

# What now?

## A message from your Divisional Executive

by RM Kennedy

The 2017/18 academic year is not one college faculty will likely forget any time soon.

We weathered an historic five-week strike, and stood strong together to reject a toxic forced offer. We were legislated back to work by a government that refused to intervene *in the right way* by directing the College Employer Council to bargain fairly. And then we went back to work to salvage the semester and do what we do best: inspire meaningful learning experiences.

With bargaining now over, many have asked, what now? How do we keep up the momentum? Going on strike is an all-consuming experience, but the simple truth is that the key to a strong union lies in all the small things in between bargaining rounds. There is a union adage that a collective agreement is only as good as our willingness to defend it. Now is the time to understand—and defend—the rights we have fought hard to have enshrined in the collective agreement.

Ontario college faculty continue to face unprecedented system-wide attacks, including assaults on program integrity and egregious discipline. Many of us are justifiably angry and looking for a way to channel that energy constructively.



Martin Devitt, Lynn Dee Eason, RM Kennedy, JP Hornick, Kevin MacKay

What we learned on the picket lines is that when we work together, we can make significant differences in the college system and our workplaces.

One simple way to do that is to get involved with your local. If you are a senior faculty close to retirement, share your history and experience. You understand better than anyone how the college system has been decimated by the rise of precarious work and the new management culture. If you are a newer faculty, with a long career ahead, you have an important role in shaping the system for years to come.

...the key to a strong union lies in all the small things in between bargaining rounds.

As a Divisional Executive, we keep watch over the trends in our system provincially and work with Local leadership to respond collectively to challenges as they arise. Together with our provincial committees, we work to defend our collective agreement and to advocate for faculty with the Council and the government. Part of our role is

to communicate with members about these activities. With the launch of this newsletter, The Faculty Voice, the CAAT-Academic Divisional Executive will keep you updated about ongoing issues. We welcome your feedback, and look forward to continuing our work on your behalf.

*RM Kennedy is Chair of the OPSEU CAAT-Academic Divisional Executive and vice president of OPSEU Local 558 at Centennial College.*

## Bill 148 Fair Workplaces, Better Jobs Negotiations

One important item out of the Kaplan Award was a Letter of Understanding that OPSEU and the College Employer Council (CEC) would meet to negotiate how to make our collective agreement compliant with the new minimum employment standards set out in Bill 148, the *Fair Workplaces, Better Jobs Act*, 2017. If the parties cannot agree, after one year, any outstanding issues can be sent to arbitration.

The potential improvements for workers under Bill 148 are significant. Some changes that could affect contract faculty include equal pay for equal work as well as improvements on public holiday pay, vacation entitlement, and personal leave time. Ensuring that the CEC did not insert language into our collective agreement that would subvert requirements to comply with Bill 148 was a major issue in the strike.

So far, the parties have met several times and it is clear that we have a fight on our hands. Council *has* taken the position that they are already compliant with

the legislation, and there will be no adjustments required when it comes to our partial-load faculty work—a position we vigorously dispute. Nonetheless, Council has acknowledged that there is no justifiable reason under Bill 148 to pay part-time and sessional faculty less per teaching contact hour than partial-load faculty. All faculty should be asking senior college administrators how and when they plan to implement these equal pay provisions.

Unfortunately, it appears that some colleges are threatening program cuts to pay for the equal pay rights legislated by Bill 148. While additional provincial funding is needed desperately, we have to remain vigilant that colleges don't use Bill 148 compliance as a justification for implementing cuts.

Two things are true: equal pay for equal work is the right thing to do and the colleges must work with the government to ensure fairness is being adequately funded.



# Academic freedom changes the game

by Martin Devitt

Colleagues,

That's my standard salutation, but now there's something more to it. Being colleagues doesn't just mean that we all teach in the same college system and that we share a profession. The critical inquiry and knowledge we share with our students is now backed up with freedoms and rights defined in our new collective agreement (CA). The inclusion of this new language in our CA is a huge win coming out of our recent bargaining and historic strike. Academic freedom is essential to increased respect for our profession within Ontario colleges, and within the larger field of post-secondary education. The heart of

academic freedom in our CA is that we have the "right to enquire about, investigate, pursue, teach and speak freely about academic issues without fear of impairment to position or other reprisal." Naturally there are parameters around such free speech—the human rights code, the criminal code of Canada, etc.—but the point here is that it gives you freedom and places your expertise at the center of teaching. As with other freedoms, the CA puts forth a duty to use this academic freedom in a way that is consistent with research standards and respect for others' academic freedom.

