

UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL
REPORT NUMBER 149 OF
THE UNIVERSITY AFFAIRS BOARD

November 4, 2008

To the Governing Council,
University of Toronto.

Your Board reports that it met on Tuesday, November 4, 2008 at 4:30 p.m. in the Council Chamber, Simcoe Hall, with the following members present:

Dr. Claude Davis, In the Chair
Ms B. Elizabeth Vosburgh, Vice-Chair
Professor Jonathan Freedman, Deputy Provost,
and Acting Vice-Provost, Students
Ms Lucy Fromowitz, Assistant Vice-President,
Student Life
Ms Mariana Bockarov
Dr. Louise Cowin
Mr. Ken Davy
Ms Judith Goldring
Mr. Grant Gonzales
Professor William Gough
Mr. Reza Hajivandi
Mr. Keith Ho
Mr. Ben Liu
Mr. Chris McGrath
Ms Anna Okorokov
Mrs. Fiorella Shields
Mr. John David Stewart
Mr. David Stiles

Non-Voting Assessors:

Mr. Louis R. Charpentier, Secretary of the
Governing Council
Mr. Jim Delaney, Director, Office of the Vice-
Provost, Students
Mr. Tom Nowers, Dean of Student Affairs,
University of Toronto at Scarborough
(UTSC)
Mr. Mark Overton, Dean of Student Affairs,
University of Toronto at Mississauga
(UTM)
Ms Elizabeth Sisam, Assistant Vice-President,
Campus and Facilities Planning

Secretariat:

Mr. Henry Mulhall (Secretary)

Regrets:

Ms Diana A.R. Ali
Mr. Stephen Job
Professor Bruce Kidd
Professor Jill Matus, Vice-Provost, Students
Dr. Sarita Verma

In Attendance:

Mr. P.C. Choo, Member of the Governing Council
Mr. Jeff Peters, Member of the Governing Council
Ms Aisling Burke, Office of the Vice-Provost, Students
Ms Sheree Drummond, Assistant Provost
Ms Joeita Gupta, Vice-President, Internal, Association of Part-time Undergraduate Students (APUS)
Ms Nancy Smart, Judicial Affairs Officer, Office of the Governing Council
Ms Mae-Yu Tan, Assistant Secretary of the Governing Council
Ms Alison Webb, Committee Secretary, Office of the Governing Council

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ALL ITEMS ARE REPORTED FOR INFORMATION.

1. Chair's Welcome and Orientation Remarks

The Chair welcomed members, assessors and guests to the first meeting of the Board for the 2008-09 governance year. He noted that members had received an agenda package of documentation mailed out a week in advance of the meeting. This included detailed orientation documentation which outlined the role of members as fiduciaries, or trustees within the University's governance system. If members had questions that were not addressed by the orientation documentation, they could direct them to the Secretary, to him, or to any member with more extensive governance experience. In lieu of repeating the detailed information contained in the documentation, the Chair provided a general overview of the Board and its work.

He informed members that the Board was one of three boards, along with the Academic and Business Boards, that reported directly to the Governing Council. Its specific area of responsibility was for the consideration of non-academic matters relating to campus and student life. With its large number of student members, the Board was the governance body where the voice of students was perhaps expressed most clearly. It had several areas of responsibility within the general category of 'campus and student life', most notably, the various campus and student services, equity issues, oversight of elections to Governing Council, non-academic relations within the University community (including Campus Police and non-academic discipline), student societies and campus organizations, and fees charged for the operation of services and for student societies.

The Board's membership for 2008-09 consisted of 26 members drawn from the various constituencies of the University: administrative staff, alumni, government appointees, students, and teaching staff. It included both a majority of members of the Governing Council (so that the Board could approve items under delegated authority) and a majority of members from within the University (i.e. students, staff and faculty). It would be led in its work by the Chair and Vice-Chair, as well as the two voting assessors who were members of the University administration and would present many items of business to the Board for consideration. The Board also had 8 non-voting assessors who were members of the administration with responsibilities for campus and student life.

