

Carleton University's response (using MSWord tracked change) on Article 30 with respect to collective bargaining with the Carleton University Academic Staff Association (CUASA) CUASA proposal

Without Prejudice

Date: 08 May August 09 2012

ARTICLE 30: COMPLAINTS, GRIEVANCES AND ARBITRATIONS

30.6 Grievance Sub-Committee

The parties agree that they will, through the JCAA, establish, from time to time, a Grievance Sub-Committee composed of equal numbers of representatives of the employer and the Association. The terms of reference for a particular Grievance Sub-Committee shall be specified by the JCAA.

Notwithstanding the preceding, the parties agree that the main functions of such sub-committees as are created from time to time are:

- (a) to assist the parties in resolving grievances through fact-finding;
- (b) to assist the parties in resolving grievances through negotiations;
- (c) to assist the parties in resolving grievances by rendering reports concerning the alleged grievance, when so requested.

The parties ~~Association parties~~ may by agreement by agreement at the JCAA decline to appoint a Grievance Sub-Committee, in which event the Association shall be entitled to proceed directly to ~~Stage 4: binding arbitration. Stage 4.~~

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~~30.9 Exclusions from the Grievance Procedure~~

(a)
~~Recognizing that certain review procedures involving complex forms of academic peer judgement have evolved out of continuous practical experience, the parties agree that the grievance procedures under this Article shall not be available for resolution of disputes, exclusively concerned with employment equity appointments (Article 9.3), faculty promotions (Article 10.1 - 10.4), renewal of preliminary faculty appointments (Article 6.2(a)), tenure (Article 6.2(a)), lay-offs (Article 17.4, 17.5, 17.6, 17.10, 17.12 and the Document on the Release of Teaching Staff in Times of Financial Stringency, Appendix D to the Collective Agreement), and dismissal for cause of faculty employees (Article 6.2(a)), professional librarian employees (Article 11.4), Instructor employees (Article 12.5), except where the employee or the Association alleges violation of Academic Freedom under Article 4, or discrimination under Article 5 of this Collective Agreement, or except where the employee or the Association alleges that a violation of the procedures established in Article 10 or under the Senate/Board document entitled *Procedures Concerning Tenure, Dismissal and Related Matters*, as approved by the Board of Governors on the 27th June, 1972 and as amended by the Board of Governors on the 4th October, 1972, and as modified by this Collective Agreement has occurred.~~

(b)
~~For the purposes of this Article "procedure" shall mean the fact or manner of proceeding or going on and shall not mean the manner of interpreting guidelines or criteria.~~

30.9 Exclusions from the Grievance Procedure

- (a) Recognizing that certain review procedures involving complex forms of academic peer judgement have evolved out of continuous practical experience, the parties agree that the grievance procedures under this Article shall not be available for resolution of disputes, exclusively concerned with employment equity appointments (Article 9.3), faculty promotions (Article 10.1 10.4), renewal of preliminary faculty appointments (Article 6.2(a)), tenure (Article 6.2(a)), lay-offs (Article 17.4, 17.5, 17.6, 17.10, 17.12 and the Document on the Release of Teaching Staff in Times of Financial Stringency, Appendix D to the Collective Agreement), and dismissal for cause of faculty employees (Article 6.2(a)), professional librarian employees (Article 11.4), Instructor employees (Article 12.5), except where the employee or the Association alleges violation of Academic Freedom under Article 4, or discrimination under Article 5 of this Collective Agreement, or except where the employee or the Association alleges that a violation of the procedures established in Article 10 or under the Senate/Board document entitled *Procedures Concerning Tenure, Dismissal and Related Matters*, as approved by the Board of Governors on the 27th June, 1972 and as amended by the Board of Governors on the 4th October, 1972, and as modified by this Collective Agreement has occurred.
- (b) For the purposes of this Article "procedure" shall mean the fact or manner of proceeding or going on and shall not mean the manner of interpreting guidelines or criteria.