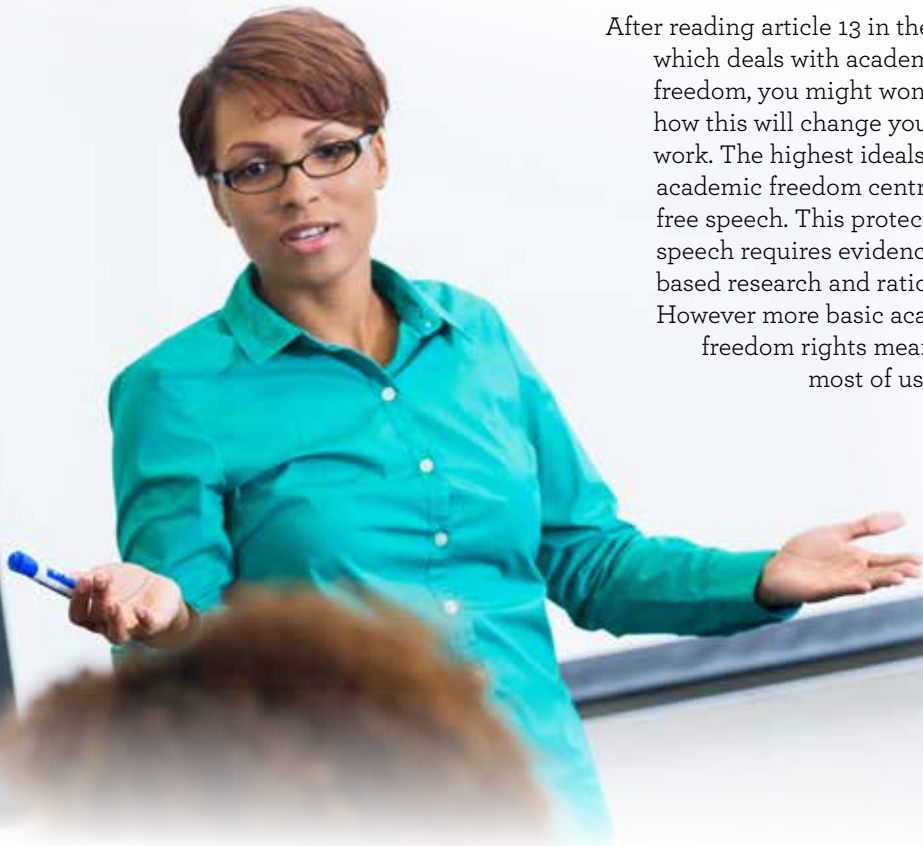
<https://opseu.org/sites/default/files/opseuandcollegeemployercouncil-award-finaldec2017.pdf#page=5.5>

After reading article 13 in the CA, which deals with academic freedom, you might wonder how this will change your work. The highest ideals of academic freedom centre on free speech. This protected speech requires evidence-based research and rationale. However more basic academic freedom rights mean that most of us can

exercise more say over our course content, material selection, delivery-style and assessment methods. The interaction between Article 13, and our Standard Workload Formula (SWF) system is something that most locals will work out through the Workload Monitoring Group Committee (WMG). We have a new provincial academic freedom committee that will assist our locals and members in understanding and implementing their rights.

Academic freedom is not a simple directive that can be implemented right away. Through more education about our rights, we can apply this new language in our CA to strengthen and protect our work as faculty. It represents a major shift, as we join with faculty across the country. It is a shift we make in our approach in the classroom and with each other as colleagues and ultimately with ourselves as we think about not just the limits of what we can do and say, but the basics of teaching too.

*Martin Devitt is a member of the CAAT-A Divisional Executive and president of OPSEU Local 242 at Niagara College. He is the CAAT-A representative to the Canadian Association of University Teacher (CAUT).*





## The CAAT-A Bill 178 Charter Challenge

by Nicole Zwiers

When the Ontario government imposed back-to-work legislation on college faculty this past November 2017, OPSEU filed a Charter Challenge in response. It remains our position that the government had every opportunity to negotiate, and instead kept our members out on strike for over five weeks. JP Hornick and RM Kennedy, as chairs of the 2017 Bargaining Team and the CAAT-A Divisional Executive respectively, are the named CAAT-Academic leaders representing faculty in our application challenging the legality of the back to work legislation, Bill 178.