The Board's main functions were: to approve fees for student societies; to approve operating plans and mandatory fees for campus and student services; to review capital project plans for residences, parking and 'campus life' facilities and to concur with the Academic Board in recommending them to the Governing Council for approval; to approve Elections Guidelines; to approve bylaws and bylaw changes for incorporated student societies; and to receive reports for information. The receipt of reports was an important monitorial function that allowed the administration to communicate with the Board about many aspects of the student experience and campus life. In addition, it provided the Board with an opportunity to ask questions and to provide constructive advice to the administration.

Finally, the Chair reminded members that they, as members of a governance body, had a responsibility to ensure that the University was managed well, but not to manage the University itself. That is, the Board oversaw the work of the administration to ensure that it was acting according to the policies and priorities that governance had approved. Members of the Board acted as fiduciaries, or trustees, in the best interests of the University as a whole, and not of any particular constituency or group. As a result, they had the responsibility to prepare thoroughly for meetings, to ask appropriate questions, and to satisfy themselves that the administration was effectively meeting its mandate. Members were charged with the duty to act as stewards for the institution, not just for the current year, but for the long term.

REPORT NUMBER 149 OF THE UNIVERSITY AFFAIRS BOARD – November 4, 2008**2. Report of the Previous Meeting**

Report Number 148 (June 2, 2008) was approved.

3. Business Arising from the Report of the Previous Meeting

- (a) Update Regarding University of Toronto at Mississauga Part-time Student Societies: Fees, and University of Toronto at Mississauga Students' Union: Recognition as a Representative Student Committee (for information)

Professor Freedman noted that the Board had, at its June 2, 2008 meeting, approved a number of changes to student society fees charged to part-time undergraduate students at the University of Toronto at Mississauga (UTM). In the spring of 2008 the University administration had received a request from the presidents of the Erindale College Students Union (operating as the University of Toronto at Mississauga Students' Union, UTMSU) and the association of Erindale Part-time Undergraduate Students (EPUS) to realign student society fees charged to part-time UTM students and the formal representation to the Governing Council of part-time undergraduate UTM students. The request had been based upon the results of a referendum held among UTM part-time students. Subsequent to the request to the administration, the Association of Part-time Undergraduate Students (APUS) had initiated legal proceedings against UTMSU and EPUS regarding the process used to support the request. Given that the June 2, 2008 meeting was the final meeting of the University Affairs Board for 2007-08, the administration had believed it was important to proceed with consideration of the matter at that time by the full Board instead of under Summer Executive Authority. However, the administration also undertook to APUS that if the court subsequently found that the process leading up to the request had been defective and the changes should not have occurred, the University would remit the fees which ordinarily would have been collected for APUS and EPUS to those bodies instead of UTMSU, and would reinstate APUS as the formal representative student committee for part-time UTM students. Professor Freedman noted that this detailed background information, including the undertaking to APUS, was documented in the Report of the Board's June 2, 2008 meeting.

APUS had subsequently sought an order from the Ontario Superior Court of Justice to invalidate the process leading up to the request to the administration. Specifically, APUS argued that its own by-laws and rules should have been used to effect membership and fee changes which impacted APUS, and that the process had been unfair because APUS had not received appropriate notice of the referendum. On August 27, 2008, the Court had issued an order in favor of APUS' application. Specifically, the court had determined that there had been fundamental flaws in the referendum process.

As recorded in the Report of the June 2, 2008 meeting, the Board had been fully informed of the possibility that a court decision might impact the new fees if APUS received a court decision in its favor. Thus, a resolution to rescind the original approval of fee changes was not required. The administration had already undertaken the necessary actions to remit the appropriate funding to APUS and EPUS and would, beginning with the summer 2009 session, adjust the fees schedule to reflect those changes. With respect to the change in representation, on October 23, 2008, the Governing Council had approved a resolution to rescind its recognition of UTMSU as the representative student committee for part-time UTM students. The end result was that the approvals of the Board and of the Governing Council in June 2008 with respect to this matter had now been reversed.

