

**December 2024**

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Note: This content is best viewed on a computer, as some images may not appear correctly on mobile.

**President's Message**

**J. Kent Donlevy**

Happy Holidays and Merry Christmas to you all as we say goodbye to 2024. I hope the New Year brings many good things for everyone.

I last wrote to you in October, and a great deal has happened since then. Updates relate to the police action of May 9, the Provincial Priorities Act, the Job Action Task Force, bargaining, the Board Retreat, and academic freedom and the Alberta Court of Appeal.

New developments concern challenges in the Faculty of Arts, the opening of nominations to the Association's Board of Directors, webinars scheduled for 2025, the Western Regional Conference held last October, and the Canadian Association of University Teachers (CAUT) Conference held last November.

## Announcement: The Order of the Good Servant

Before providing updates and new developments, I want to extend hearty congratulations to our past president David Stewart, who has been awarded the Order of the Good Servant by the Association. This award was founded in 1989 to recognize exemplary service to the organization and its members. David was a stellar advocate during his term as president. He shepherded us through the challenges of COVID, navigated the Association's negotiations regarding the demise of the merit system, and was a faithful companion to those who walked the picket lines at universities across Canada. He is truly a worthy recipient of the award. Congratulations, David!

## Updates

### The Encampment and Police Action of May 9

As you know, the Association used the Freedom of Information and Protection of Privacy (FOIP) Act to seek copies of communications from relevant university administrators about the events of May 9. We have been informed that we will receive the communications from some senior administrators<sup>1</sup> regarding those events. We are awaiting the delivery of those documents and have requested further documents, which, if not provided, will also be FOIP'd.

The Calgary Police Service has failed to respond to our requests, and we will appeal to the Privacy Commissioner for relief.

The Alberta Serious Incident Response Team (ASIRT) completed its investigation into the May 9 police action,<sup>2</sup> finding that it was unable to verify claims of serious injury from the University of Calgary protest camp removal and referring the complaints to the Calgary Police Service, which will engage its Professional Standards Section.<sup>3</sup> We have sought but not yet received a copy of the ASIRT report. Mike Ewenson, the executive director of ASIRT, has said that in the investigations of the incidents at the University of Calgary and the University of Alberta, ASIRT was directed to report directly to Mike Ellis, the Deputy Premier and Minister of Public Safety and Emergency Services. The reports were not going to be made public. We have asked the Minister's office for a copy of the report dealing with the University of Calgary, and if that request is denied we will make a FOIP application.

The University of Calgary's Crisis Management Team Review of the events of May 9, conducted by MNP,<sup>4</sup> has been issued.<sup>5</sup> We received a copy of it on December 16 and are considering it. The difference between it and the review done by Justice C. Kent on the University of Alberta encampment issues is striking in that the latter provides a deeper context and more fulsome information. For example, Justice Kent explains that her "review necessarily contains an analysis of the law."<sup>6</sup>

We appreciate that the university administration has been willing to provide internal correspondence as above and that the MNP review has been made public. Nevertheless, we will continue to seek further information from the administration on its internal correspondence leading up to the May 9 action from members of the Crisis Management Team and from the Calgary Police Service in our assessment of the events.

The General Faculties Council's motion seeking an independent investigation of the May 9 events appears to have been denied, as Board Chair Mark Herman said in his written response to the encampment issue, "As a Board we are satisfied there are no more material facts that we

need to gather.”<sup>7</sup> It is disappointing that the Board of Governors has seen fit to deny the General Faculties Council’s request for an independent investigation.

Finally, the Association will review all data received from the administration and the police regarding the May 9 incident. That review will report back to the Association’s Executive Committee and Board for consideration regarding further action.

### **Provincial Priorities Act (Bill 18)**

The Government has moved forward in drafting the regulations under the Provincial Priorities Act.<sup>8</sup> That Act makes federal grants subject to the approval of the provincial government, which determines if they meet the government’s “priorities” test. A December meeting was held between the president of the Confederation of Alberta Faculty Associations,<sup>9</sup> Lee Easton, and the Deputy Minister, which confirmed that regulations have been drafted and are being vetted by other ministries before publication.

### **Job Action Task Force**

A report by Chris Sears and Gavin Cameron, members of the task force, is provided in this newsletter.