The basis for the application is the allegation that Bill 178 is a breach of faculty's Charter right to strike that was unconstitutionally abbreviated by this legislation. The right to strike was recognized by the Supreme Court of Canada (SCC) in a trilogy of cases dating back to 2015 wherein the SCC clarified that back-to-work legislation could amount to an unjustified Charter breach.

The Charter Challenge seeks an important remedy: If the Court declares Bill 178 to have breached faculty Charter rights without justification, the current collective agreement (CA) will be deemed to expire and the parties will enter into bargaining. This remedy allows our sector to maintain any gains made in the new language of the current CA while bringing the CA to an earlier expiry. If our Charter challenge succeeds, we will be in negotiations as we have been at any time in the past when our CA expires. To clarify, we will not be on strike.

The reality is that it will be a multi-year process to get the application heard at the initial level and the chances are very likely that any decision will face appeals. CAAT-A will not be negotiating a new CA anytime soon.

As many of you know, Charter rights are not absolute and the government may breach a Charter right pursuant to section 1 of the *Charter of Rights and Freedoms* where such breach can be reasonably justified in a free and democratic society. However, the government must justify a breach by demonstrating, among other things, that the breach infringed the right as little as possible. In our circumstances, the government allowed the strike to continue for five weeks at which time the employer held an offer vote. They lost that vote with an extraordinary 86% rejection.

Within mere hours of the release of the vote results, the two bargaining teams were instructed by the government to attempt to resolve the outstanding issues within a three-hour window, failing which the government would step in to resolve the strike. The government, by way of Bill 178, legislated faculty back to work. The parties settled our new collective agreement through interest arbitration.

It is unknown how the Court will determine this application. The likely question for the court to consider is whether the government infringed faculty's Charter right as little as possible in these circumstances.

For example, should the government have exercised its authority with the employer to direct that any offer vote

be held sooner? The CCBA specifically mentions doing so in advance of a strike, or, at a minimum, during week 1 or 2 of the strike.

The government failed to intervene and did not direct the employer to hold an offer vote before or during the strike. Another good question is whether they should have allowed the parties time to bargain freely following the considerable shift in leverage to the advantage of faculty following the high rejection vote.

College faculty have taken a strong stand against this government's total disregard for the democratic voice of faculty in the employer's offer vote. We are steadfast in defending faculty's right to strike. Our charter challenge will send this government and every future government the clear message that faculty's right to strike cannot be breached. The efforts of faculty over the course of a five-week strike and in a strong rejection vote fundamentally shifted the bargaining leverage of the parties. We are challenging the government's Bill 178 because it cut faculty off at the knees in terms of realizing on the leverage generated over the course of the strike. We fundamentally oppose the back to work legislation, which saved the employer from the natural consequences of its poor negotiation strategy.

*Nicole Zwiers is the president of OPSEU Local 354 at Durham College, and was Vice Chair of the 2017 Bargaining Team. She is also the CAAT-A Local Legal Coordinator, which tracks developing grievance case law in the system.*



# Contract faculty vote: Where's it at?

by Lynn Dee Eason

In October 2017, the Ontario Labour Relations Board (OLRB) conducted a vote to allow part-time and sessional faculty to decide on whether or not to join OPSEU. Nonetheless, the College Employer Council, representing the 24 individual colleges, continues to draw out the path to justice for our contract colleagues. Council is raising legal objections at every step of the process and attempting to thwart the democratic voice of contract faculty.

Our part-time support staff colleagues have been successful in their historic journey to gain union representation. It was a long and difficult road due to these same tactics, but they are on their way to negotiating a first contract. Contract faculty deserve the same.

It is fundamentally wrong that Council continues to fight unionization using

public money that should be invested in the classroom. The colleges could voluntarily recognize the part-time bargaining unit so that contract faculty are not the only bargaining unit left without representation. They could simply open the ballot boxes and let democracy take its course instead of wasting precious educational funding resources. However, money does not seem to be a barrier for them when it comes to paying expensive law firms to oppose hearing the voices of part-time college support staff and faculty.

It is imperative that we continue to reach out to our contract colleagues to ensure they know about the work that is being done on their behalf behind the scenes. Locally and provincially, the message of #AllOfUsOrNoneOfUs continues to denote our key values of fairness and equity.

