

# CAUT Bargaining Advisory

## Bargaining for Indigenization of the Academy

Indigenizing may require employers and academic staff associations to negotiate appropriate amendments to their collective agreements, or terms and conditions of employment, with a view to establishing equitable policies and practices that involve Aboriginal Peoples and Indigenous Knowledge in all aspects of campus life.

— CAUT Policy Statement on Indigenizing the Academy, November 2016

What does Indigenization mean? What does an Indigenized university look like and how does it act? Can we extend traditional Indigenous practices to scholarly endeavors? Can we create norms and methods of scholarship that are appropriate to Indigenous intellectual traditions? How do we bring Indigenous knowledge to the university? These are all examples of the questions we ought to be asking each other as we move along the path.<sup>1</sup>

— David Newhouse, Chair of the Chanie Wenjack School for Indigenous Studies, Trent University and Chair, CAUT Aboriginal Post-Secondary Education Working Group

### Introduction

The work of the Truth and Reconciliation Commission (TRC) continues to have a profound impact on Canadians' awareness of the deep and lasting trauma that Canada's Indian Residential Schools had on Aboriginal peoples and their families, communities and cultures.<sup>2</sup> It also situates residential schools within a much longer process of colonization, resulting from an ideology that

held that Aboriginal peoples and cultures were inferior to Europeans and European cultures.

On June 2, 2015, the TRC released its final report, which included 94 Calls to Action to "redress the legacy of residential schools and advance the process of Canadian reconciliation." A number of these recommendations speak to the role of educational institutions in colonization and in reconciliation.

1. Newhouse, David. Indigenizing Your Organization. Trent University, Chanie Wenjack School of Indigenous Studies. Accessed online 20 November 2019: <https://www.trentu.ca/indigenous/welcome/enweying-professional-development-centre/indigenizing-your-organization>.
2. We use Indigenous and Aboriginal to refer to First Nations (Status and non-Status), Inuit and Métis peoples in Canada.



*Reconciliation requires that a new vision, based on a commitment to mutual respect, be developed. Reconciliation is not an Indigenous problem; it is a Canadian one. Virtually all aspects of Canadian society may need to be reconsidered.”<sup>3</sup>*

Academic staff associations must take up the challenge of reconsidering the academy, recognizing their responsibility and the possibility to right wrongs, close gaps and realize the full potential of the post-secondary education system as a place of learning, discovery and knowledge for all. This will involve fundamental change in teaching, research, service and administration.

Academic staff associations have many paths to travel to support decolonization and reconciliation, including:

- building and supporting community-based relationships;
- creating and fostering spaces for dialogue and leadership, within the association and on campus;
- enhancing understanding and awareness;
- acting in solidarity with Indigenous members, students and organizations; and,
- bargaining for change and reconciliation.

Systemic change means moving beyond a focus on the numbers of Aboriginal staff, leaders, students, curriculum changes and spaces, although these are important. It means recognizing and respecting Aboriginal rights, systems of knowledge creation and dissemination, and resourcing re-connections to

communities, cultures and languages.<sup>4</sup> It is not an add “Indigenous and stir”<sup>5</sup> approach but ultimately one of power-sharing, as “we are all Treaty people.”<sup>6</sup>

This advisory looks specifically at bargaining as a tool for Indigenization of post-secondary education. CAUT’s *Policy Statement on Indigenizing the Academy* is a starting place to review existing collective agreement language to identify where changes must be made to advance decolonization and reconciliation.

## Valuing Indigenous Knowledge

The valuing of non-European knowledge systems is critical to the diversification of the academy generally and essential for the Indigenization of the academy.

Indigenous or traditional knowledge, as described by the Social Sciences and Humanities Research Council following deep consultations with Aboriginal communities, “is usually described by Indigenous peoples as holistic, involving body, mind, feelings and spirit.”<sup>7</sup>

*Indigenous knowledge is rarely acquired through written documents, but is, rather, a worldview adopted through living, listening and learning in the ancestral languages and within the contexts of living on the land. Engagement with Elders and other knowledge holders is acknowledged as valued and vital to knowledge transmission within the context of Indigenous Peoples living in place. Both Indigenous knowledge content and processes of knowledge transmission are, thus, embedded in the performance of living, including storytelling, ceremonies, living on the land, the use of natural resources and medicine plants, arts and crafts, singing and dancing, as well as engagement with the more than human world.<sup>8</sup>*

A principle statement should be negotiated which instructs decision-makers to value equity, diversity and

3. Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada, Truth and Reconciliation Commission of Canada, 2015. Accessed online 20 November 2019: [http://nctr.ca/assets/reports/Final%20Reports/Executive\\_Summary\\_English\\_Web.pdf](http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf).
4. Gaudry, A., & Lorenz, D. (2018). Indigenization as inclusion, reconciliation, and decolonization: navigating the different visions for indigenizing the Canadian Academy. *AlterNative: An International Journal of Indigenous Peoples*, 14(3), 218–227. Retrieved at <https://doi.org/10.1177/1177180118785382>.
5. Priscilla Settee quoted in ‘It’s not just add Indigenous and stir’: U of S’s indigenization approach raising questions”. CBC: September 17, 2017. Retrieved at <https://www.cbc.ca/news/canada/saskatoon/indigenous-education-university-saskatchewan-1.4299551>.
6. Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission

- of Canada, Truth and Reconciliation Commission of Canada, 2015. Accessed online 20 November 2019: [http://nctr.ca/assets/reports/Final%20Reports/Executive\\_Summary\\_English\\_Web.pdf](http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf).
7. *Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans*, Canadian Institutes of Health Research, Natural Sciences and Engineering Research Council of Canada, and Social Sciences and Humanities Research Council, 2018. Accessed online 20 November 2019: <http://www.pre.ethics.gc.ca/eng/documents/tcps2-2018-en-interactive-final.pdf>.
8. “Guidelines for the Merit Review of Indigenous Research,” Social Sciences and Humanities Research Council, 2018. Accessed online 20 November 2019: [https://www.sshrc-crsh.gc.ca/funding-financement/merit\\_review-evaluation\\_du\\_merite/guidelines\\_recherche-lignes\\_directrices\\_recherche-eng.aspx](https://www.sshrc-crsh.gc.ca/funding-financement/merit_review-evaluation_du_merite/guidelines_recherche-lignes_directrices_recherche-eng.aspx).

inclusion in the appointments, tenure, regularization and promotion processes and recognize the diverse processes for accessing, learning, sharing, and dissemination of Indigenous knowledges and “the scholarly contributions of Indigenous knowledge systems, including their diverse ontologies, epistemologies and methodologies.”<sup>9</sup>

Collective agreement articles should be reviewed to remove barriers to the recognition of Indigenous knowledge production, dissemination, learning and languages. These barriers may include:

- recruitment and appointment processes;
- a narrow or exclusive definition and over-evaluation of the conventional distribution (40-40-20) of scholarly activity – research, teaching and service;
- statements that excellence is the primary criterion for decision-making;
- requirements for a doctoral degree without equivalences; and,
- preference for settler colonial languages, conventional teaching approaches and publications.

## Appointments (Hiring, Tenure, Regularization, and Promotion)

Aboriginal academic staff are under-represented in the academy at all levels. According to the 2016 Census, 1.4% of university professors and 3% of college instructors identify as Aboriginal peoples, yet those with Aboriginal identity represent 5% of the population. As noted above, addressing under-representation is not itself decolonization, but will help facilitate efforts to break the hegemony of Eurocentricity in the academy.

To remove barriers against Aboriginal scholars and Indigenous knowledge systems, academic staff associations should work to ensure the collective agreement includes:

- Recognition and respect for Indigenous knowledge production, oracy and other forms of dissemination and pedagogy, including recognition of Indigenous languages, land knowledge and land-based practices; community and traditional activities; maintenance of relationships, and any other relevant considerations,

including lived experiences within Aboriginal communities;

- Recognition and respect for disproportional or higher levels of service demands within the institution and in community;
- Elimination of use of student experience surveys or evaluations in recruitment, renewal, tenure and promotion processes;
- Aboriginal faculty and/or community inclusion in hiring, tenure and promotion committees of Aboriginal scholars;
- New governance models and approaches at all levels to prioritize Aboriginal faculty and community involvement and control over Indigenization.

The colonization of Aboriginal peoples in Canada has resulted in a cultural genocide. Through the long assault, the residential school crisis, the Sixties Scoop and other direct and indirect means, many Aboriginal people today are without community and were raised outside of traditional knowledge systems and languages. For many reasons, including the Truth and Reconciliation process and increased teachings of colonization in schools, Aboriginal peoples across the country are in the process of reclaiming identity, community, culture, language and rights.

As well, there are those with known or assumed Aboriginal ancestry, who are self-identifying as Indigenous, but have unknown Aboriginal citizenship or community membership and were raised with Western and not traditional knowledge. Called “New Identifiers,” by some, their existence poses challenges to increasing representation while working towards Indigenization.<sup>10</sup>

Appointment processes can explicitly call for Aboriginal scholars with traditional knowledge and lived experience. These efforts can be supported by community involvement in the appointments process; and, the collection of candidate information on Aboriginal citizenship or community membership. The appointment of Aboriginal scholars with Indigenous knowledge expectations must also be accompanied by policies that respect and honour the diverse processes

9. “Indigenous Research Statement of Principles,” Social Sciences and Humanities Research Council, 2019. Accessed online 20 November 2019: [http://www.sshrc-crsh.gc.ca/about-au\\_sujet/policies-politiques/statements-enonces/indigenous\\_research-recherche\\_autochtone-eng.aspx](http://www.sshrc-crsh.gc.ca/about-au_sujet/policies-politiques/statements-enonces/indigenous_research-recherche_autochtone-eng.aspx).

10. Watt, E. and Kowal, E. “To be or not to be Indigenous? Understanding the rise of Australia’s Indigenous population since 1971,” *Ethnic and*

*Racial Studies* (42:16), Taylor & Francis Online, 2018. Accessed online 20 November 2019: <https://www.tandfonline.com/doi/full/10.1080/01419870.2018.1546021>.

for, and limits on, access, production, and dissemination of Indigenous knowledges.

Trent University's Chanie Wenjack School for Indigenous Studies has three different paths for tenure for Aboriginal scholars: conventional academic background, traditional Indigenous knowledge background and a dual tradition scholar. These path definitions are part of the written standards specific to the academic unit, as referenced in Article VII.3.3.1 of the collective agreement.