30.10 Failure to Respond

(a) In the event that the employer fails to reply to a complaint or grievance within the prescribed time limits in this Article the Association or the grieving party may submit the complaint or grievance to the next step.

(b) In the event that the Association or the grieving party fails to submit the complaint or grievance to the next step in the grievance procedure within the time limits expressed in this Article, the employer shall notify the Association and the grieving party of the expiration of the time limit. The Association or the grieving party shall then have an additional five (5) working days from the receipt of such notice to request an extension of the time limit. In the absence of a response to such a written expiration notice the complaint or grievance shall be considered settled without setting a precedent.

(c) ~~Abandonment~~ **Withdrawal**
A grievor may, by written notice to the appropriate dean/director/librarian, abandon a grievance at any time during the grievance process. If the grievance has been presented with the support of the Association, the employer shall notify the Association that the employee has abandoned the grievance. **The Association shall have the right to withdraw from a grievance and shall notify the employer that it has done so.** ~~The abandonment withdrawal of a grievance shall not prejudice the position of the Association in dealing with grievances of a similar nature.~~

(c) Abandonment

A grievor and/or the Association may, by written notice to the appropriate dean/director/librarian, and with a copy to the Association and the AVP HR, abandon a grievance at any time during the grievance process. ~~If the grievance has been presented with the support of the Association, the~~

~~employer shall notify the Association that the employee has abandoned the grievance. The abandonment of a grievance shall not prejudice the position of the Association and/or the Employer in dealing with grievances of a similar nature.~~

30.11 Arbitration

(a)

In the event that the decision of the Grievance Sub-Committee does not resolve the grievance ~~or if the Grievance Sub-Committee fails to call a meeting, or convene the meeting, or deliver its written report within the time-lines outlined above,~~ unless the parties mutually agree to an extension of the timelines, the Association or the Employer may serve notice within ten (10) working days of receipt of the Committee's decision or the expiry of the deadline that it intends to proceed to arbitration. The Association shall have the right to carry Association grievances as described in Article 30.7 to arbitration.

(b)

Notwithstanding the preceding, the parties agree that, in any case involving academic freedom, a decision of the Association not to pursue the matter to arbitration shall not prevent the individual grievor from seeking the advice of CAUT, and, on the positive recommendation of CAUT, in which case a further period of ten (10) working days shall be provided beyond the provisions of Article 30.11(a) for such consultation to take place, proceeding to arbitration under this Collective Agreement.

30.12 Appointment of Arbitrator

The parties hereby authorize and appoint the persons listed at the end of this Article to serve as a panel of arbitrators on a rotating basis for the duration of this Collective Agreement. The arbitrators shall be requested to serve singly according to the order in which they are listed. If an arbitrator is not available within a reasonable period of time, but in any case not to exceed three (3) months, the next arbitrator in order shall be selected and so on until one of the arbitrators is available. For the next arbitration thereafter, the arbitrator who was listed after the arbitrator last selected shall be next in line. By mutual consent, however, any listed arbitrator may be selected out of turn. If in the event that none of the arbitrators is available within a reasonable time, but in any case not to exceed three (3) months, an arbitrator outside the panel shall be selected by mutual consent. If such agreement cannot be reached within twentytwo (22) working days the parties agree to request the Ministry of Labour for authority to appoint an arbitrator in accordance with the provisions of Section 44(4) of the Ontario Labour Relations Act. It is agreed, however, that any of the names may be stricken from the list during periods when no arbitrations are pending by either party on one (1) month's written notice, provided that the parties agree to replace those names stricken from the list within one (1) month following such notice. No person may be appointed as an arbitrator who has been involved in an attempt to negotiate or settle the grievance in process.

Panel of Arbitrators: Owen B. Shime (one remaining grievance)

D.M. Beattie

D.A. Soberman

M. Teplitsky

Arthur M. Kruger
D. Kates

K. Burkett

J. Deylin

B. Keller

P. Knopf

30.14 Expenses

The parties will jointly share the fee and expenses of the arbitrator. ~~The arbitrator shall have the jurisdiction to award costs and damages.~~