### **Bargaining**

A bargaining update by Trevor Tombe and Hamid Habibi is provided in this newsletter. As a reminder, here is the link to the original proposals given to the administration.<sup>10</sup>

### **Board Retreat**

On day one of the retreat, Melanee Thomas, the Association’s nominee to the University of Calgary’s Board of Governors<sup>11</sup> and a member of the Association’s Board of Directors, presented amendments to both the by-laws and Board Manual. Work had been done on those documents by her and Jason Wiens, an elected member of the Association’s Board of Directors, with the assistance of CAUT.<sup>12</sup> To ascertain the Board members’ views on the efficacy of the retreat, a survey has been sent out to the directors. A huge thank-you is due to Melanee for the construction of that survey.

A further report on the retreat has been provided for this newsletter by the three individuals whose leadership and work made the event possible: Francine Smith as coordinator, with Leighton Wilks and Karen Then.

### **Academic Freedom and the Alberta Court of Appeal**

In my last message, I mentioned that Justice Devlin at the Court of King’s Bench found, in a case involving two of our members, in favour of broad definitions of teaching and research informed by academic freedom that would protect emails, notes, etc. from a FOIP application sent to the university.<sup>13</sup> One would have thought the matter had ended at that point. Not so. The Alberta Privacy Commissioner disagreed with Justice Devlin’s finding and has appealed his decision to the Alberta Court of Appeal.<sup>14</sup> The Association is seeking intervenor status at that court to argue that Justice Devlin’s decision was largely correct. In the alternative, we assert that if the materials sought under FOIP do not constitute “teaching” or “research,” they are not in the “care and control” of the university and thus not subject to the statute.

Additionally, we hope to be allowed by the court to argue a highly significant issue brought to our attention by Professor Jennifer Koshan in our Faculty of Law. The matter deals with whether “activism” is protected by the research exception in the FOIP Act. Justice Devlin said, incidental to his decision, the following, which is the cause for concern:

That said, a distinction can and should be drawn between academic *study of* social activism and direct *participation* in social activism. The fact that this distinction is not easily drawn does not mean it does not exist or should be overlooked. Academics who personally involve themselves in social actions/causes do so with the advantage of time, resources, and status afforded to them by virtue of their affiliation with, and funding by, public institutions. It is appropriate, and in line with the fundamental purposes of freedom of information legislation, that their activities in this realm be subject to scrutiny and oversight. (para. 79)

In other words, Justice Devlin opined that “activism” does not constitute “research” and is therefore not exempted from FOIP applications.

Our position is that many of the actions by our members involve “activism.” This type of work is often based on and contributes to other aspects of their research, including data collection. Further, by actively participating in social movements, our members gain firsthand insights that often lead to more nuanced interpretations of their data. This broader understanding of activism as research allows for a more holistic approach to the term. Activism as research, sometimes called “participatory action research,”<sup>15</sup> encourages a cycle of reflection and action, where the knowledge generated can be utilized to advocate for change, thus reinforcing the wider understanding of research as a tool for social good. In essence, our members’ commitment to activism enhances the relevance and impact of their work, bridging the gap between theory and practice while promoting a more equitable society. We therefore will seek to raise the issue at the Court of Appeal.

Led by the Association’s lawyer, Kristan McLeod,<sup>16</sup> both Professor Koshan and her colleague in the Faculty of Law, Professor Shaun Fluker (director of the Public Interest Law Clinic), as well as Sarah Godwin, senior counsel with CAUT, have provided advice in preparing the intervenor application.

In November, the case was raised at CAUT’s National Conference by the executive director of CAUT, David Robinson, with a message that it was a nationally significant case for academic freedom, as it would be heard at a provincial court of appeal.

We will keep the membership informed as the case goes forward.<sup>17</sup>

## **New Developments**

### **Challenges in the Faculty of Arts**

The Faculty of Arts has decided to proceed with the “closure, reduction, or restructuring of programs for academic reasons” under Article 21 of the Collective Agreement, which reads:

Article 21 – Redundancy:<sup>18</sup>

21.1.4 The Parties recognize the authority of the General Faculties Council (GFC) to recommend to the Board of Governors, following full and extensive consultation, any closure, reduction, or restructuring of programs for academic reasons. The Parties further agree that decisions made by the Governors that may adversely affect the employment status of members will be subject to the processes outlined in the GFC Process for Program Reduction or Closure (June 2022), except as otherwise covered in this Agreement.

Although management has rights under the collective agreement, the exercise of this right requires “full and extensive consultation,” which our members note has not taken place. The claim is of misfeasance, prompting the Association to issue a policy grievance.<sup>19</sup> The opaqueness of a flowchart outlining the program approval process,<sup>20</sup> a misnomer to be sure, leaves one concerned, for it fails to provide any written explanation of the chart.