For Traditional Indigenous Scholars, traditional knowledge is defined as:

*knowledge of the language and traditional customs, rites, rituals, histories, teachings of a particular group of Indigenous people or peoples. Most people will have acquired this knowledge through active and lengthy participation in particular cultural structures and processes and a careful study and reflection of the philosophical underpinnings of them. In many cases, they will have studied with a knowledgeable and well respected Elder.*<sup>11</sup>

A dual tradition scholar is defined as:

*an individual whose scholarship is based in and informed by principles and methods appropriate to an exploration and explication of traditional Indigenous knowledge as well as those of the western academic disciplinary tradition.*<sup>12</sup>

Scholarly activity for both traditional Indigenous candidates and staff and those on the dual tradition path includes participation in traditional teaching workshops and ceremony and oral presentations in community.

The different traditions are also recognized at First Nations University of Canada, which defines academic responsibilities in its agreements as:

*[...] members have the right to research, preserve, and promote knowledge in ways consistent with both First Nations and non-First Nations paths to knowledge.*<sup>13</sup>

11. Newhouse, David. *Indigenous Studies at Trent University*, Presentation, CAUT Advancing Indigenization conference, 2018.

12. Newhouse, David. *Indigenous Studies at Trent University*, Presentation, CAUT Advancing Indigenization conference, 2018.

## Definitions of Scholarly Activity

The Social Sciences and Humanities Research Council (SSHRC) and the Canadian Institute of Health Research (CIHR) have definitions of Indigenous research that could be used as model or reference language. These definitions were developed through extensive consultation with Indigenous communities.

SSHRC defines Indigenous research as:

*Research in any field or discipline that is conducted by, grounded in or engaged with First Nations, Inuit, Métis or other Indigenous nations, communities, societies or individuals, and their wisdom, cultures, experiences or knowledge systems, as expressed in their dynamic forms, past and present. Indigenous research can embrace the intellectual, physical, emotional and/or spiritual dimensions of knowledge in creative and interconnected relationships with people, places and the natural environment.*

*Whatever the methodologies or perspectives that apply in a given context, researchers who conduct Indigenous research, whether they are Indigenous or non-Indigenous themselves, commit to respectful relationships with all Indigenous peoples and communities.*

*[...] Research by and with Indigenous peoples and communities emphasizes and values their existing strengths, assets and knowledge systems.*

*All research involving Indigenous peoples must be undertaken in accordance with the second edition of the Tri-Council Policy Statement: Ethical Conduct for Research Involving Humans, and, in particular, Chapter 9: Research Involving the First Nations, Inuit and Métis Peoples of Canada.*<sup>14</sup>

CIHR uses a similar definition of Indigenous Health Research:

*Indigenous Health Research can be defined by any field or discipline related to health and/or wellness that is conducted by, grounded in, or engaged with, First Nations, Inuit or Métis communities, societies or individuals and*

13. University of Regina Faculty Association representing the First Nations University Academic Staff Members Collective Agreement, 2015-2018, Article 2.3.4 (b).

14. "Definitions of Terms," Social Sciences and Humanities Research Council, 2019. Accessed online 20 November 2019: <https://www.sshrc-crsh.gc.ca/funding-financement/programs-programmes/definitions-eng.aspx>



*their wisdom, cultures, experiences or knowledge systems, as expressed in their dynamic forms, past and present.*

*Indigenous health and wellness research embraces the intellectual, physical, emotional and/or spiritual dimensions of knowledge in creative and interconnected relationships with people, places and the natural environment. Such research is based on the right to respectful engagement and equitable opportunities; it honours culture, language, history, and traditions.<sup>15</sup>*

Examples of collective agreement language that call for a recognition of Indigenous research include:

The University of Regina Faculty Association – First Nations University of Canada Academic Staff Members agreement, enumerates academic responsibilities as:

*Members of the academic community shall exercise their rights and responsibilities with an ethic of sensitivity encompassing the following understandings:*

*(a) that First Nations traditional methods and protocols for researching and disseminating knowledge and understanding be recognized as valid.<sup>16</sup>*

It also includes, in Article 19.3, an illustrative list of criteria to be considered for career progression related to research, teaching and service, for example, service to First Nations communities, working with Elders, and making research and results accessible to First Nations communities.

The Laurentian University Faculty Association agreement defines Scholarly Activity as:

*Research carried out based on traditional/Indigenous knowledge, and the practical applications or dissemination of such research generally, or specifically through engagement with Indigenous communities.<sup>17</sup>*

The Simon Fraser University Faculty Association's agreement outlines Criteria for Assessing Non-Traditional Scholarship and notes that such contributions include but are not limited to:

*Indigenous or other non-Western forms of scholarship and/or teaching; [and] public dissemination of scholarly work through engagement with government or community organizations.<sup>18</sup>*

### **Valuing Indigenous Languages**

The Laurentian University Faculty Association collective agreement recognizes the importance of Indigenous language skills.

*The Employer and the Union acknowledge the distinct role and the important contribution of Indigenous languages and cultures in particular programs at Laurentian University[...] and agree [...] to waive the requirement for French/English bilingualism and recognize as bilingualism the knowledge and/or demonstrated study of an Indigenous language and one (1) of the two (2) official languages of Laurentian University.<sup>19</sup>*

### **Recruiting**

Employment equity language in collective agreements can be strengthened through clauses to specifically address under-representation. Associations should avoid any language that contrasts equity and excellence.

For example, the Laurentian University Faculty Association collective agreement has an Indigenous Equity Initiative.

