recognize equity-related work in RTP and RCAP processes (Articles 30 and 31) • Narrow the exceptions to following established collegial appointments processes in order to expand the number of positions publicly available for application (Article 25) 	
14 June 2022	QUFA proposal (Articles 2, 24, 25, 28, 30, 33, 36, 38, 42, and Appendix K)
26 July 2022	University counterproposal (Articles 2 and 33 tabled with Library)
27 July 2022	University counterproposal (Article 28)
10 Aug. 2022	University counterproposal (Article 38 rejected orally)
15 Aug. 2022	University counterproposal (Articles 24 and 25)
24 Aug. 2022	University counterproposal (Articles 30 and 31)
30 Aug. 2022	University counterproposal (Article 33 tabled with Adjuncts)
31 Aug. 2022	University counterproposal (Article 36 with Academic Workplace)
8 Sept. 2022	QUFA sent clarifying EDII questions to the University
13 Sept. 2022	QUFA counterproposal (Article 38 tabled with Procedural)
27 Sept. 2022	University answered QUFA EDII questions orally at the table
13 Oct. 2022	QUFA counterproposals (Articles 2, 24, 25, 28, 30, 31, Appendix F, and proposal of Recruitment and Retention Working Group)
13 Oct. 2022	QUFA counterproposal tabled with Academic Workplace (Article 36)
26 Oct. 2022	University counterproposal (Articles 2, 25, and 33)
2 Nov. 2022	QUFA counterproposal (Articles 2, 25, and 33)
Outstanding University counterproposals (Articles 24, 28, 30, 31, 36, 38, 42, and Appendix K)	

Defending the Academic Workplace
QUFA continues to wait to hear from the University on substantive Academic Workplace matters including:
<ul style="list-style-type: none"> • Permit Members to refuse electronic capture of their course materials • Strengthen the restriction on electronic monitoring of Members’ devices • Require notification to the Member and Association if access to Member accounts is planned

- Ensure that systems used by the University are secure against unauthorized access or modification of contents
- Strengthen Members' control over the academic integrity of their courses by allowing them to resist QSAS recommendations that would undermine integrity
- *Proposed University concession: to direct full-responsibility Members to engage in securing external funding for research where appropriate to the field of study*
- *Proposed University concession: to grant the University an indefinite and royalty-free licence to copy or use works created by Members in the course of carrying out their Academic Responsibilities for other "teaching, research, and service activities of the University."*

24 June 2022	QUFA proposal (Articles 16, 23, 35, 36, 37, and 2 proposed LOAs)
25 July 2022	University counterproposal (Articles 15 and 16)
10 Aug. 2022	University counterproposal (Article 37 tabled with Workload (not addressed in proposal, rejected orally later in discussions))
31 Aug. 2022	University counterproposal (Article 36 in writing; Articles 23 and 35 rejected orally)
8 Sept. 2022	QUFA sent clarifying Academic Workplace questions to the University
13 Sept. 2022	QUFA counterproposal (Article 37 tabled with Procedural, no counter on Academic Workplace component, but reserved on countering)
15 Sept. 2022	QUFA counterproposal (Article 15, 16, and LOA regarding JCAA Information Technology review)
27 Sept. 2022	University answered QUFA Academic Workplace questions orally
13 Oct. 2022	QUFA counterproposal (Articles 23, 35, 36, and LOA regarding Student Accommodation Working Group)
28 Oct. 2022	QUFA counterproposal (Articles 23, 35, 36, and LOA regarding Student Accommodation Working Group (amended))
Outstanding University counterproposals (Articles 15, 16, 23, 35, 36, and proposed LOAs))	
Outstanding QUFA counterproposal (Article 37)	