In January, we will seek to move to Step I<sup>21</sup> of the grievance procedure under the Collective Agreement. Members in Arts may have an interest in the Faculty of Arts Unit Review.<sup>22</sup>

### Association Elections

The year has gone by so quickly! All members should consider whether to run for a position on the Board of Directors or for the presidency. Here is some basic information and links to the nomination forms for both becoming a [director](#) and the [president](#).

Please consider running for office!

January 6	Monday	Nominations open at 8:30 a.m.
February 10	Monday	Nominations close
March 4	Tuesday	Ballots provided to all members
March 18	Tuesday	Voting stops at 4:30 p.m.

### 2025 Webinars

Given the political climate in Alberta and challenges on campus, it seems wise to provide members with a review of the definitions, law, and operationalization of their right to academic freedom. For that reason, on Thursday, February 27, a webinar will be held on that topic, led by [Professor James L. Turk](#), the former executive director of CAUT and the director of the Centre for Free Expression.<sup>23</sup> Further information will be forthcoming in January.

Following the February webinar, we are considering a further webinar on the university's *Sexual and Gender-Based Violence Policy*<sup>24</sup> and the *Procedure for Protected Disclosure*.<sup>25</sup> A third webinar, “Grievances: Types, Processes, and Examples,” is also being considered. More information will be available on these initiatives in 2025.

### Western Regional Conference

This important conference of Western Canadian faculty associations was held last October in Vancouver. Francine Smith attended on my behalf along with Jennifer Garrison, interim executive director of the Association. Francine's report is included in this newsletter.

## CAUT Conference

Every year, CAUT holds a national conference where major topics are discussed, and motions are brought forward. This year, Melanee Thomas attended on our Association's behalf. She has provided a report in this newsletter. Jennifer Garrison also attended.

We wish you and yours a safe, warm season of rest and rejuvenation. Happy holidays and Merry Christmas! Our offices will be closed from December 23, 2024, to January 6, 2025. The Association email will not be monitored during this time. In the event of an emergency, please contact Kent Donlevy at [JKD@tucfa.com](mailto:JKD@tucfa.com).

Sincerely,  
Kent

## **TUCFA Board Retreat Report** **Francine Smith, Leighton Wilks, Karen Then**

TUCFA held its first Board Retreat on November 22 to 23, 2024, at the Alt Hotel, University District. It was led by Francine Smith as organizer/coordinator, Leighton Wilks, and Karen Then. The objectives of the retreat were to review governance structures, best practices, and the TUCFA website and begin strategic planning. The aim was to reenvision a current, supportive, and collaborative Association with our faculty colleagues. Representatives from CAUT—David Robinson and Marc Schroeder—and interim executive director Jennifer Garrison also attended the retreat and made a presentation to the Board, "Governance Structure: Best Practices and Dispelling Myths." A general discussion resulted in creative and innovative ways to redesign the TUCFA website.

The remainder of our time together consisted of strategic planning sessions led by Oleks Osiyevskyy and the drafting of mission, vision, and values statements for TUCFA. Strategic planning sessions will continue in the New Year while the Board continues to develop a new strategic plan that will guide the future of our union. All TUCFA members will be invited to provide input into the mission, vision, and values statements that form the strategic plan foundation. This will be done via a survey that will be sent out prior to the New Year. The strategic plan will be finalized by April 2025. We look forward to developing the Association in an open, productive, and innovative way to support each member at the University of Calgary.





Photo: (L–R) Leighton Wilks (Haskayne School of Business), Karen Then (Nursing), Francine Smith (Medicine), Jennifer Garrison (Interim Executive Director).



Photo: Oleks Osiyevskyy (Haskayne School of Business) leading the Board's strategic planning process.

## Western Regional Conference Report

### Francine Smith

The Western Regional Conference of Faculty Associations was held in Victoria, BC, from October 17 to 19, 2024. This two-day meeting, hosted by the University of Victoria Faculty Association, brought together representatives from faculty associations across British Columbia, Alberta, Saskatchewan, and Manitoba. Acting on behalf of President Kent Donlevy, I was in attendance, along with Jennifer Garrison, interim executive director.

Plenary sessions covered topics such as university finance with respect to a lack of transparency around budgetary allocations, academic freedom, the future of EDI/EDIA, collegial governance, increased use of interim or acting appointments to administrative positions, and the hiring of external consulting firms at great expense. Indigenous scholars at the University of Victoria worked on introducing new Indigenous language into their collective agreement. A report on TUCFA's initiation of a new Job Action Task Force and other issues relevant to our campus was prepared by the president and made on his behalf by me. Other presentations from faculty associations raised issues familiar to all of us, including increased workload, salary inequity, government focus on business and technology sectors, introduction of for-profit colleges, and the potential rise in domestic student numbers as older students return to the postsecondary sector.