*The Employer and the Union agree that a series of active measures are required to appoint a larger number of qualified Indigenous professors, librarians and archivists at Laurentian University, particularly outside Indigenous-specific programs.*

*The Employer agrees to develop a “grow-our-own” program to recruit and appoint Indigenous professors, librarians and archivists to probationary appointments, who, on the condition of agreeing to work at Laurentian as professors/librarians for a minimum of three (3) years, shall be supported in completing the academic qualifications needed for tenure. The details of the program are to be agreed to by the Employer and the Union in consultation with the Office of the Associate Vice-President, Academic and Indigenous Programs.<sup>20</sup>*

15. “Defining Indigenous Health Research,” Canadian Institutes of Health Research, Accessed online 20 November 2019: <http://www.cihr-irsc.gc.ca/e/50340.html>.

16. University of Regina Faculty Association representing the First Nations University Academic Staff Members Collective Agreement, 2015-2018, Article 2.3.4.

17. Laurentian University Faculty Association Collective Agreement, 2017-2020, Article 5.15.22.

18. Simon Fraser University Faculty Association Collective Agreement, 2014-2019, Article 28.19.1-2.

19. Laurentian University Faculty Association Collective Agreement, 2017-2020, Article 3.30.1.

20. Laurentian University Faculty Association Collective Agreement, 2017-2020, Article 5.30.

The Nipissing University Faculty Association Full-Time Academic Staff Bargaining Unit's agreement includes Aboriginal knowledge in its definition of academic qualifications for faculty appointments, where appropriate.

*In assessing the academic qualifications of candidates for any position, the following will be considered: academic credentials, including scholarships and awards; program fit within the relevant academic unit; teaching experience and teaching performance; scholarly research and publication record; professional and community service record; and, where appropriate, Aboriginal knowledge.*<sup>21</sup>

To fully address under-representation, preferential hiring may be advanced. These processes may come in conflict with existing language on hiring and seniority and may need to be clarified to address under-representation. The Federation of Post-Secondary Educators (FPSE), for example, has a letter of understanding with Nicola Valley Institute of Technology (NVIT). As an Indigenous provincial institute with a preference for hiring Indigenous employees, it suspends articles related to Employee Security and Regularization, and Contracting Out and qualifies articles related to Registry of Laid-Off Employees and Program Transfers and Mergers to protect "NVIT's continued right to exercise a preference for hiring people of Aboriginal Ancestry."<sup>22</sup>

York University Faculty Association negotiated that at least six Indigenous scholars be hired to tenure-stream positions by the end of the agreement in 2021. The Memorandum of Settlement outlines that advertisements for these positions would appear in specifically Indigenous media as well as other sites or publications and will indicate that the appointments are open only to Indigenous candidates.

Mount Saint Vincent Faculty Association has agreed to strike a committee, the composition to be agreed upon, to identify and initiate active measures to facilitate the recruitment and retention of Indigenous faculty, librarians, and lab instructors.

Some associations have negotiated language that stipulates if a candidate from an under-represented group has been interviewed and fulfills the position requirements, they shall be offered the position.

### Community Involvement in Appointments



Processes of consultation and engagement with Indigenous communities need to be core to designing and developing guidelines for policies that universities will use to judge scholarly importance and impact...the typical boundaries between service, teaching, and research would be blurred even more substantially; and that community judgments of impact considered on an equal footing with factors such as journal rankings or peer reviews."<sup>23</sup>

Diversity among and within communities makes generalizations about the form of community engagement inappropriate."<sup>24</sup>

Language should be negotiated to ensure Aboriginal community involvement, as identified by the candidate, in the assessment of Aboriginal academic staff traditional or dual scholarly activity for the purposes of recruitment, regularization, tenure and appointment committees. The persons chosen need not be academics, and should be seen as a peers. In the case of some Elders and traditional people, it may not be possible to obtain written assessments, in which case a personal visit and interpreters may be required.

21. Nipissing University Faculty Association Full-Time Academic Staff Bargaining Unit Collective Agreement, 2015-2019, Article 19.3 (a).

22. Nicola Valley Institute of Technology Employees' Association Collective Agreement, 2012-2014, Letter of Understanding 5, Article 1.3.

23. McGregor, C., McIver, O. and Rosborough, P. "Indigenous Communities and Community-Engaged Research:

Opportunities and Challenges," *Engaged Scholar Journal: Community-Engaged Research, Teaching, and Learning* (2:1), 2016.

24. "TCPS 2 (2018) – Chapter 9: Research Involving the First Nations, Inuit and Métis Peoples of Canada," *Panel on Research Ethics*, 2019. Accessed online 20 November 2019: [http://www.pre.ethics.gc.ca/eng/tcps2-eptc2\\_2018\\_chapter9-chapitre9.html](http://www.pre.ethics.gc.ca/eng/tcps2-eptc2_2018_chapter9-chapitre9.html).

The Queen's University Faculty Association collective agreement is one example of a process for community involvement in assessment of Aboriginal scholarly activity:

*[...] a Member who is an Indigenous person shall be advised that he/she may, by July 1, request that the Unit Head add an Aboriginal person as a participant to the Committee and may suggest to the Unit Head the name(s) of suitable participants. The Unit Head, upon receipt of this request, shall in consultation with the Aboriginal Council select a person who may or may not be an academic and who is at arm's length from the candidate to be the Aboriginal participant in the relevant personnel process regarding this applicant.<sup>25</sup>*

The University of Regina Faculty Association – First Nations University Sessional Academic Staff agreement notes:

*Where Indigenous knowledge is to be considered, the Elders Advisory Council shall provide recommendations to the Vice-President Academic as to the appropriate weighting of this factor toward appointment rank.<sup>26</sup>*

### Elder Appointments

Many institutions are appointing Elders as cultural advisors and as members of the instructional staff. It is important to be clear about the responsibilities that Elders are being asked to undertake to ensure that they are appointed to the correct category of employee and are within the bargaining unit. Trent University has appointed Elders to tenure-track faculty members on the basis of their traditional knowledge as part of a trio of academic positions within the Indigenous Studies Department: Conventional Scholar, Traditional Indigenous Knowledge Scholar and Dual Tradition Scholar. The Vancouver Island University collective agreement appoints them as non-instructional staff.