On February 28, in conjunction with our university colleagues at the Ontario Coalition of University Faculty Associations (OCUFA), we held a Social Media Day of Action to support fairness for contract faculty. Participation via the Contract Faculty Forward Facebook page and the Twitter hashtag #Fairness4CF let the world know that we support fairness in our post-secondary institutions.

*Lynn Dee Eason is a member of the CAAT-A Divisional Executive, past president of OPSEU Local 613 at Sault College, and a member of the Joint Grievance Scheduling Committee (JGSC).*

# What's new for partial-load faculty?

by Kevin MacKay

While the Bargaining Team was unable to obtain all of the important demands for partial-load (PL) faculty this round, Arbitrator William Kaplan's Award provides improvements for partial-load faculty. Contract timeliness, salary grid progression, and job security are all clear improvements. Two other key issues—pathways to full time employment, and equal pay for equal work—are being pursued through the Provincial Task Force, and through the Bill 148 Committee.

Let's look at the changes.

## **Contract timeliness - Changes to Article 26.03 B**

Our Bargaining Team made a strong case that PL faculty needed to get earlier notice of their work assignments. Although our proposal that PL get their contracts at least two weeks before they start was not accepted, Arbitrator Kaplan does add language to 26.03 B stating: "The College shall endeavour to issue all contracts prior to the start of the contract." This is a step in the right direction, and can be strengthened in future rounds.

## **Salary grid progression - Changes to Article 26.10 C**

Kaplan's award doubles the rate at which PL faculty rise up the salary grid, addressing a clear inequity that was strongly argued by the Bargaining Team. Prior to Kaplan, PL faculty obtained service at the rate of a half month for every month in which they taught 30 hours or more. After Kaplan, PL now accumulate service at the rate of one month for every month in which they teach 30 hours or more.

## Job Security - 26.10 D and E

The new Articles 26.10 D and E introduced in Kaplan's award are much stronger than the previous seniority language, and should work together to provide real job security for partial-load faculty. 26.10 D creates a "registry" of PL faculty work assignments and seniority. PL faculty are to contact the College by October 30 each year to be considered registered for the next calendar year, and for their seniority to be factored into work assignments.

The new article 26.10 E specifies that any courses assigned to PL faculty in a given academic department must go to a registered PL faculty over a newly

hired PL faculty. In addition, if there are two registered PL faculty in that department who have taught the course in question, then it must be given to the one with most seniority.

These new articles are a big step forward in PL job security. If you have questions about how the registry will function, please contact your local union representative. They will help you understand your new Collective Agreement rights.

### Thank you

We are grateful for the hundreds of PL faculty province-wide who participated in this round of bargaining through

demand-setting, through Contract Faculty Forward, and on the picket line. The gains for PL are due to your hard work, and your willingness to engage with your union and make your voice heard. We hope this engagement will continue and expand in the years to come, leading to a stronger, more equitable college system.

*Kevin MacKay is vice-president of OPSEU Local 240 at Mohawk College, a member of the CAAT-A Divisional Executive and a member of the 2017 Bargaining Team.*

# What really is an "instructor"?

by Lynn Dee Eason

You may have noticed that the media frequently refers to college faculty as "instructors" – most noticeably this occurred during coverage of our 2017 bargaining and strike. You may even have wondered who these "instructors" were, as the majority of colleges do not actually have any instructors. Out of the more than 12,000 full-time faculty (professors, instructors, counsellors, and librarians), less than 50 are instructors. There may even be reason to question whether these 50 instructors are accurately designated instructors at all when we examine the work they do.

While the term is commonly used in universities and in private colleges, "instructor" is a specific job classification in Ontario colleges. Instructor work is narrowly defined in our collective agreement:

*The Instructor classification applies to those teaching positions where the duties and responsibilities of the incumbent are limited to that portion of the total spectrum of academic activities related to the provision of instruction to assigned groups of students through prepared courses of instructions and according to prescribed instructional formats; and limited to instruction directed to the acquisition of a manipulative skill or technique; and under the direction of a Professor.*

The pay rate for an instructor is restricted to Step 10 on a separate scale – capped at \$68,842 (as of September 2016). This is equivalent to Step 7 on the 21 Step Professor, Counsellor, and Librarians scale for the same time period – a significant gap.

