



QUFA Infosheet

Getting Help from QUFA

Making Use of Member Services

Any Member of the bargaining unit covered by the Queen's-QUFA Collective Agreement¹ can make use of QUFA Member Services, which include information provided through the QUFA Web site² and publications such as *QUFA Voices*,³ as well as the experience and expertise of QUFA staff and volunteers.

What can QUFA help me with?

As QUFA (Queen's University Faculty Association) is the sole bargaining agent for faculty, librarians, and archivists at Queen's, the Association has a duty to negotiate the terms and conditions of work (the Collective Agreement (CA)) for its Members and to uphold those terms throughout the life of the contract. Questions that relate directly to the application of these terms and conditions are those that are best directed to QUFA. For example, tenure and promotion processes, intellectual property and academic freedom rights, grievance and discipline procedures, types of leaves and leave eligibility, and much more, are covered by the CA and are complex matters that QUFA can help with. It is important to note that QUFA is also happy to advise unit heads and directors in the application of these terms, and recommends calling both us and Faculty Relations on complex matters of interpretation of the CA.

Strictly administrative matters (e.g., Why is my pay wrong? What will my

pension be? How do I access my research funds?) are best directed to appropriate bodies of the University. While QUFA staff and volunteers may be able to direct you, they will not be able to answer these types of questions for you. Please note that QUFA staff have no access to PeopleSoft and so cannot find personnel information for you.

There is a grey area to do with conflict in the workplace. QUFA is obligated to represent all of its Members fairly. For that reason, the Association and its staff and volunteers cannot become involved in disputes between Members where we take one side against the other. In situations where there is tension and disagreement between QUFA Members, we advise that you consider using the services of the Queen's-QUFA Conflict Resolution Service,⁴ which is free, confidential, and expressly designed to offer alternatives for resolving workplace conflict. Many QUFA Members have found their experiences with the service to be useful.

At the same time, the CA binds the Employer to providing a harassment- and discrimination-free workplace, and so this is a defensible condition of employment. If a dispute or a disagreement veers into harassment or discrimination, QUFA can become involved insofar as we can advocate that the Employer and its representatives (Deans, Vice Principals, etc.) take responsibility for investigating and resolving situations of alleged harassment or

discrimination. As heads of units are Members of QUFA, this is sometimes complex.⁵

How and who do I contact at QUFA?

You have a number of options for contacting your Association, including reaching out to elected members of the QUFA Executive Committee or QUFA Council, or going directly to QUFA staff. If your inquiry is complex or has to do with a nuanced interpretation of the CA, chances are high that QUFA volunteers will involve staff in addressing your questions. This is because QUFA staff have detailed knowledge of past and current practices and agreements with the Employer.

You may elect to call or e-mail QUFA people, and will find details on the contact page of the Web site.⁶ If contacting QUFA staff, we generally recommend using the telephone for quick and uncomplicated inquiries. If you have a complex problem, e-mail is advised for two reasons: the e-mail format often encourages you to line up the facts in order (which helps immensely in understanding your situation), and the e-mail can easily be shared among staff who often consult to ensure consistency and thoroughness in providing advice. If you are not comfortable with e-mail, do call regardless of the complexity of the situation, and if you are unsure who to call, use the general number (613.533.2151), and your call will be directed from there.

If you have a complex issue, you may be asked to come to the QUFA office for a face-to-face meeting with one or more QUFA advisors. These meetings allow for a more in-depth exploration of the problem to decide how best to help. Often, more than one person from QUFA will attend to help take notes and to ensure thoroughness. The QUFA office at 9 St Lawrence Avenue is fully accessible.

Confidentiality

QUFA volunteers and staff treat all Member inquiries as confidential, informing only those who need to know of your identity in seeking a resolution to your problem.

Confidentiality means that, in the inquiry stage, only QUFA staff and any volunteers you have involved will know of your identity. If an intervention with University offices is required or requested, your identity may need to be shared with other University personnel, including other QUFA Members. If your issue becomes a matter for the QUFA Grievance Committee, it is referred to by a case number that cannot be traced to you by other than QUFA staff.