### Measuring Representation

The academic staff association should bargain to ensure that intersectional and disaggregated workforce data be collected and shared with staff associations and Aboriginal governance bodies in order to measure progress in terms of appointments at all levels.

To ensure genuine representation of Aboriginal peoples, candidates and staff should be asked to self-identify as First Nations, Métis or Inuk (Inuit) and to identify which community, Band, Nation, government or Inuit land claim agreement they belong.

CAUT's *Model Clause on Openness and Transparency* is a starting point for a review to improve information disclosure clauses within agreements.

The Association of Professors of the University of Ottawa's agreement requires the employer to collect and provide information to a joint Equity, Diversity and Inclusion Committee (EDIC) who can review appointments and advise on measures to address under-representation.

*[...] the Employer shall provide the Equity, Diversity and Inclusion Committee with up-to-date information on the designated group distribution of academic staff with regular appointments.<sup>27</sup>*

*[...] the EDIC may consult the files of short-listed candidates and the academic unit's justification for appointing a person not of the under-represented designated group.<sup>28</sup>*

Similarly, the York University Faculty Association's agreement requires the following information to be provided to the Association by the employer:

*Employment equity survey data relating to the YUFA bargaining unit, including:*

- *presentation of data for each of the employment equity groups by rank, Faculty and unit (with 10 or more employees), and range of years since the most recent full-time faculty appointment at York;*
- *intersectional data for all employment equity groups;<sup>29</sup>*

### Workload

Associations should review the workload language in their agreements to ensure that such language adequately recognizes the specific situations often confronting Aboriginal academic staff.

25. Queen's University Faculty Association Collective Agreement, 2019-2022, Appendix O, Article 2.

26. University of Regina Faculty Association representing the First Nations University Sessional Academic Staff Members Collective Agreement, 2017-2019, Article 18.5.1.1.

27. Association of Professors of the University of Ottawa Collective Agreement, 2018-2021, Article 17.1.6.4 (a).

28. Association of Professors of the University of Ottawa Collective Agreement, 2018-2021, Article 17.1.6.4 (c).

29. York University Faculty Association Collective Agreement, 2018-2021, Article 8.01 (b)(vi).

## Teaching

Teaching involves far more than scheduled courses, and this must be explicitly acknowledged in the collective agreement. The University of British Columbia Faculty Association's agreement, for example, states that:

*Teaching includes all presentation whether through lectures, seminars and tutorials, individual and group discussion, supervision of individual students' work, or other means by which students, whether in degree or non-degree programs sponsored by the University, derive educational benefit.<sup>30</sup>*

Such a statement can be particularly important for Indigenous academic staff since they often face sharply increased workload pressures outside the classroom. Although counseling students outside of class hours is a normal teaching activity for all academics, Aboriginal academics have long reported that their Aboriginal students seek them out as mentors who can help them deal with systemic discrimination within a department, faculty or the larger institution. Such mentoring needs to be acknowledged as part of the workload.

Of equal importance, collective agreements need to ensure that the work of the department, school or faculty is equitably distributed among members of the academic unit. The York University Faculty Association agreement provides a clear and succinct statement on this point:

*Within an academic unit, the Dean of the Faculty or designate, shall, with due notice, assign teaching duties to individual faculty members in the light of the individual's discipline and specialties, and consistent with the normal teaching load of the stream and the Faculty or department in question, and its equitable (i.e., fair) distribution among members of the unit.<sup>31</sup>*

Collective agreements have an educative as well as a proscriptive function. For this reason, some agreements elaborate on the variables, which must be considered when assessing "equitable distribution."

The Association of Professors of the University of Ottawa agreement provides a good example of this approach.

*As the total effort required by a course can vary considerably from course to course, and in order to ensure that members' teaching loads are allocated fairly and equitably, the dean, as well as any person or committee making a recommendation regarding a member's teaching load, shall give proper consideration to relevant factors such as the following:*

*(a) the expected class size, number of student contact hours (defined as the product of student enrolment and the number of hours of scheduled contact with students), and course format; (b) whether the member will be responsible for the supervision of laboratory work as part of the scheduled courses; (c) the availability of markers or teaching assistants; (d) whether an assigned course will be one that the member has not taught before, or one where the member's former approach will undergo substantial revisions, or where the assignment of a course will result in an increase in the anticipated hours for preparation, grading or administration; (e) the member's area of expertise; (f) the number of distinct courses to be taught by the member; (g) the level and the type of the course; (h) the location of the course (on or off-campus); (i) special factors, such as filming or broadcasting of lectures, or the use of teleconference teaching; (j) the language of instruction.<sup>32</sup>*

This clause not only instructs those making recommendations and decisions on factors which must be considered, it better informs the member should they disagree and wish to grieve the fairness of their assignments. The location of the course is an important component as an Aboriginal academic may be more involved in experiential, community or land-based teaching.

