

BUFA VOICE

Message from the President The Search for Brock’s Next President

Linda Rose-Krasnor



#OpenBrockU

Brock is about to begin a search for its next President. The BUFA Executive believes strongly that this search needs to be open. We are seeking public talks by the short-listed candidates and an opportunity for us to interact with them. We are also seeking an opportunity for the Brock community to provide input to the Advisory Committee on the Presidency, prior to it making a hiring

recommendation to the Board. We are advocating a process that is very similar to the way we select the Provost and Academic VP, as well as Deans.

The Advisory Committee is planning to have a closed search. In such a search, other than a last minute and in camera “consultation” with Senate on a single candidate, there will be no opportunity for you or other members of the Brock community to know who is being considered nor to have any input into the decision. We think this is unacceptable and have been advocating for an open search in meetings with the Advisory Committee. As part of this advocacy, BUFA is engaging in a public campaign to convince the Committee to change its plans to keep the process behind closed doors.

Continued on next page...

**Support #OpenBrockU in the Search
for our Next University President**



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News and Views

In this issue:

Message from the President

Linda Rose-Krasnor

~

BUFA Scholarship Awards

~

Message from the Grievance Officer

David Whitehead

~

OCUFA Director Report

Larry Savage

~

Calendar of Events

~

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Twitter: @BUFABrock

Facebook: search "Brock University Faculty Association"

Message from the President

(continued from cover page)

The reasons for the importance of an open search can be grouped in the following general categories:

1. *Importance of Process*

An open process shows Brock's commitment to transparency, consultation, and shared self-governance. A closed search sends applicants the message that important decisions at Brock are done in secret. A selection committee, deliberating in isolation over time and without corrective external input, is vulnerable to "groupthink" and premature closure. The new President, hired with a closed system, will have to overcome the impression that he or she was "imposed" on the institution.

2. *Values of the Next President*

In addition to appropriate academic and administrative experience, we want a President who thinks it is important to meet the Brock community, not just a selection committee, before deciding if she or he wants to come here. We want a President who highly values shared decision-making and consistently practices transparency and broad consultation. A candidate who will not participate in an open search because of fear that his or her Board of Trustees might find out may be less likely to be a President who will act on principles, if it means that Board members might disapprove.

3. *Public Accountability*

We are a public institution, funded by the public and serving the public good. Brock is very important to the community and the President is Brock's face to the larger community. Therefore, community input on specific Presidential candidates should be valued by Brock.



The Advisory Committee's main arguments for conducting a secret search are "that everyone else does it" and that quality candidates will tend not to apply. Although open searches are rare in Canada, they are more common in the United States and, indeed, are required in a number of states as part of their public accountability legislation. We recognize that there will be some individuals who may not apply because they do not want others (such as their Board of Trustees) to know that they are interested in the job. We recognize that open searches are less predictable, less under the control of the professional search consultant and the Committee, and harder to conduct. But we also recognize that closed searches would be more likely to attract candidates who may not strongly value the transparent decision making and broad consultation described above, as well as those who may be so fearful of their Boards that they forgo opportunities to get to know the institution they will serve. Closed searches protect candidates; open searches protect Brock.

At this time, if you want an open search – if you want to know the identity of shortlisted candidates, hear them present to the Brock community, and be able to provide feedback to the Advisory Committee – we ask that you sign our petition for an "Open Brock U".

You will hear more specific rationales for an open search as our campaign unfolds. Please let me know if you have any questions. Email: BUFA@BrockU.ca

**TELL US WHAT
YOU THINK**

At the May 20, 2015 Annual General Meeting, we presented a panel discussion entitled "Perspectives on Bullying & Harassment: Beginning the Dialogue". As a follow-up to the panel, we plan to organize a series of small group discussions on specific issues related to the general topic of bullying and harassment. Could you assist us by indicating your interest in possible discussion topics on an anonymous survey available at [SurveyMonkey.com/r/BUFA](https://www.surveymonkey.com/r/BUFA).

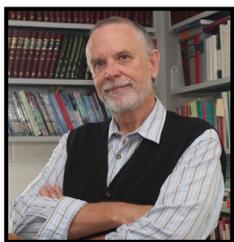


Mackenzie Jane Danen – Applied Health Sciences
Karen Elizabeth Hebert – Education
Tommy Joseph Francescutti – Goodman School of Business
Rebecca Susanne Lepore – Humanities
Ashley Ann Mazurkiewicz – Math and Science
Johnathan Paige – Social Sciences
Jory Korobanik – Graduate Studies

Message from the Grievance Officer

Management's Duty to be Reasonable and Fair

David Whitehead



In two very significant cases in the past year, arbitrators have found that management at Brock University had a duty to act reasonably and fairly in dealing with members who were exercising their academic freedom rights, and that management at Brock did not act reasonably and fairly.

In both cases members had exercised their academic freedom rights to criticize the University's involvement with SEA, and that exercise of academic freedom rights had attracted complaints by others.

In both the current 2014-17 and the previous 2011-14 collective agreements, Brock University retained its rights under the Brock University Act to manage the University except to the extent modified by the collective agreement, and agreed to exercise its management rights fairly and reasonably.

