



Kwantlen Faculty Association

Your KFA – Knowledgeable, Fair, Approachable

December 4, 2009

Scott Nicol, Chair
Kwantlen Polytechnic University
Board of Governors

Dear Mr. Nicol,

I am writing in response to your letter of December 1, 2009 in which you suggest that “potential conflicts” may arise as a result of Kwantlen’s change to a special purpose teaching university. Your letter contends that there may be provisions in existing collective agreements that could be rendered “void and of no effect” because of decisions of Senate.

The Kwantlen Faculty Association categorically disputes your interpretation of the *University Act*. The powers and duties of the special purpose teaching universities are set out under section 35.2 of the *University Act*. They are **not** covered by the powers of the Senate under section 37 of the *Act*. That’s an important distinction. A recent arbitration decision—UBC/McPhillips—has created controversy about the power of research university Senates to override collective agreement provisions. Although that decision is being appealed, the fact remains that the arbitrator’s ruling has no application to the powers of special purpose teaching university Senates.

Our Association is the recognized bargaining agent for our members, a recognition that is embedded as an article in our collective agreement signed by the employer and the faculty association, and in the BC Labour Relations Code. Any changes to that agreement are subject to all the provisions of the Code, including good faith bargaining.

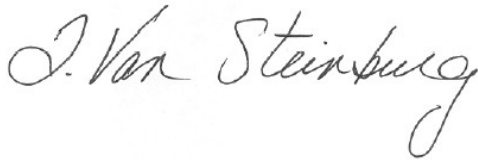
It should be noted as well that while the Liberal government tried to legislatively alter provisions in signed collective agreements in 2002, the Supreme Court of Canada ultimately ruled that those legislative actions were illegal. In fact, the Supreme Court decision gave its unambiguous support for free collective bargaining, recognizing the fundamental right of employees to negotiate terms and conditions of work with their employers. Your December 1st letter seems to have ignored that decision.

I will also refer you to the September 10, 2008 legal opinion of D. Lawrence Munn of Clark Wilson re Establishment of Faculties at Kwantlen Polytechnic University, sent to Sandi Klassen, Executive Assistant, Offices of the Board and President that concludes:

“Finally, it should be noted that the continuation of Kwantlen University College as a university and the designation of faculties will not affect the validity, term or content of the two collective agreements. Those remain in place.”

The Kwantlen Board of Governors needs to reconsider the position outlined in your letter. Your suggestion about provisions being rendered void and of no effect is at the very least provocative and unsettling, especially as we are about to bargain a new collective agreement. More importantly, this approach will profoundly alter labour management relations at our institution in ways that will be difficult to reconcile.

Sincerely,

A handwritten signature in cursive script that reads "Terri Van Steinburg".

Terri Van Steinburg
President,
Kwantlen Faculty Association

Cc. Dr. David Atkinson, President
Senate
Board of Governors
President's Group
Deans
KFA Executive
Working Conditions Committee
Shawn Cahill, Chair, BCGEU 704
Cindy Oliver, President, FPSE
Jim Turk, Executive Director, CAUT
Penni Stewart, President, CAUT