The Association of Professors of the University of Ottawa agreement, meanwhile, also adds that:

*The teaching load of a faculty member shall not differ substantially from the normal teaching load except where [...] (c) such differences are justified by the extent of the members' respective involvement in non-scheduled teaching duties such as supervision of individual work or studies by undergraduate or graduate students, or responsibility for directed reading courses.<sup>33</sup>*

Language like this allows Aboriginal academic staff who face significant pressures associated with student

30. University of British Columbia Faculty Association Collective Agreement, 2016-2019, Part 4, Article 4.02.

31. York University Faculty Association Collective Agreement, 2018-2021, Article 18.10.

32. Association of Professors of the University of Ottawa Collective Agreement, 2018-2021, Article 22.2.1.4.

33. Ibid, Article 22.2.1.3.



mentoring to seek redress by providing some form of workload adjustment, which ensures fairness.

The agreement, meanwhile, will also have to provide openness and transparency if the “equal distribution” requirement is to be effective. The best means to ensure this is to treat workload assignments as a public matter for the academic unit rather than a private matter for the individual academic. This way, members are better able to determine for themselves if assignments are reasonable and fair. This keeps disagreements to a minimum and ensures that grievances, should they materialize, will be based on evidence rather than perceptions.

### Service

Service requirements may also differ for Aboriginal academic staff as they are called on, and often inappropriately, to represent all things Indigenous. The CAUT Aboriginal Post-Secondary Education Working Group, for example, reported of one case of an institution which mandated that every committee required an Aboriginal member. No doubt this was a progressive measure designed to promote greater inclusivity, yet the fact remained that the institution’s seven Aboriginal faculty had to share the burden of serving on 55 committees.

Many agreements provide some flexibility which would allow the balance between research, teaching and service to be adjusted in light of heavier than usual demands in a particular area. These clauses should be revisited to ensure they meet the needs of Indigenous academic staff.

Associations should also negotiate for explicit recognition of, and appropriate compensation for, any increased workload that may be taken on by Aboriginal academic staff as a consequence of their community status and/or obligations. Recognition of community-based relationships and roles may come in the form of course release or professional expense reimbursement.<sup>34</sup>

CAUT’s *Policy Statement on Recognition of Increased Workload of Academic Staff Members in Equity-Seeking Groups in a Minority Context*,<sup>35</sup> CAUT’s *Policy Statement on Fairness of Contract Academic Staff*,<sup>36</sup> and CAUT’s *Model Clause on Workload*<sup>37</sup> can guide strengthening of agreement language to better reflect the needs of Aboriginal academic staff.

### Leaves

The collective agreement should recognize different cultural needs and practices, including land and community-based attachments. As well as an equity issue, support for land and community connection sustains Indigenous knowledge systems.

### Ceremonial leave

The federal government has changed the *Canada Labour Code* to provide unpaid leave for Indigenous workers in the federally-regulated sectors to participate in traditional practices. Collective agreements need to build upon this and provide paid leave.

The University of Regina Faculty Association – First Nations University of Canada Academic Staff Members has an agreement to provide paid leave for “the purpose of participating in Traditional First Nations ceremonies. A University policy on this will be developed in consultation with First Nations Elders and academic staff members.”<sup>38</sup>

### Holidays

The University of Regina Faculty Association – First Nations University of Canada Academic Staff Members agreement recognizes First Nations holidays with pay for those with Indian status in Article 25.3.2.

The Ontario Public Services Employees Union and its Northern Ontario School of Medicine Local 677 (Unit 1) agreement will allow paid time off, on request, “including other religious holidays and National Aboriginal Day (June 21).”<sup>39</sup>

34. Louie, Dustin. (2019). “Aligning Universities’ Recruitment of Indigenous Academics with the Tool Used to Evaluate Scholarly Performance and Grant Tenure and Promotion.” *Canadian Journal of Education* 42:3 791:814.

35. CAUT Policy Statement on Recognition of Increased Workload of Academic Staff Members in Equity-Seeking Groups in a Minority Context, 2015. Accessed online 20 November 2019: <https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/recognition-of-increased-workload-of-academic-staff-members-in-equity-seeking-groups-in-a-minority-context>.

36. CAUT Policy Statement on Fairness for Contract Academic Staff, 2016. Accessed online 20 November 2019:

<https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-fairness-for-contract-academic-staff>.

37. CAUT Model Clause on Workload, 2016. Accessed online 20 November 2019: <https://www.caut.ca/members-only/collective-bargaining/model-clauses/lists/caut-model-clauses/model-clause-on-workload>.

38. University of Regina Faculty Association representing the First Nations University Academic Staff Members Collective Agreement, 2015-2018, Article 25.3.1.

39. Ontario Public Services Employees Union and its Northern Ontario School of Medicine Local 677 (Unit 1) Collective Agreement, 2018-2022, Article 3.1.2 (a).

### Unpaid leave for public office

The University of Northern British Columbia Faculty Association agreement recognizes leaves of absence for “when a Member stands for or has been elected to a First Nations [...] office.”<sup>40</sup>

The Federation of Post-Secondary Educators of BC (FPSE) in letter of understanding with NVIT agree in paragraph 2 that:

*The parties agree that Article 7.11 Public duties may be applied to public duties that include First Nations governance and Aboriginal Community Boards.*<sup>41</sup>

### Compassionate care, bereavement leaves

The definition of family should be expansive as kinship circles and responsibilities often differ from the dominant culture. FPSE’s definition of family is exemplary, recognizing immediate, extended and foster family relations, as well as:

*The following "family members" are deemed family members ... Whether or not related to an employee by blood, adoption, marriage or common-law partnership, an individual with a serious medical condition who considers the employee to be, or whom the employee considers to be, like a close relative.*<sup>42</sup>

### Benefits

A First Nations person who is registered under the Indian Act (commonly referred to as a status Indian) and an Inuk recognized by an Inuit land claim organization are entitled to the federal Non-Insured Health Benefits Program. In recognition of this, at least one association has negotiated for payment in lieu of benefits.