Should a formal grievance on your behalf be considered for or move to the arbitration phase, your identity and information may be shared with QUFA's lawyers. As well, the Grievance Committee is made aware of your name. This is because arbitration is a public process, and the details of your case may well become public in the arbitrator's finding. At the point of deciding whether to move a grievance to arbitration, we would have a more detailed conversation about what this means in your case. You can find more information about the stages of the grievance procedure in Article 19 of the CA and in the Grievance Process Infosheet.⁷

Conversely, the formal grievance process involves interactions and exchanges among you, QUFA, and Queen's that are to be treated as confidential by you. At some points along the way, proceedings may be characterized as "without prejudice," meaning that people are free to try to problem-solve creatively without being held to what they say. These conversations (in person, by e-mail, etc.) must be confidential to be effective. Similarly, formal communications between QUFA and Queen's about your case are confidential. If you have any doubts about how to handle sensitive information, do not hesitate to raise the issue with your QUFA advisor.⁸

Different Kinds of Inquiries: Informal, Grievance, JCAA

QUFA deals with issues in a range of ways, depending on who and what is involved.

Many issues are dealt with informally by the provision of advice or the intervention of a QUFA advisor with an office of the University. While many Members prefer an informal resolution, it should be noted that this can sometimes be time-consuming and slow.

When informal resolution doesn't work or isn't appropriate, you may be advised that a formal grievance is called for. A formal grievance is simply a set of steps for dealing with a dispute arising out of the application, interpretation, administration, or violation of the provisions of the CA. As such, there are requirements for the exchange of particular communications governed by time limits. In most cases, you will be consulted about filing a formal grievance, but there are circumstances in which QUFA may be forced to grieve the issue because of the severity or scope of the violation of the CA. This is because QUFA must always act in the interests of both the

individual and the collective Membership.

Conversely, there are situations that are not clear or strong enough for a formal grievance. That generally means that there isn't sufficient evidence that there has been a violation or misapplication of the CA. In those cases, you may be advised to continue to gather information or evidence if the problem continues and keep in touch with QUFA.

Formal grievances can involve a single Member (with or without QUFA involvement), multiple Members experiencing the same breach of their rights (with or without QUFA involvement), or not involve Members directly at all. Different types of grievances are described in Article 19 of the CA. When an issue involves a systemic, widespread misinterpretation or misapplication of the CA, we sometimes refer the problem to the JCAA (Joint Committee to Administer the Agreement) for consideration rather than file a grievance. This committee meets monthly, and considers these non-specific kinds of disagreements between QUFA and the Employer on how to apply the CA. Sometimes, the JCAA is able to resolve the dispute. Usually, the JCAA will need to know the specifics of the situation that triggered its involvement.

Timelines and Timeliness

The formal grievance process is driven by timelines. These may be modified by mutual agreement or by circumstances beyond the control of the parties.

Timeline for Grieving

The most important time limit you should note is that we can only file an official grievance 15 working days (usually 3 calendar weeks) from the date at which you knew or ought reasonably to have known of the situation that gives rise to the

grievance, or from the last instance of a series of events that give rise to the grievance. That means that if something happens to you that you believe to be in abrogation of your terms and conditions of work as outlined in the CA, you need to contact QUFA right away. Even if you're not sure a formal grievance is required or justified, get in touch so that if it is, we have time to begin the process.

Internal Grievance Process Timelines

There are time limits at each stage of the grievance process until a grievance moves to arbitration. Both sides are bound by these limits. There are circumstances when we may agree that time limits be suspended or put into abeyance, so that a process can unfold fully or consultations can be made.

Arbitration Timelines

We refer a grievance to arbitration when we have exhausted internal methods of dispute resolution and are asking a third-party arbitrator to decide the case. We always work for speedy resolution, but you should know going into this process that it can take months to get a hearing date with a suitable arbitrator, and if multiple meetings are needed (they usually are), the process may unfold over months or years. This often doesn't feel just if you are the person whose rights have been abrogated, but it is beyond QUFA's control.

Timeliness

In almost every case, you as the grievor will be required to provide information or comply with directions from QUFA staff, from the Employer, and from QUFA's lawyers. It is important to try to comply with these requests in a timely fashion, or, if you need more time, to be very clear with your QUFA advisor so that they may better manage the process with you.

Sometimes, despite everyone's best intentions, the process will feel endlessly slow to the person with the outstanding grievance, especially when the issue prevents them from getting on with what they want or need to do. We sympathize with your frustration. Please know that QUFA has mechanisms in place to keep things moving as far as we are able to control the process. It also bears noting that the grievance caseload has grown significantly in recent years so that QUFA staff do have to manage their time carefully. This is all by way of saying that you should expect a response to your queries regarding your case, but not necessarily immediately or in the form you prefer. Some examples may be instructive:

- if you prefer to send multiple e-mail or voicemail queries as they arise over the course of the day or week, staff may aggregate a response and reply at the end of the week or at the beginning of the next;
- if you prefer to have long, free-wheeling conversations by telephone that allow you to follow your thoughts as needed, staff may ask you to formulate more discrete questions in writing or come in to talk face-to-face with a note-taker;
- you may want more meetings than people's schedules can accommodate, or you may want none and have to tolerate at least a few.