The facts underlying both cases are interrelated, and some of the same people played significant roles in both cases. Key events in the background to these cases include:

- A campaign by faculty members including Professor Ana Isla and Professor Cathy van Ingen and others on campus to have the University sever its ties with a program called Solidarity Experiences Abroad ("SEA"), a program in which the office of the Roman Catholic Chaplaincy on campus played a role
- An investigation of SEA by the University
- Complaints by those in the office of the Roman Catholic Chaplaincy on campus of harassment and discrimination by those involved in the campaign to oppose SEA, complaints made both to the Office of Human Rights and Equity Services ("OHRES") on campus and to the Human Rights Tribunal of Ontario

References to the pages in the arbitration awards where the details of the factual background are described can be found below.

BUFA filed two grievances on behalf of its members and both matters were referred to arbitration. Because both cases raised issues of national importance for faculty associations across Canada, namely, academic freedom and freedom of expression, BUFA was assisted and represented by legal counsel provided by CAUT.

In the first case, the University had denied Professor Ana Isla's request for legal representation in dealing with the complaint filed against her with the Human Rights Tribunal of Ontario. Professor Ana Isla complained about this, BUFA filed a grievance that the University had thereby violated the collective agreement, and the grievance was referred to arbitration. On May 6, 2014, after five days of hearing, Arbitrator Knopf issued her arbitration award which is reported at [Brock University v Brock University Faculty Association, 2014 CanLII 24449 \(ON LA\)](#). The Arbitrator found (pp. 42-43) that the University had "...no contractual

obligation to provide liability insurance to cover allegations of Human Rights violations.” Nevertheless, the University still had an obligation to exercise its management rights reasonably and fairly. The Arbitrator allowed the grievance in part and stated (p. 42) that:

“the University failed to reasonably and fairly exercise its discretion in deciding not to provide legal assistance to the Grievor in support of her defence at the Human Rights Tribunal.”

In the second case, the Office of Human Rights and Equity Services at the University received several complaints against Professor Ana Isla, Professor Cathy van Ingen and others and ultimately dismissed all of them. However, there were many procedural irregularities in the way the OHRES handled these complaints and it took a considerable amount of time for the OHRES to ultimately dismiss the last of them. Professor Ana Isla and Professor Cathy van Ingen complained about this, BUFA filed a grievance about this, and the grievance was referred to arbitration. On April 8, 2015, after five days of hearing, Arbitrator Swan issued his [arbitration award](#) which has not yet been reported. At arbitration, BUFA had attacked much about the way in which the complaints against these members had been handled by the University, and argued that the University had been both unreasonable and unfair. The Arbitrator did not accept all of BUFA’s arguments. In particular, the Arbitrator found that the University had been reasonable but had not been fair. In considering whether or not the University had been reasonable, the Arbitrator stated (p. 34) that “The disregard of the academic freedom issue... troubles me,” but that he could not “find that the decision itself (“to let the complaint as ultimately drafted go on to the investigation stage”) was unreasonable.” However, the Arbitrator also found (p. 35) that:

“there is enough substance in the grievances to justify issuing a declaration that there was a breach of the collective agreement in the exercise of management rights by the OHRES in its handling of this matter... in that there was procedural unfairness...”

The circumstances that gave rise to these grievances that were not significantly in dispute were summarized well in both awards cited above, namely, in the Knopf award (pp. 3-6) and in the Swan award (pp. 2-17). In particular, the summary in the Swan award (pp. 7-11) of the facts, arguments, findings, and the decision of the Ontario Human Rights Tribunal reported at [McKenzie v. Isla, 2012 HRTO 1908 \(CanLII\)](#), in the matter of a complaint filed against Professor Ana Isla by Br. McKenzie, makes compelling and informative reading. The Adjudicator dealt with competing rights, namely, the right to be free from harassment, discrimination, bullying and disrespect, the right to academic

freedom, and the right to freedom of expression, and dismissed the application against Professor Ana Isla.

Of course, BUFA is committed to and strongly supports the statutory right of members to work free from harassment and discrimination; however, BUFA also acknowledges the rights of members to academic freedom and freedom of expression, and the importance of properly balancing these important rights within the university. In this regard, it is helpful to set out paragraph 35 (p. 12) from the HRTO award cited earlier:

“With respect to academic freedom, it is well-established that courts and tribunals should be restrained in intervening in the affairs of a university in any circumstance where what is at issue is expression and communication made in the context of an exploration of ideas, no matter how controversial or provocative those ideas may be... However, the principle of academic freedom does not override an organization or person's obligations under the Code. In other words, academic freedom is not a license to discriminate against another person because of his or her religious beliefs... That said, in my view, given the importance of academic freedom and freedom of expression in a university setting, it will be rare for this Tribunal to intervene where there are allegations of discrimination in relation to what another person has said during a public debate on social, political, and/or religious issues in a university.”

