

QUFA INFOSHEET

QUFA and Heads of Units

How does QUFA represent Members while they are serving as Unit Heads?

By **Leslie Jermyn**
Executive Director, QUFA

with **Ramneek Pooni**
Grievance Officer, QUFA

and **Susan Fitzgibbon**
Labour Relations Officer, QUFA



From time to time, questions arise about QUFA's relationship with Members who are Heads:

- Does QUFA represent Heads?
- Do Heads have access to QUFA Member services?
- In the case of a disagreement between Members of a unit and the Head, where does QUFA stand?

QUFA staff have addressed these questions in a variety of ways, most recently in the March-April 2013 issue of *QUFA Voices*.¹ In this *Infosheet*, we will review the full scope of representation of Heads in an effort to make clear what you can expect from QUFA during your time as Head.

As a preamble to the details below, it is important that all Members recognize what your Faculty Association was created and mandated to do. QUFA is

primarily responsible to negotiate working conditions for all Members of the Bargaining Unit. These negotiations with the University Administration result in *Collective Agreements*, so called because they represent everyone doing particular kinds of work. The Collective Agreement (CA) in force is the product of many years of negotiations between the parties, where both sides have worked to protect their interests by outlining mutually agreeable management and employee rights on the one hand, and management and employee responsibilities on the other.

When negotiations conclude, QUFA turns its attention to ensuring that the CA is upheld and correctly interpreted in the daily running of the University. As with any document of this level of complexity, there is often room for interpretation and, as contexts change, grey areas or gaps appear in the language that have to be addressed by the parties through the Joint Committee to Administer the Collective Agreement (JCAA) or at the next round of negotiations.

At the time QUFA was certified as a union, it was decided by the parties (Article 1), to include unit Heads in the Bargaining Unit because their primary role is to represent the needs of Members of units to the Administration. Article 41.1.2 addresses this question and includes an exception to the representational role of Heads: "Heads are Members to whom certain administrative responsibilities and decisions are delegated." Herein lies the rub: Heads sometimes enact

management decisions on behalf of the employer side of the University. QUFA's primary role is to promote and defend employee rights and ensure management acts responsibly, reasonably, and transparently. When Heads are acting for the employer, QUFA cannot logically defend their managerial decisions or actions if they abrogate employee rights. It is simply not in our mandate and would create an untenable conflict of interest with all Members who work in units with Heads.

You might reasonably wonder, then, how can QUFA claim to represent Heads (and take their dues) if it is mandated *not* to represent them in the exercise of some of their duties? The workaround to this apparent conflict of duty is also in Article 41. Article 41.6, "Grievance Arising from Delegated Administrative Tasks," makes clear that the Dean, not the Head, has to respond to any Member complaint about a Head's management decision and has to take full responsibility for that decision in a grievance situation. The Member must give the Head the opportunity to resolve the disagreement, but after that, the University Administration must assume the role of employer or manager in dealing with a formal grievance by a QUFA Member. This means that QUFA represents Members grieving against the Administration and not against other Members, the latter being a clear conflict of interest and fiduciary duty.

Those are the rules outlined in the CA, but real life is often muddier than the rules suggest. For that reason, the bulk

of the Member services provided by QUFA staff and volunteers does not assume a formal status under the CA. We spend much of our time listening to, advising, and informally helping Members who face difficult situations, and very few of those conversations turn into grievances or matters for the JCAA. In our role as advisers, we are available to every Member equally, including Heads. In other words, we welcome queries and consultations from Heads in the performance of their duties, including their delegated managerial duties. Indeed, we are often contacted by Heads with questions about committee elections, RTP processes, Adjunct hiring, and so on.

If you face a difficult management decision about the working conditions of a QUFA Member, and you'd like to know what QUFA's interpretation of the CA is or what QUFA thinks is "best practice" in the case of a gap or grey area of the CA, you are absolutely free and welcome to call the office. We also recommend that Heads seek advice from Faculty Relations and their Deans if faced with tricky decisions. The CA is a collaborative document, and achieving good working conditions is a collaborative effort: we are bound by mandate to do what we can to participate in these efforts and to help all Members do the same.

As Members, Heads are also protected as employees. Article 41 outlines

transparent and democratic processes for the selection or renewal of Heads and sets out requirements for clear job descriptions, minimum remuneration, workload limits, and administrative leaves. Should any of these employee rights be abrogated by the University Administration, the Head has full access to QUFA representation through the grievance procedure (Article 19). In addition, the CA protects Heads in all of the following areas:

- Non-discrimination
- Accommodation of disability
- Employment equity
- Privacy
- Safety and security
- Freedom from harassment
- Academic freedom
- Protection of intellectual property
- Progressive and justified discipline
- Transparent employee files
- Paid and unpaid leaves
- Pension, medical, tuition, and childcare benefits
- Reasonable working conditions
- Salary
- RTP processes
- Protections in the case of program closure or financial exigency

Again, should any of these rights or protections be abrogated by the University Administration, QUFA will defend Heads as it does any other Member.

In the end, then, Heads are full QUFA Members and enjoy full rights to all of the benefits of the CA and access to Member services. The only time QUFA cannot formally represent a Head is if he or she has acted to abrogate the rights of another Member in the exercise of delegated management duties. But while QUFA cannot "defend" the Head in this situation, QUFA staff are more than willing to help Heads avoid these outcomes, and, if they are unavoidable, QUFA will not grieve against one of its Members.

If you have questions about these or other matters, please do not hesitate to call us.

Note

¹<http://www.qufa.ca/publications/>

**Leslie Jermyn can be reached at jermynl@queensu.ca
613.533.3033 (internal 33033)**

**Ramneek Pooni can be reached at poonir@queensu.ca
613.533.3270 (internal 33270)**

**Susan Fitzgibbon can be reached at fitzgibb@queensu.ca
613.533.3224 (internal 33224)**