The point is that, as frustrations and tensions rise for you, we are sympathetic and will try to accommodate your communication needs, but if we ask for modification or patience, it is because we have to do so to best serve you and the wider Membership. If you feel your case is being ignored or mishandled, please raise it with the Chair of the

Grievance Committee or the Chair of the Staff Relations Committee.

Outcomes and Obligations

QUFA has a duty to fairly represent your interests as a Member of the bargaining unit. That means that, in terms of assessing whether to take up your issue, or whether to file a formal grievance, or whether to move the grievance to arbitration, QUFA must not act in an arbitrary, discriminatory, or bad-faith way. More clearly, those tasked with making these decisions (QUFA staff, Grievance Committee, Executive Committee) must assess the merits of the situation absent any arbitrary (singular, personal) judgements or any discrimination. The decision process must unfold in a fair and reasonable manner, and people must approach the decision with a good-faith intention to assess the merits of the case. All of this is laid out in Section 74 of the Ontario Labour Relations Act,⁹ and it is referred to as the Duty of Fair Representation.

While the Duty is a powerful prescription for action, it does not guarantee your right to have a grievance filed or to have it arbitrated should it not be resolved locally. Some of the reasons QUFA may decide not to take a grievance forward include:

- there are already or have recently been similar grievances filed such that more in the same vein may not be necessary;
- the matter does not arise from the CA and so a grievance is inappropriate;
- the evidence is not clear or sufficient;
- the grievance would be vexatious (i.e., designed primarily to embarrass or annoy rather than solve a real problem);
- there is no remedy or the only available remedy involves harm to a QUFA Member;

- the interests of the wider Membership would not be served were we to “win” such a grievance;
- the grievance cannot be “won,” and the risk of “losing” is too great to the individual or to the Membership.

Normally, QUFA staff decide in the first instance if there are grounds to grieve, but in any contentious or uncertain situation, the Grievance Committee is consulted. If the matter is not satisfactorily resolved internally, the decision to move to arbitration is taken in consultation first with the grievor, then with the Grievance Committee who must make a recommendation to the Executive Committee, and is finally authorized (or not) by the Executive Committee. The Executive Committee must approve this decision because an arbitration involves much higher costs, as we pay external legal fees.

In terms of what the grievance process can achieve, many people are surprised at the limits of remedies that can be sought. For example, if a tenure process was improper or unfair, we can ask that it be repeated, but we wouldn’t normally ask for the automatic granting of tenure. If it is

proven that a Member has been treated discriminatorily, we can ask that those actions cease and any disadvantage suffered be rectified, but we cannot force the discriminators to make amends personally. We also cannot demand remedies that exceed the mandate of the CA or veer into academic territory. Finally, it should be noted that monetary settlements in the employment context generally and the academic sector more specifically are not usually large.

Despite all of these limitations, the CA sets out your rights and responsibilities as a University employee, and you have every right to insist that those terms are honoured by your Employer. In any instance where you feel your rights are being ignored or abrogated, please consult with us.

QUFA Staff

Leslie Jermyn (Executive Director)
Ramneek Pooni (Grievance Officer)
Susan Fitzgibbon (Labour Relations Officer)
Rhonda Clark-George (Administrative Assistant)
Elizabeth Polnicky (Administrative Assistant)

Notes

¹<http://www.qufa.ca/collective-agreement/>

²<http://www.qufa.ca/>

³<http://www.qufa.ca/publications/main/>

⁴<http://www.qufa.ca/member-services/grievances/>

⁵There is more about the special situation of heads at <http://www.qufa.ca/member-services/main/> (see “Unit or Department Heads”).

⁶<http://www.qufa.ca/about/contacts-and-organization/>

⁷<http://www.qufa.ca/member-services/grievances/>

⁸There is more about confidentiality at <http://www.qufa.ca/member-services/grievances/> (see “Protocol on Carriage and Confidentiality”).

⁹<http://www.ontario.ca/laws/statute/95I01>

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