

SPEAKING NOTES – RESPONSE ON INTER-TEAM COMMS AND OBSERVERS

INTER-TEAM COMMS

- We understand you to have raised two separate issues under this topic
 - Communications between bargaining days regarding logistical matters
 - Discussions between the institutional Parties
- We have no issue with respect to formalizing how logistical matters between bargaining dates are handled. We believe that generally those matters would be handled between Peter and Heather but we could see the Chairs interacting on some issues
- We understand and agree that as the bargaining Teams our respective jobs are to communicate our respective positions to each other and to discuss those positions fully at the bargaining table. However, that does not mean that those positions that have been discussed at the table cannot be discussed anywhere else
- Ongoing discussions between the institutional parties has been a feature of our bargaining in this sector since the inception of the Colleges
- OPSEU Central and the CEC “hold the pens” with respect to these negotiations and are directly interested stakeholders
- That point was brought plainly to our attention during our earlier communication regarding concluding a roll-over agreement because of COVID. After accepting a communication from your bargaining Team as the position of OPSEU, CEC was admonished for not awaiting OPSEU’s position on the matter. Mr. Thomas wrote to Graham stating:

I understand that you have already received correspondence from the Chairs of OPSEU/SEFPO’s CAAT-A and CAAT-S PT Bargaining Teams regarding the offer. While we appreciate the confusion this has caused, I must kindly remind you that I am the one who holds the bargaining certificate for OPSEU/SEFPO.

The CEC’s offer letter was addressed to me, as President of this union and I have yet to respond to that inquiry.

- We will not agree to any limitations that would limit or prevent open channels of communications between the institutional Parties
- Your members and local Union officials regularly communicate with local College administrators about bargaining matters

- Those administrators, as our Principals, may then communicate on the CEC and our Team
- We would never expect the local Parties to be directed not to interact
- The managing of those internal communications for our side is a matter for us to manage and control
- Similarly, the CEC and OPSEU Central have a long standing working relationship and are the owners of the collective agreement that we are bargaining
- The matters we are dealing with are directly of importance to them
- Whether OPSEU Central officials engage with CEC officials is up to them
- If the Union wants to limit or control the engagement of their senior officers, that is an internal matter for the Union to sort out and it is not our place to be involved in that
- If Graham calls Smokey about any issue, it is Smokey's decision whether he takes the call and engages in the conversation
- In the past, the relationship between the institutional Parties has been key to concluding successful bargaining without labour disputes
- We see the communications and relationship between our respective senior officers as part of their respective jobs for the purpose of maintaining our overall relationship
- By agreeing to not communicate with your organization's elected senior officers, we would be failing in our obligations
- We will not agree to a limitation that takes that important tool off of the table

OBSERVERS

- We have closely considered the Union's statements about observers and the answers to our questions that were provided yesterday
- First, we can say that we have no issue with the notion that a Party may seek the consent of the other to bring one or more "Subject Matter Experts" to the table to present or otherwise assist. Such Subject Matter Experts will only attend where the Parties mutually agree.
- With respect to observers, however, we have found significant internal and factual inconsistencies in the Union's position

- In your April publication the Union stated that it had passed “a motion to permit the bargaining team to invite Local Presidents and Bargaining Advisory Committee members from each Local to observe the actual process of bargaining with the Employer at the bargaining table.”
- By our estimate that could be upwards of 60 people
- In your responses to us yesterday you have not placed any limitation on the numbers of attendees and have only said it was a unlikely scenario that they would all attend at the same time
- That does not give us any comfort around the size of the audience
- In your responses to our questions you told us that you considered parity in the number of each sides presence at the Table to be an important principle for the Union
- Now you are telling us that you want to be free to bring as many people to the bargaining table as you want
- We find that to be logically inconsistent
- With respect to our history of bargaining there has been no parity in the number of attendees although the numbers on each side have typically been around a dozen
- From the Colleges side, we have always had a varying number (5 to 8) members from the Colleges and a number of staff from CEC including the CEO and VPLR and Legal Counsel, who from time to time, has been our spokesperson
- Our bargaining Team this round consists of the 12 persons that are here consisting of College representatives, CEC representatives and Counsel who are all active professional participants in our Team
- Similarly, the number at the Table for the Union has varied from round to round
- Historically, the consistent feature of the composition of our Teams at the table has been the fact that the entire membership of each Team has been known from the outset and that that membership remained consistent throughout the bargaining process which we feel are critical to a successful negotiation. Other than in exceptional circumstances, all members of both Teams were present for all discussions, ensuring a shared understanding of the evolution of the discussion and the context.
- You are now asking us to allow observers to come and go with no continuity. We consider this to be unacceptable.