The Chair invited Ms Joeita Gupta, Vice-President, Internal of the Association of Part-time Undergraduate Students (APUS) to address the Board. She requested on behalf of APUS that the Board rescind the motions it had passed at its June 2, 2008 meeting with respect to UTM part-time student

REPORT NUMBER 149 OF THE UNIVERSITY AFFAIRS BOARD – November 4, 2008**3. Business Arising from the Report of the Previous Meeting (cont'd)**

- (a) Update Regarding University of Toronto at Mississauga Part-time Student Societies: Fees, and University of Toronto at Mississauga Students' Union: Recognition as a Representative Student Committee (for information) (cont'd)

society fees. In her view it was important that the historical record be corrected, and that the administration's actions to reverse the fee changes follow a Board motion. In APUS' view, this lengthy and costly issue could have been avoided. It had informed the administration and the Board that the referendum process had been invalid. APUS therefore requested that the University reimburse its legal costs. In APUS' view, it was unfair that it should have to incur significant costs for a legal challenge that had been forced upon the Association.

There followed a brief discussion of the costs incurred in the legal proceedings. It was noted that these proceedings had been undertaken by APUS against UTMSU and EPUS, and that the University had not been a party to the proceedings. The Chair concluded, with the agreement of the Board, that this was a matter between the various student groups, and not one for the Board's consideration.

Professor Freedman responded to the requests made by APUS. The request from UTMSU and EPUS had followed the normal procedures with respect to changes to student society fees. The administration had acted, as it normally had done, on the assurances of the student societies that appropriate procedures had been followed. It had not received any complaints on the matter until it had been advised of APUS' court application against UTMSU and EPUS. Based on the available evidence, the administration had concluded that the process leading up to the request by UTMSU and EPUS had been legitimate. However, it had also undertaken to reverse the decisions of the Board and the Governing Council if the court found a flaw in the referendum process.

The Chair noted that this matter had been concluded by the Governing Council at its October 23, 2008 meeting. The Board had been provided with an update for information only, and no Board action was required or appropriate.

There was no other business arising from the Report of the previous meeting.

4. Calendar of Business for 2008-09

The Chair noted that the Calendar of Business listed the items scheduled to come before the Board during the 2008-09 governance year. It changed regularly, for a variety of reasons, including the emergence of new priorities and issues. The most up to date version was posted on the Governing Council website.

5. Report on Approvals under Summer Executive Authority

The Chair stated that this was an annual report of any matters under the authority of the Board that had been approved on its behalf by the President and Chair of the Governing Council under summer executive authority, that is, since the last regular meeting of the Board during the previous governance year. There had been no approvals within the Board's terms of reference during the summer of 2008.

REPORT NUMBER 149 OF THE UNIVERSITY AFFAIRS BOARD – November 4, 2008**6. *Election Guidelines 2009***

The Chair noted that the approval of minor editorial or updating amendments to the *Elections Guidelines* was delegated to the Board by the Governing Council. Major amendments were recommended to the Governing Council for approval. No such major amendments had been made to the *Guidelines* for 2009.

Mr. P.C. Choo reported on behalf of the Elections Committee that the proposed minor revisions consisted of both formatting and substantive changes. The intention of the former had been to make the *Guidelines* more user-friendly. For instance, the content had been reorganized so that all the relevant information for each constituency was located in an easily located separate section. In addition, the section on the responsibilities of governors had been given more prominence by being moved to the beginning of the *Guidelines*. The goal was that prospective candidates would reflect carefully on their role and gain a deeper understanding of the Governing Council. Mr. Choo highlighted three of the substantive changes. Student candidates would henceforth be eligible for reimbursement of expenses regardless of the number of votes they received in the election. Greater flexibility had been provided for determining the length of the web-based voting period which would no longer be restricted to 5 days. Finally, a statement had been added that teaching and administrative staff candidates had to be provided with reasonable access to members of their constituency during the campaign period. A statement on campaigning in St. George campus student residences had been added in 2008, and similar statements for UTM and UTSC campuses would be added during the upcoming year.