FPSE in a letter of understanding (Article 30) with NVIT agree that:

*Those employees who have INAC [Indigenous and Northern Affairs Canada] coverage and who choose to opt out shall receive 2% of their gross earnings on each paycheque in lieu of benefits.*<sup>43</sup>

### Discipline

An employee’s right to a fair process and outcome when employers seek to impose discipline depends on the strength of negotiated discipline provisions. CAUT’s *Bargaining Advisory on Discipline Language* outlines the general principles, with analysis and examples that should be considered when drafting and negotiating discipline articles.<sup>44</sup> Systems of discipline culturally vary, and at least one institution has recognized these differences.

The Nicola Valley Institute of Technology Employees’ Association agreement recognizes Indigenous approaches to discipline.

*NVIT may choose to use an Aboriginal traditional method for conflict resolution, or may choose to use a different method.*<sup>45</sup>

### Intellectual Property



*Indigenous peoples have the right to maintain, control, protect and develop their cultural heritage, traditional knowledge and traditional cultural expressions, as well as the manifestations of their sciences, technologies and cultures, including human and genetic resources, seeds, medicines, knowledge of the properties of fauna and flora, oral traditions, literatures, designs, sports and traditional games and visual and performing arts. They also have the right to maintain, control, protect and develop their intellectual property over such cultural*

40. University of Northern British Columbia Faculty Association Collective Agreement, 2014-2019, Article 62.6.2.

41. Federation of Post-Secondary Educators of BC (FPSE) Common Agreement, 2014-2019, Letter of Understanding 1, Para 2.

42. Federation of Post-Secondary Educators of BC (FPSE) Common Agreement, 2014-2019, Appendix I, Para 3.

43. Federation of Post-Secondary Educators of BC (FPSE) Common Agreement, 2014-2019, Letter of Understanding 1, Para 4.

44. “Discipline Language,” *Bargaining Advisory*, CAUT, 2017. Accessed online 20 November 2019: [https://www.caut.ca/sites/default/files/caut-bargaining-advisory-discipline-language\\_2017-06.pdf](https://www.caut.ca/sites/default/files/caut-bargaining-advisory-discipline-language_2017-06.pdf).

45. Nicola Valley Institute of Technology Employees’ Association Collective Agreement, 2014-2019, Article 14.

*heritage, traditional knowledge, and traditional cultural expressions.*"<sup>46</sup>

There is a fundamental conflict between Western concepts of intellectual property, and Indigenous understandings of the origin, use and control of creative works. For Aboriginal communities, such works may arise from close, multi-generational attachment to the broad natural and spiritual worlds – not simply from sudden bursts of inspiration, laboratory research, or specific fieldwork. They may be embedded in local cultural traditions including language, land use practices, and spirituality; and exist under the permanent custodianship of communities or designated elements within communities and not be privately owned for finite time periods.

Currently, academic staff collective agreements typically provide Western, individual intellectual property rights to members of the bargaining unit. Agreements should seek ways to ensure custodianship, dissemination and compensation for scholarship based on Indigenous traditional knowledge, so that intellectual property rights remain within community.

Starting points for conversations with the employer, the Association and Aboriginal community and academic partners on intellectual property rights and decolonization include:

- Outreach to community to learn of local protocols;
- First Nations principles of Ownership, Control, Access, and Possession (OCAP®);
- SSHRC Statement of Principles on Indigenous Research;
- Tri-Council Policy Statement on Research Involving the First Nations, Inuit and Métis Peoples of Canada, and;
- Utility, Self-Voicing, Access, and Inter-Relationality (USAI) framework developed by the Ontario Federation of Indian Friendship Centres to guide research processes and decisions by and with urban Indigenous communities. The USAI framework principle of Self-Voicing affirms that communities must be fully recognized as authors and knowledge

holders, not simply as “trusted informants, confidants, and advisors.”<sup>47</sup>

The University of Regina Faculty Association – First Nations University of Canada Academic Staff Members agreement includes as a definition of academic responsibilities in its agreement:

*[...] academics have the duty and obligation to be responsible and sensitive to the academic and First Nations communities they serve,*<sup>48</sup>

It also calls on the university to take into account the following principles on intellectual property:

27. Where considering questions about the rights of individual academic staff members regarding intellectual property, the University must take into account the following principles:

*27.1.1 The effective protection of Indigenous Peoples heritage will be of long-term benefit to all.*

*27.1.2 Indigenous Peoples are the primary guardians and interpreters of their cultures, arts, and sciences, whether created in the past or developed by them in the future.*

*27.1.3 Indigenous Peoples' ownership and custody of their heritage is collective, permanent, and inalienable as prescribed by the customs, rules, and practices of each people.*

*27.1.4 To protect their heritage, Indigenous Peoples must exercise control over all research conducted within their territories, or which uses their people as objects of study.*

*27.1.5 The free and informed consent of the traditional owners should be an essential precondition of any agreements that may be made for recording, studying, using, or displaying any Indigenous Peoples heritage. The traditional owners must be determined in accordance with Indigenous Peoples' own customs, laws, and practices.*<sup>49</sup>

46. “Article 31,” *United Nations Declaration on the Rights of Indigenous Peoples*, United Nations, 2007. Accessed online 20 November 2019:

[https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP\\_E\\_web.pdf](https://www.un.org/development/desa/indigenouspeoples/wp-content/uploads/sites/19/2018/11/UNDRIP_E_web.pdf).