Photo: (L–R) Jennifer Garrison (Interim Executive Director), Francine Smith (Medicine), David Robinson (CAUT), and Marc Schroeder (CAUT and Mount Royal Faculty Association) at the Western Regional Conference in Victoria, BC.

## **CAUT Council Meeting Report**

### **Melanee Thomas**

Jennifer Garrison and I represented TUCFA at the CAUT Council meeting in Ottawa on November 29–30, 2024. The Council addressed issues relating to the state of the profession, including salary trends, academic freedom, and research security issues, and provided updates on collective bargaining and legal precedent across Canada.

Three details merit particular mention. First, at the start of the meeting on the 29th, the Mount Saint Vincent University Faculty Association asked the CAUT Council to condemn their institution's executive management for failing to sign the collective agreement that management and the faculty had agreed to and that the faculty association had signed in March 2024. By lunchtime on the 30th, the Mount Saint Vincent University administration had signed the



agreement. Second, the Council vigorously discussed extramural academic freedom and faculty union governance centred on Israel/Palestine. Third, CAUT's federal election campaign intervention, titled "Unlock Education," is prepared to launch as soon as the writ drops.



Photo: Melanee Thomas (Political Science) voting at CAUT Council.



Photo: (L–R) Melanee Thomas and Jennifer Garrison (Interim Executive Director) at Parliament Hill.

### **Bargaining Update**

**Hamid Habibi and Trevor Tombe**

As we wrap up this year's bargaining sessions, we're pleased to report that several articles have been successfully negotiated, including emeriti procedures, non-monetary part of health and safety, and intellectual property arbitration. I am also pleased that we made good progress in our negotiations on Articles 8 (Harassment), 20 (Discipline), and 24 (Grievance). However, progress has slowed somewhat following leadership changes on the Governors' bargaining team. It has been challenging to receive timely and complete responses from the other side on several important items.

We trust the New Year will bring a stronger commitment to efficient and good-faith engagement. With critical issues such as workload, sessional matters, compensation, and benefits ahead, we look forward to a more responsive and productive round of discussions.

## Job Action Task Force Update

### Chris Sears and Gavin Cameron

The Job Action Task Force (JATF) was created by the Faculty Association to prepare for and manage job actions that may arise in the future. The JATF's mandate is to advise the executive committee, the executive director, and officers regarding preparations for and management of job actions, including strikes or work stoppages by the Association and/or a lock-out by the Board of Governors (as outlined in [the Terms of Reference for the JATF](#)).

The JATF has five sub-committees and terms of reference for each are provided below:

1. [Communication](#)
2. [Finance](#)
3. [Picketing](#)
4. [Logistical Support](#)
5. [Membership Engagement and Mobilization](#)

**The Association is currently recruiting members to join these sub-committees.** The time commitment is expected to be a few hours per month, for a two-year appointment (renewable). If you are interested in joining one or more of these sub-committees, please contact the JATF at [JATF@tucfa.com](mailto:JATF@tucfa.com) by **January 17, 2024**.

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### Notes

<sup>1</sup> Dr. Ed McCauley, President and Vice-Chancellor; Dr. Penny Werthner, Provost and Vice-President (Academic); Dr. William Ghali, Vice-President (Research); Andrea Morris, Vice-President (Development and Alumni); Michael Van Hee, Vice-President (Services and Operations); Ron Kim, Vice-President (Finance); Jacqueline Lacasse (General Counsel); Corey Hogan, Vice-President (Communications and Community Engagement); and John Elho, Associate Vice-President (Government Relations).

<sup>2</sup> "Calgary Police Service notified of ASIRT conclusion in university protest camp removal," City of Calgary Newsroom, October 29, 2024, <https://newsroom.calgary.ca/calgary-police-service-notified-of-asirt-conclusion-in-university-protest-camp-removal>

<sup>3</sup> Mackenzie Rhode, "ASIRT unable to verify serious injury claims from U of C protest camp removal, passes complaints to CPS," *Calgary Herald*, October 30, 2024, <https://calgaryherald.com/news/local-news/asirt-unable-to-verify-serious-injury-claims-from-u-of-c-protest-camp-removal>

<sup>4</sup> MNP, "About," <https://www.mnp.ca/en/about>

<sup>5</sup> MNP, *Crisis Management Team Review: University of Calgary – Response to Protest Encampment*, November 4, 2024, <https://www.ucalgary.ca/live-uc-ucalgary-site/sites/default/files/teams/574/Newsroom%20-%20Report%20PDFs/2024%20CMT%20Review.pdf>