However, due to the normalization of the word, many faculty are unaware of the significant differences in work

and pay between the instructor and professor classifications. Both teach, but the instructor is to be provided with their curriculum, teaching materials, schedules and tests developed by a professor who is assigned time to provide this material. The instructor is also limited to working in areas where a "manipulative skill or technique" is being developed. The interpretation of this is fraught with ambiguity. If critical thinking is required, is the teaching actually professor work? Picture, for example, Aviation Flight Training in the air where crucial decisions and the application of theory are constants.

Many colleges are now turning to the instructor classification as a money-saving technique regardless of the restrictions imposed upon the role. Existing instructors—both full-time and partial-load—regularly face the assignment of work that is outside their

classification and pay scale and are forced to develop their own materials because management has not assigned time to a professor to do this work. While the employer cannot reclassify existing professors as instructors, the availability of quality material developed by professors on our learning management systems may provide an avenue for an exploitative employer to

transfer work to underpaid instructors. If you see this happening, talk to your local union representative.

*Lynn Dee Eason is a member of the CAAT-A Divisional Executive, past president of OPSEU Local 613 at Sault College, and a member of the Joint Grievance Scheduling Committee (JGSC).*



## Thank you!

*A final message from your bargaining team*

The 2017 round of bargaining was an historic one for CAAT-A faculty. This was the first round in which we have made significant gains since the changes to the Colleges' Collective Bargaining Act (2008) introduced new timelines and limits on our bargaining. It was also a round in which we improved communication and transparency in our division by establishing guidelines for communications with local presidents, creating the Bargaining Advisory Committee, and harnessing the power of social media.

Perhaps most importantly, however, is that we based our bargaining not on beating back employer concessions, but on building a better college system for all faculty and for all students. Despite the hostility of Council and our employers, and despite the draconian back-to-work legislation imposed by the government, we prevailed. Arbitrator Kaplan's award—while not fully addressing our concerns—clearly reflected faculty's vision for a better college system. We have won historic

breakthroughs on academic freedom for all faculty, as well as significant gains for partial-load faculty. We blocked management attempts to extend the moratorium on staffing grievances, and created a Provincial Task Force to define the system for the next 50 years. We have also launched a Charter challenge against the government for their violation of our right to bargain our collective agreement.

None of this would have been possible without the incredible strength and solidarity shown by our members on the strike lines. Each step you took, each duty you fulfilled, each conversation you had with students, friends, family and neighbours, led us to this decisive victory. College faculty are experts in every sector of our economy. We relied on and built from our collective strengths and talents to create positive change for ourselves, and for all workers in this province.

Now is the time for the work of the Provincial Task Force to begin. The task force set up by the Ministry of Advanced Education Skills and Development has begun to meet, and both your bargaining team chair, JP Hornick, and your Divisional Executive chair, RM





Kennedy, sit on the steering committee. On this task force we will be advocating for recommendations before the provincial election in June to:

- establish a faculty complement that increases the number of full-time faculty and reduces precarity;
- create a collegial governance system for academic decision-making that meaningfully includes faculty and students;
- improve funding for the system;
- address counsellor workload and definition concerns to improve student mental health;
- and ensure intellectual property rights for all faculty.

Ensuring that our concerns are addressed by the task force—and enforcing our gains—will require all of us to continue to work together. We need to stay mobilized and informed. Your divisional leadership will continue to keep you updated on what's happening around the province, but we need you to let your local leadership know what's happening for you. Stay connected and stay strong. Together, we can continue our work to make this a better system for all of us.

And thanks again to all faculty for your enormous efforts and amazing support. We couldn't have done it without each other.

In solidarity,  
Your 2017 Bargaining Team  
*JP Hornick, Chair*  
*Nicole Zwiers, Vice Chair*  
*Darryl Bedford*  
*Mona Chevalier*  
*Kevin MacKay*  
*Shawn Pentecost*  
*Ravi Ramkissoonsingh*



Authorized for distribution  
*Warren Thomas*  
Warren (Smokey) Thomas  
OPSEU President

RM Kennedy, Chair  
Kevin MacKay, Vice Chair  
Martin Devitt  
Lynn Dee Eason  
JP Hornick



divexcaata@gmail.com  
Twitter: @caatfaculty Facebook: @OntarioCollegeFaculty  
[www.collegefaculty.org](http://www.collegefaculty.org)