47. “USAI Research Framework,” Ontario Federation of Indian Friendship Centres, 2012.

48. University of Regina Faculty Association representing the First Nations University Academic Staff Members Collective Agreement, 2015-2018, Article 2.1.

49. University of Regina Faculty Association representing the First Nations University Academic Staff Members Collective Agreement, 2015-2018, Article 27.

## Occupational Health and Safety (OHS)



*There is good reason to view cultural safety, including but not limited to discrimination and harassment, as an occupational health issue.”<sup>50</sup>*

The OHS Committee could be tasked with understanding and acting on OHS issues that are of particular relevance or specific to First Nations, Métis and Inuit academic staff, such as cultural safety. Cultural safety is a concept and practice that has developed within the health care system so that people feel respected and safe in their interactions. OHS Committees should develop training, protocols and an outreach strategy to ensure the OHS, including cultural safety, of Aboriginal academic staff.

## Governance



*Reconciliation must inspire Indigenous and non-Indigenous peoples to transform Canadian society so that our children and grandchildren can live together in dignity, peace, and prosperity on these lands we now share.”<sup>51</sup>*

Structural change is necessary to truly transform the academy. It will come about by shifting power relations, and fundamentally altering decision-making so that Aboriginal peoples are in control of Indigenous programs and shared governance is a reality.

According to Universities Canada, more than two-thirds of Canada’s post-secondary institutions are working to include Indigenous representation within their governance or leadership structures.<sup>52</sup>

Academic staff associations can negotiate to ensure that Indigenous representation and consultation are not pro forma or tokenistic but have decision-making power. Associations can also use Joint Committee structures to address employment equity issues.

The University of Regina Faculty Association – First Nations University Sessional Academic Staff agreement, for example, has tasked its joint internal relations committee to “promote harmonious relations in keeping with First Nations cultures and values by acting as a liaison between the Faculty Association and the University [...]”<sup>53</sup>

However, a dedicated joint committee may be helpful such as the one recently negotiated by the Brandon University Faculty Association, which is named the “*Indigenization of the Collective Agreement Working Group.*”

The Ryerson Faculty Association has also agreed to create a joint committee to meet not less than monthly to determine proactive measures to expand the complement of Indigenous faculty.<sup>54</sup>

In Ontario, the province’s publicly funded post-secondary institutions are required to establish Aboriginal Education Councils to strengthen relations between the institutions and Indigenous communities and partners, and help to provide a greater voice for Indigenous Peoples in institutional decision-making. An evaluation of these Councils provides some insight into this approach to Indigenization of governance.

*Institutions where the indigenization process is more advanced, advisory committees may be counterproductive, serving to inhibit the comprehensive adoption of a “whole of institution” approach by compartmentalizing the responsibility for Aboriginal concerns. In those cases when indigenization is less advanced, however, the creation of*

50. “First Nations Occupational Health and Safety: A Discussion Paper,” *First Nations Centre*, National Aboriginal Health Organization, 2006.

51. Honouring the Truth, Reconciling for the Future: Summary of the Final Report of the Truth and Reconciliation Commission of Canada, Truth and Reconciliation Commission of Canada, 2015. Accessed online 20 November 2019: [http://nctr.ca/assets/reports/Final%20Reports/Executive\\_Summary\\_English\\_Web.pdf](http://nctr.ca/assets/reports/Final%20Reports/Executive_Summary_English_Web.pdf).

52. Saucier, D. “Advancing reconciliation on campus means going beyond the classroom,” *Universities Canada*, 2018. Accessed online 20 November 2019: <https://www.univcan.ca/media-room/media-releases/advancing-reconciliation-on-campus-means-going-beyond-the-classroom/>.

53. University of Regina Faculty Association representing the First Nations University Sessional Academic Staff Members Collective Agreement, 2017-2019, Article 10.

54. Ryerson University and the Ryerson Faculty Association. Memorandum of Agreement, September 20, 2018.



*advisory committees can serve as a means of bringing communities together for the first time and facilitating the development of mutual understanding and trust.*<sup>55</sup>

## Conclusion

Indigenization of the academy requires that we think carefully about the language, structures and processes of our work as faculty and that we adjust these to ensure that it supports the work that Aboriginal academic staff want to do. It must also ensure that others in the institution understand and act in ways that create organizational cultures that not only are amicable to Indigenous peoples but also affirm Aboriginal and treaty rights of First Nations, Inuit and Métis peoples, an obligation of the Canadian constitution.

Indigenizing the academy is, among other things “a commitment to undertake proactive measures aimed at restoring, renewing, and re-generating Indigenous practices, languages, and knowledge.”<sup>56</sup> The examples in this advisory can guide us as we continue to pursue Indigenization through collective bargaining.

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55. “A Review of Aboriginal Education Councils in Ontario: Final Report,” Academia Group, 2016. Accessed online 20 November 2019: <https://oneca.com/documents/Academica%20Report%202016.pdf>.

56. CAUT Policy Statement on Indigenizing the Academy, 2019. Accessed online 20 November 2019: <https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/indigenizing-the-academy>.