BUFA acknowledges the courage and commitment of Professors Ana Isla, Cathy van Ingen, and others in these two cases in the legitimate exercise of their rights to academic freedom and freedom of expression, and in their defence of their legitimate exercise of those rights when others used against them, in attempts to silence them, policies of respectful workplaces, codes that enshrine rights to be free of harassment, discrimination and bullying, and the offices and organizations that administer those policies and codes. BUFA also acknowledges the support of CAUT and, in particular, of its General Legal Counsel Paula Turtle in defending the rights of academic freedom and freedom of expression of BUFA members and faculty members across Canada.

In the future, BUFA fully expects that the University will exercise its management rights fairly and reasonably in support of members who are exercising their rights to academic freedom and freedom of expression, without the need to resort to the grievance and arbitration process to enforce those rights.

THANK YOU!



HERE ARE SOME OF THE COMMITTEES BUFA IS LOOKING FOR VOLUNTEERS TO SERVE ON





OCUFA Director Report

Larry Savage

On May 9, 2015, OCUFA held its 146th Board of Directors meeting in Toronto.

As a special order-of-the-day, Sue Herbert, executive lead of the provincial funding formula review process, [made a presentation](#) on her mandate, the structure of the stakeholder consultations, and some initial thoughts on OCUFA's funding principles. It was an excellent chance for OCUFA's directors to get a sense of the government's objectives, while providing an opportunity to ask question and raise some important points for consideration. OCUFA plans to fully engage with the funding formula review, and we will be providing updates and analysis to member association throughout the summer and into the fall of 2015.

OCUFA Directors discussed the latest developments with Ontario Online, the province's new online learning consortium. Despite letters from OCUFA and faculty associations across Ontario as well as from a number of MPPs, front-line faculty representatives have been excluded to date from Ontario Online's governing board. At the meeting, it was decided that OCUFA should continue to press for an *ex officio* seat on the Board, and will be seeking support from student groups and other sector stakeholders to secure this important goal. Online learning remains a key priority for OCUFA, and proper representation at Ontario Online is an important part of this wider focus.

Over lunch, the Board meeting recognized some exceptional graduate students and faculty leaders. The Henry Mandelbaum Graduate Fellowship was awarded to Angela Underhill, from the University of Guelph, and

Abena Kwatema Offeh-Gyimah, from McMaster University. The fellowship is awarded to students who have demonstrated academic excellence, shows exceptional academic promise, and has provided significant community service in their university career. OCUFA also awarded its 2015 Service Award to Wilfrid Laurier's Bill Salatka and the University of Ottawa's Micheline Lessard, for their exceptional contributions to OCUFA and its member faculty associations.

The meeting also welcomed new leadership to OCUFA. Current OCUFA President, Kate Lawson, will end her term on June 30th. Judy Bates will take over as the new president on July 1, 2015. The OCUFA Board of Directors expressed their gratitude to Kate for her leadership of the organization during a turbulent time for faculty in Ontario.

The Board also elected members to the 2015-16 Executive Committee. The Executive comprises Judy Bates (Wilfrid Laurier University), President, Gyllie Phillips (Nipissing), Vice-President; Glen Coplestone (Kings), Treasurer; Brian E. Brown (Windsor), Chair of Board; Glenna Knutson (Lakehead), Rob Kristofferson (Wilfrid Laurier) and Mike Attridge (St. Michaels/University of Toronto), Members-at-Large.

Over the summer, OCUFA will be working on the funding formula review, Ontario Online, [the university pension project](#), and issues around faculty complement/contract faculty. The next Board of Directors meeting will be held on October 24-25, 2015 in conjunction with a conference focused on the issue of precarious academic labour.

This report is a modified version of the template provided by OCUFA.



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Calendar of Events at Brock and in the Community (Visit us online for more information)



BROCK UNIVERSITY FACULTY ASSOCIATION

**Upcoming General Membership Meeting
Fall 2015 - Date TBA**



www.BUFA.ca

**2014-2017 Collective Agreement
Electronic copy now available!**

www.BUFA.ca

(Under the resources tab)



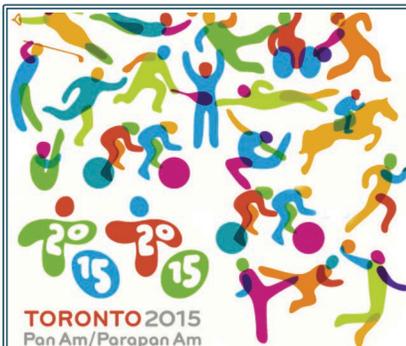
**Canada Day
July 1, 2015**

Show your union pride...
BUFA GEAR
Place your order NOW!



June 26-28, 2015

The 29th Annual
Fort Erie Friendship Festival!
Events include concert series,
midway, food vendors,
demonstrations, contests,
a "Family Zone", artists
and so much more!



July 10-26, 2015

The world's third largest
international multi-sport
games, with more than
7,000 athletes from
across the Americas and
the Caribbean



**A Call for Political Dialogue on
Student Debt, Tuition and Access**



**An Open Letter to the Leaders
of the Main Federal Parties**

Sign the petition:

www.zerotuitioncanada.org



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