A member noted that it was proposed that a candidate who wished to withdraw from the election would henceforth be required to sign a statement in person in the Office of the Governing Council in the presence of the Chief Returning Officer or his/her designate. He asked what would occur in a situation where the candidate was incapacitated in hospital. Ms Smart noted that the intention of the proposed change was to make it easier for candidates to withdraw by eliminating the requirement that they submit a notarized statement to that effect to the Chief Returning Officer. Under the proposed change, were a candidate to be incapacitated, every opportunity would be provided to allow for his or her withdrawal. Given that such a scenario was rare, it was not necessary that it be specifically provided for by the *Guidelines*. The Chair noted that the discussion would be recorded in the Report of the Board, and that the issue could be discussed by the Elections Committee when it prepared the *Guidelines* for 2010. He also noted the significant effort that had been involved in the reorganization and revision of the 2009 *Guidelines*, and commended all those involved.

On a motion duly moved, seconded, and carried,

YOUR BOARD APPROVED

The [*Election Guidelines 2009*](#).

7. Reports of the Elections Committee

Members received for information the following reports of the Elections Committee:

- (a) Report Number 51 – September 18, 2008 (including the Report on Elections, 2008)
- (b) Report Number 52 – October 14, 2008

Mr. Choo reported that a call for comments on the election process in September 2008 had resulted in valuable feedback from the University community, particularly from students. The Elections Committee had received a far greater number of responses than in previous years. It had deliberated about effective means of generating greater interest in and enthusiasm for participation in University governance. To that

REPORT NUMBER 149 OF THE UNIVERSITY AFFAIRS BOARD – November 4, 2008**7. Reports of the Elections Committee (cont'd)**

end it had made a submission to the Task Force on Governance, and this memorandum was attached to Report Number 52. For the 2009 election process, the Committee would explore the increased use of technology as a means to provide information about the Governing Council.

8. Report of the Senior Assessor

Professor Freedman noted that the administration, under the *Policy for Compulsory Non-Academic Incidental Fees*, collected fees on behalf of student groups. It had a responsibility to the students who paid these mandatory fees to be satisfied that the student groups in question were operating in an open, accessible, and democratic fashion. If the Vice-President and Provost had reason to believe that this was not the case, the society's fees could be withheld.

Professor Freedman reported that the administration had recently decided to withhold fees from the Arts and Science Student Union (ASSU). In April 2008, the Office of the Vice-Provost, Students had received complaints from a number of students with respect to the ASSU elections which had been held on two dates in March and April, 2008. ASSU's constitution provided that the president and the executive were to be elected by the course union representatives on the ASSU Council. The allegations were that improper and undemocratic procedures had been used to first overturn the presidential election which had been held on March 18, 2008 and then to elect a president and the executives-at-large on April 23, 2008.

Under the provisions of the *Policy*, the Office of the Vice-Provost, Students had initiated an enquiry into these allegations, asking the student society to respond to the allegations and to provide additional relevant documentation and information. The enquiry had been completed in September 2008, and based on its findings, the Vice-President and Provost had concluded that she had reason to believe that ASSU was not operating in an open, accessible, and democratic fashion. Consequently, payments of student society fees to the society were withheld.

Subsequently, the ASSU Council had revised its electoral procedures and new elections had been scheduled for October 28, 2008. Following this election, the newly elected president had requested that ASSU's fees be released following the conclusion of the elections appeals period on November 4, 2008. Accordingly, the Office of the Vice-Provost, Students had instructed the Student Accounts office to release ASSU's September fee payment on Wednesday, November 5, 2008.