<sup>6</sup> Hon. C. Adèle Kent, *The Encampment Report*, October 30, 2024, prepared for the Board of Governors University of Alberta, 3, <https://www.ualberta.ca/en/governance/media-library/documents/final-encampment-report.pdf>

<sup>7</sup> Mark Herman, "Review of university response to protest encampment concludes," University of Calgary News, December 13, 2024,

<https://ucalgary.ca/news/review-university-response-protest-encampment-concludes>

<sup>8</sup> Provincial priorities act, SA 2024, c P-35.5, <https://canlii.ca/t/5696t>

<sup>9</sup> Neither the Faculty Association at the University of Calgary nor the Association of Academic Staff of the University of Alberta are members of the Confederation of Alberta Faculty Associations (<https://cafa-ab.ca>).

<sup>10</sup> Faculty Association bargaining proposal, <https://www.tucfa.com/bargaining-proposals/opening-remarks-from-the-faculty-association-bargaining-team>

<sup>11</sup> Under the Post Secondary Learning Act, Melanee does not "represent" the Association while on the Board of Governors, as she is appointed by the government. Post-Secondary Learning Act, SA 2003, c P-19.5, <https://canlii.ca/t/565nc>

<sup>12</sup> CAUT, <https://www.caut.ca>

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<sup>13</sup> *Governors of the University of Calgary v Alberta Information and Privacy Commissioner*, 2024 ABKB 522, <https://www.canlii.org/en/ab/abkb/doc/2024/2024abkb522/2024abkb522.pdf>

<sup>14</sup> Civil Notice of Appeal, *Governors of the University of Calgary v Alberta Information and Privacy Commissioner*, 2024 ABKB 522, <https://www.tucfa.com/wp-content/uploads/2024/12/Alberta-Court-of-Appeal-Notice-A-Civil-Notice-of-Appeal-FILED-Sept-26-2024-2401-0254AC-4888-8867-2234-1-copy.pdf>

<sup>15</sup> Elizabeth Koshy, Valsa Koshy, and Heather Waterman, "What is Action Research?," *Action Research in Healthcare* (SAGE, 2020), [https://us.sagepub.com/sites/default/files/upm-binaries/36584\\_01\\_Koshy\\_et\\_al\\_Ch\\_01.pdf](https://us.sagepub.com/sites/default/files/upm-binaries/36584_01_Koshy_et_al_Ch_01.pdf)

<sup>16</sup> Chivers Carpenter Lawyers, "Kristan McLeod," <https://www.chiverslaw.com/kristan-mcleod>

<sup>17</sup> A sincere thank you to Jennifer Koshan and Shaun Fluker for their assistance in writing this part of my message. Any errors in it are mine alone.

<sup>18</sup> Article 21 in the Collective Agreement can be a thick read. For that reason, a frequently asked questions document has been added to the Association's website: <https://www.tucfa.com/wp-content/uploads/2024/12/Article-21-FAQs-.pdf>

<sup>19</sup> The Faculty Association at the University of Calgary, "Policy Grievance # P242501," November 27, 2024, <https://www.tucfa.com/wp-content/uploads/2024/12/Policy-Grievance-P242501-copy.pdf>

<sup>20</sup> University of Calgary, "Clarification of program proposal approval process," revised Fall 2019, <https://www.ucalgary.ca/secretariat/sites/default/files/teams/1/GFC/Program%20Proposal%20Approval%20Process.pdf>

<sup>21</sup> *Collective Agreement Between The Faculty Association of the University of Calgary and The Governors of the University of Calgary*, July 1, 2022 to June 30, 2024, Article 24.5.1, <https://www.ucalgary.ca/hr/sites/default/files/teams/239/tucfa-ca.pdf>

<sup>22</sup> Unit Review Team, *Faculty of Arts Unit Review: Summary Report*, University of Calgary, 2024, <https://www.tucfa.com/wp-content/uploads/2024/12/Faculty-of-Arts-Unit-Review-Report-copy-2.pdf>

<sup>23</sup> Centre for Free Expression, "James L Turk," <https://cfe.torontomu.ca/people/james-l-turk>

<sup>24</sup> University of Calgary, *Sexual and Gender-Based Violence Policy*, last revised December 9, 2022, <https://www.ucalgary.ca/legal-services/sites/default/files/teams/1/Policies-Sexual-and-Gender-Based-Violence%20Policy.pdf>

<sup>25</sup> University of Calgary, *Protected Disclosure, Procedure for*, last revised December 3, 2015, <https://www.ucalgary.ca/legal-services/sites/default/files/teams/1/Policies-Protected-Disclosure-Procedure.pdf>