

February 11, 2013

The StFX Association of University Teachers is now entering its third week of legal strike action. The Association is committed to reaching an agreement through good faith bargaining and our priority remains returning our students back into the classroom expeditiously. The current impasse between StFXAUT and University administration, however, has stalled the return of our students to the classroom. Analysis of the reasons for such an impasse have caused the StFXAUT to question the University senior administration's approach to negotiating and repeated claim that the University cannot afford the request by StFXAUT.

Present Labour Crisis

Talks between the StFXAUT and the administration have reached an impasse. Although the job action from the Association perspective concerns the academic mission and priorities of the University, the administration has portrayed the issue as solely financial. As reported, the primary difference between the two positions is raises of 1.5%, 2.0, 2.25%, 2.25% per year over four years requested by the union and 1.5%, 1.5%, 2.0%, 2.25% per year over four years offered by administration, a difference of only 0.75% or approximately \$195,000 for all 400 members of the StFXAUT. The request by StFXAUT is well within the range of both comparator settlements and conservative cost of living projections published by financial institutions like RBC and BMO. The StFXAUT has compromised to great extent (reduced its initial and reasonable salary request by 3.9%, accepted no improvement in health benefits, accepted a nominal level of Prof. Dev. allowance). This request is unquestionably affordable. Our experience in the negotiation process has been that senior administrators have continually attempted to circumvent the legal and legitimate negotiating process and have simply not negotiated in good faith. From our experiences and observations, the Association provides evidence below of both 1) bad faith bargaining and 2) affordability of the StFXAUT request.

Issue #1 – Bargaining in Bad Faith

The University administration has engaged in practices that are indicative of bargaining in bad faith and in public. For example, the administration:

- have threatened to withdraw previously agreed to language (academic conference travel funds);
- purposefully circumvented the StFXAUT Executive Committee and Negotiating Team by communicating the terms of an offer directly with StFXAUT members (negotiating in public);
- continue to suggest that members are uninformed of an offer despite the fact that the administration have previously reported it in detail on the StFX website;
- reported misleading information on the StFX website, distributed via e-mail to Association members, and in full-page advertisements in the Antigonish weekly newspaper, *The Casket*;
- reported ultimatums to StFXAUT and directly to its members in public venues (via e-mail and the StFX website);
- directed the Alumni Association to e-mail StFX alumni, without their prior assent, presenting unbalanced advocacy in support of the administration rather than neutral stance. The resulting anger towards administrators from many alumni has been notable.

To confirm our perception of bargaining in bad faith, StFXAUT sought a legal opinion from Raymond Larkin, QC, of the prominent Halifax firm Pink Larkin who stated that the behavior of the University administration met the definition of bad faith bargaining.

Issue #2 – Affordability

The request by the StFXAUT is affordable. We note the following:

- Two members of StFXAUT (with qualifications of CMA and CA, CFA) met with the University administration on several occasions to review the projected StFX financial position. The assumptions and projections being made by the administration were not sustained under their questioning. The deficits being projected are only possible under the most pessimistic of assumptions and hence did not reflect realistic assumptions. Further, those projections reflected no positive action, strategic planning, or sound management by the administration to address a financial situation that they themselves created, and for which they must now be held accountable.
- University administration delayed any real negotiating for eight months which allowed them the time to “create” their current financial picture and to emphasize adverse conditions for collective bargaining with campus employees (StFXAUT, NSGEU, CAW). President Sean Riley has acknowledged that he, and the Vice President-Finance & Operations, “manage” the Board through a boom and bust cycle. As late as October 2012 of the current academic year (ending March 2013), StFX administration was still reporting a balanced budget to our Association. By January 2013, the administration was projecting a budget deficit of over \$4.4 million. A large part of the financial deficit and ensuing financial “crisis” is the result of poor planning by senior administration in the allocation of residence rooms. Under their new policy, returning students were not guaranteed residence rooms with the result that many sought off-campus accommodations. In the fall of 2012, that new policy caused vacancies in 160 residence rooms (room/board for one student averages \$10,000). In the backdrop of 160+ room vacancies, there are two new residences, with a budget in excess of \$30 million, currently being erected to accommodate 300 students. Given this reality, and several large one-time expenditures (a \$0.5 million HST penalty, reduced endowment revenue) which are manageable by administration, it would appear that the StFX administration is writing-off as much as possible to make the deficit as large as possible for the current year. This behavior is known as “big-bath” accounting. This allows management to place all their fiscal bad news into one year and makes it easier to achieve their targets in the following years as future expenses will be lower. We believe that they are using this tactic to overinflate their current financial “crisis”.
- To respond to the University administration’s declared need to manage finances and reduce employment, the StFXAUT: 1) designed its proposals to move monetary increases into the later part of the collective agreement period (2012-2016); in fact, our request in Y1 and Y4 match StFX administration’s offer and the requests in Y2/Y3 are only marginally different; 2) attempted to make progress on non-monetary items; for example, in lieu of monetary improvements in health benefits, StFXAUT proposed a governance model which would allow for a role in how healthcare premiums are spent, however, suggestions that had no monetary impact were dismissed; and 3) designed retirement incentive and phased-in retirement plan proposals which would allow an orderly reduction of employment (i.e., 10% of faculty complement) and which would generate millions of dollars in savings for the University. StFX administrators failed to acknowledge the advantages (both cost savings and reduced employment levels) of a retirement incentive plan. Instead, they have actively communicated

to staff through fear mongering that employment numbers will need to be significantly reduced (for an example, see January 15th notes from Budget Information session as delivered by Sean Riley).

- As reported in the Halifax *Chronicle Herald*, the top five administrators' bonuses in 2010 amounted to \$133,000, therefore the annual bonuses of the top eight administrators would be more than the \$195,000 difference in positions. When queried about the bonuses, Sean Riley defended bonuses for administrators (includes all individuals at the manager and director levels) on the basis that they were earned, however, performance metrics in an environment in which a vision is not articulated have little meaning or application. Further, the premise of granting bonuses in the public sector to senior administrators who are already paid more than their peers at comparator institutions calls into question the appropriate use of public funds and students' tuition.
- The University administration, in their news release of February 8, 2013, has tacitly admitted that they can indeed afford the StFXAUT request. Their letter encourages the StFXAUT to either accept the offer or go to final offer arbitration. In final offer arbitration, an adjudicator must choose one offer as tabled with no option whatsoever to adjust or blend the differences. The administration's proposal to submit their contract offer to such an extreme form of arbitration indicates they have pre-determined that, given an unfavourable judgment for the University, the StFXAUT request could be met with anticipated revenues.
- The administration appears willing to risk the future of StFX with a prolonged strike as had been the experience at Acadia University. StFX administrators are well aware that a prolonged strike will negatively affect future enrollment. Assuming average tuition of \$5,500 per student for four years and two years of residence and food services per student at \$10,000 per year, each student lost will cost the University \$42,000. The loss of 20 students declined to attend StFX would be approximately \$840,000 over a four year period. The potential lost revenue overwhelms the potential cost of the requests by the StFXAUT. The willingness of the administration to incur these costs suggests an ulterior motivation driving their obstinacy.

Conclusion

An analysis of the reasons for the impasse has directed the StFXAUT to conclude that the University administration's bad faith bargaining and unsupported insistence on the lack of affordability suggests a motivation that is not conducive to signing a collective agreement. The multiple instances of bad faith bargaining by the University administration underscore the Association's concern that senior administrators are attempting to scapegoat the union for the University's financial "distress" and already announced restructuring. The StFXAUT finds this behavior to be unacceptable and contrary to the noble principles and traditions of StFX. Further, we are concerned that some members of the administration are risking the loss of the school term and sully the fine reputation of the University.

If senior administrators are willing to negotiate the strike could end very quickly with the result being students back in their classes very soon. We encourage the administration to return to the negotiating table and marshal the motivation to reach a fair and equitable collective agreement.