Professor Freedman stated that this complaint, as well as the matter related to representation and society membership for part-time UTM students were among the reasons that the Interim Vice-President and Provost had decided to establish an Advisory Committee on Democratic Processes in Student Government. He referred members to its terms of reference and membership that had been placed on the table. The Committee had not been established in order to interfere in any manner in the affairs of student societies. Rather it would provide advice that would inform the development of Provostial Guidelines to provide clarity with respect to what constituted open and democratic

processes. These would be intended to assist and reassure both student societies and the Provost's Office in dealing with these matters.

A member asked if the Committee would exist only for a few months, or if it would be available for the longer term to deal with matters as they arose. Professor Freedman replied that it did not have a definite termination date. Its work would be concluded when it provided its advice to the Provost, but there was a possibility that it could be reconvened at the Provost's discretion. The member suggested

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that it might be worthwhile to consider having the Committee available during student election periods to provide advice as needed. The leadership of student organizations changed constantly, and ongoing advice might be required. Professor Freedman said that this could be considered, but that the intention of the Provostial Guidelines would be to provide parameters for all concerned parties. Student societies could be reassured that if they complied with the Guidelines that their processes were appropriately open and democratic. Staff in the Office of the Vice-Provost, Students would also be available to provide advice.

At the Chair's request, Mr. Delaney informed the Board that it would receive a number of annual reports that were relevant to these matters. It would receive two Reports on Recognized Campus Groups, as well as a Report and Internal Auditor's Opinion on the Financial Statements of Student Societies.

9. Date of the Next Meeting

The Chair informed members that the next regular meeting of the Board was scheduled for Tuesday, December 9, 2008 at 4:30 p.m. He indicated that there were currently no items of business on the agenda for the December meeting, and that it was likely to be cancelled. If so, the Secretary would confirm the cancellation well in advance of the meeting date. He added that in recent years there had been insufficient business to hold a meeting of the Board in each of the seven governance cycles of the year. Most years, two of the scheduled meetings had been cancelled. The Board's Calendar of Business would be considered by the Task Force on Governance, and it could be that fewer meetings would be scheduled in coming years.

10. Other Business**Governing Council Elections: Deputy Returning Officers – Appointment**

The Chair noted that the *Elections Guidelines 2009* provided for the appointment of one or more Deputy Returning Officers to assist the Chief Returning Officer with the conduct of Governing Council elections. The appointments were made by the Secretary of the Governing Council and reported to the University Affairs Board for information. The Secretary had advised that he had appointed Ms Mae-Yu Tan, Assistant Secretary of the Governing Council, and Ms Alison Webb, Committee Secretary in the Office of the Governing Council to serve in this capacity.

There was no other business to transact in open session.

On a motion duly moved, seconded, and carried,

The Board moved *in camera*.

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In Camera Session

11. Service Ancillaries Review Group: Appointment of University Affairs Board Members

On a motion duly moved, seconded, and carried,

YOUR BOARD APPROVED

THAT the following be appointed to the Service Ancillaries Review Group for 2008-2009:

Ms. Diana Alli
Mr. Grant Gonzales
Mr. Chris McGrath

12. Striking Committee: Appointment for 2008-09

On a motion duly moved, seconded, and carried,

YOUR BOARD APPROVED

THAT the following be appointed to the University Affairs Board Striking Committee for 2008-2009:

Dr. Claude Davis (Chair, ex officio)
Ms Judith Goldring (Lieutenant Governor in Council appointee)
Professor William Gough (teaching staff)
Ms Anna Okorokov (student)
Ms Fiorella Shields (administrative staff)
Ms B. Elizabeth Vosburgh (alumni)

13. Council on Student Services (COSS) – Chair: Appointment

On a motion duly moved, seconded, and carried,

YOUR BOARD APPROVED

THAT Ms Joeita Gupta be appointed Chair of the Council on Student Services (COSS), effective immediately until April 30, 2009.

On a motion duly moved, seconded, and carried,

The Board returned to open session.

The meeting adjourned at 5:35 p.m.

Secretary

Chair

November 5, 2008