- Our respective Teams are not just selected randomly. Rather, the Union has a process in its Constitution and By-laws for the election of your Team. Similarly, the CEC Team is formally empaneled under the CEC's processes.
- We announced our Team, as did the Union, long ago. We have, until now, heard no feedback from the Union respecting the size or composition of our Team, not that this is properly any of your concern.
- As we said yesterday, we have no issue with your Team having a few more staff from OPSEU to participate on your bargaining Team to address the notion of parity
- We did, however, in Graham's letter of June 14th, express our grave concerns about the notion of "Open Bargaining".
- In our questions to you yesterday, we asked you "what the purpose of having observers was?"
- In response, the only additional point that you raised, beyond those previously given, was that in some manner having local people attend to observe the clear, transparent and respectful communications at the bargaining table would be of assistance when we go back to our respective Colleges after bargaining.
- We don't understand that your request to have Local Union Presidents and Bargaining Advisory Committee members attend bargaining from time to time addresses this broader working relationship issue in any event. We have not understood you to suggest that just any member of the bargaining unit could attend, which seems to be at the heart of the point that you made yesterday.
- In any event, what we proposed yesterday would permit your Team, at anytime, to confidentially caucus with your Local Presidents and Bargaining Advisory Committee. You would also be free to consult broadly with your membership 2 hours after the end of bargaining on any given day. In the circumstances, you already have the capacity to be transparent with your membership without introducing the stifling presence of an audience to our bargaining process.
- We don't consider this aim as being directed in any way toward bargaining in good faith and making every reasonable effort to conclude a collective agreement. While our working relationships, both Centrally and Locally, after the deal is done are very important to us, they are not the primary aim of the bargaining process
- Having the ability to have people pop in and out of bargaining from time to time would not advance the principle of transparency. What individuals saw in their brief attendance would lack the context of the larger discussions. Rather our suggestions yesterday around the publication of positions and undertaking not to

misrepresent each other's positions directly addresses the notation of transparency.

- Bargaining serious business with important purposes, it is not a spectator sport. Often, the opacity and being out of the direct glare of the spotlight is critical to reaching specific understandings that allow a deal to be reached which is what is required in the interests of maintaining stability for our students.
- Your bargaining Team is duly empowered under OPSEU's constitution and bylaws to negotiate on behalf of its constituency, is it not?
- There is nothing that prevents from your Team consulting as necessary with any advisors or your constituency, is there?
- At the end of the day, when a tentative agreement is brought to the principals for ratification, each side has the opportunity to fully, completely and transparently describe the agreement and the circumstances leading to it to those principals.
- In your April publication JP was quoted as having said:

“I'm incredibly excited by the delegates' enthusiasm for a more open bargaining table. This motion passed by the delegates means greater transparency around the bargaining process, and hold the CEC accountable for what they say at the table. This will absolutely help to build member engagement, capacity, and solidarity.”
- We are deeply troubled by these stated purposes as we do not see them connected in any way with our mutual obligation to make all reasonable efforts to conclude a collective agreement.
- We don't understand why the Union does not want to talk with us without an audience.
- Do we understand your position to be that you will not bargain with us unless we agree to permit an audience to attend to observe?