



TO: Members of the Business Board

SPONSOR: Richard Nunn, Chair, Governing Council

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DATE: September 19, 2011

AGENDA ITEM: 10

TITLE OF ITEM OF BUSINESS: Business Board Terms of Reference: Proposed Revisions Arising from the Implementation Committee for the Task Force on Governance

ACTION:

- For Information

JURISDICTIONAL INFORMATION:

- Section 2(14) (e) of the *University of Toronto Act* empowers the Governing Council to “appoint committees and delegate thereto power and authority to act for the Governing Council with respect to matters, provided that where power and authority to act for the Governing Council are delegated, a majority of the members of the committee shall be members of the Governing Council.” Section 2(14)(na) permits delegation of authority to act for the Governing Council to committees that lack a majority of members from the Governing Council in certain purely academic areas: examinations, student academic awards, admission standards, curriculum and academic requirements.
- The Governing Council has established Boards and Committees and assigned responsibilities among those bodies through their terms of reference. The Governing Council has periodically approved changes in Board and Committee terms of reference to respond to changing circumstances and expectations of governance.

PREVIOUS ACTION TAKEN:

On October 28, 2010, the Governing Council approved in principle the [*Report of the Task Force on Governance*](#) and the 32 recommendations outlined in the *Report*. The Governing Council also established an Implementation Committee led by then Vice-Chair Richard Nunn. The mandate of the Implementation Committee was to oversee and coordinate implementation of the Task Force’s recommendations, ensuring appropriate participation among relevant bodies of governance, administrative offices and the Secretariat.

The Task Force recommended that, as a guiding principle, transactional matters be delegated to either the lowest appropriate level within governance, or where appropriate, to the administration with reporting back of decisions to a suitable level of governance. As expected, this principle has been key to the Implementation Committee's work on proposed revisions to Board and Committee Terms of Reference. Recommendations 15, 19 and 20 specifically provide for the re-distribution of and greater delegation of responsibility; for the clarification and reduction of intersection with other Boards' responsibilities; and the re-assignment of selected responsibilities to the Academic Board, Business Board, Executive Committee and the proposed Campus Affairs Committees. Finally, recommendation 30 called for a reduction or elimination of routine or transactional items to enhance efficiency through consent agendas.

The Task Force Report described the use of consent agendas as "delegation with continued oversight" – that is, the consideration of specific classes of more routine approval items to facilitate more careful consideration of major items, a common practice for governing boards.

On October 28, 2010, the Governing Council also approved the establishment of the new Pension Committee and the delegation of certain previous Business Board responsibilities to the Pension Committee.

HIGHLIGHTS:

The major amendments proposed are as follows. (Numerous additional amendments represent simple housekeeping.)

- **Item 5 – Areas of Responsibility: Human Resources and Equity.** It is proposed that the responsibility for "personnel policy for administrative staff (except librarians)" be revised to replace the term "personnel" with the term currently used in the University and elsewhere, "human resources."
- **Item 5.1(b) - Financial Policy and Transactions.** It is proposed to add a footnote to establish a new responsibility for the Business Board in the area of financial policy– policy governing non-financial aspects of University investments. That responsibility was previously exercised by the University Affairs Board. The Board would review reports on the operation of any non-financial, as well as financial, aspects of University investments. At the present time, the Board would, for example, review reports from the Responsible Investing Committee.
- **Item 5.3 – University property and physical plant.** The current terms of reference refer to "University-owned or leased property, physical plant, equipment and related matters." The Board is responsible for "approval of general policies on the acquisition and disposal of equipment" and "approval of any general policies governing the maintenance of buildings and grounds." In fact, no policies

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concerning acquisition and disposal of equipment and maintenance of physical plant have come before the Board for many years, if ever. It is suggested that those matters are too detailed to be of concern to University governance, particularly in the light of Task Force of Governance emphasis on consideration of matters of strategy and broad policy. It is therefore proposed that the matters be deleted from the responsibilities of the Business Board. To ensure clarity, at least during a transitional period, it is proposed that they be noted in the responsibilities of the President or designate for matters in the normal course of business.

Reports to the Board of approvals in this area, now required for “any major transactions” would be required only for “matters of major significance to the University.”

- **Item 5.4 – Ancillary operations.** The current terms of reference require Business Board “acceptance of annual reports and financial statements” from the incorporated ancillary operations – the University of Toronto Press and the University of Toronto Asset Management Corporation. For some years, that acceptance was achieved by a resolution of the Board, indicating the Board’s view that the work of the corporation was proceeding satisfactorily. The consequence of any negative vote was to be a signal to the Executive Committee of the Governing Council to make changes in the membership of the Board of the corporation. In practice, there were no negative votes. In more recent years, the Board has agreed that no such resolution should be required. It is proposed that the nature of the Board’s role be reflected more clearly by stating its responsibility as “review of” rather than “acceptance of” annual reports and financial statements.
- **Item 5.5 – Fundraising.** The current terms of reference make the Business Board responsible for making recommendations to the Governing Council concerning “policies and plans” for major campaigns and (with the concurrence of the Academic Board concerning academic priorities) for general priorities for campaigns. Given the importance of campaigns and given the need for academic advice concerning priorities, it makes sense to leave in place the current provision for approval at the level of the Governing Council.

The Board is also responsible for recommendations to the Governing Council concerning the acceptance of gifts with “terms and conditions of an unusual nature.” The provision has rarely been put into effect. It arose from a proffered gift of a major art collection, accompanied by the requirement that it be maintained and displayed in the benefactors’ former family home. (The gift was not accepted, in part because of the concerns of the neighbourhood.) The Provision was applied again when a major gift to an academic division was

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accompanied by detailed terms and conditions. Given these unusual circumstances, and their potential academic implications, it makes sense to keep the provision in place.

The Board is also charged to approve three matters itself.

- approval of strategies and policies concerning the general conduct of fundraising
- approval of policies on the receipt, acknowledgement and use of gifts and bequests
- approval of the designation of the use of unrestricted gifts and bequests over \$500,000 (1996 dollars)

No matters concerning strategies and policies concerning the general conduct of fundraising and no policies on receipt, acknowledgement and use of gifts have come before the Business Board for many years, if ever. It is proposed, in the general spirit of the Task Force on Governance, to move those matters to the responsibility of the President or designate.

There have for many years been no proposals to the Board for the designation of unrestricted gifts. Presumably, the designation of gifts has formed the topic of discussions with the benefactor in advance of the donation. It is, however, proposed that the provision be left in place, with the amount increased from \$500,000 to \$2-million (in 2011 dollars).

The Board has for many years received an annual report from the Vice-President, Advancement. It is proposed that the responsibility now be stated formally in the terms of reference.

- **Item 5.9 – Human Resources policy for administrative staff (except professional librarians) and benefit programs for all employees.** As in section 5 dealing with the general responsibilities of the Board, the reference to personnel matters is replaced with the newer term, Human resources matters.

The current terms of reference refer to a responsibility exercised by the President or designate before provincial legislation ending mandatory retirement at age 65 - approval of appointments beyond the usual retirement age within established policies. That responsibility is removed from the terms of reference along with the responsibility for the approval of early retirements before the usual retirement age of 65. Provision for the approval of early retirements is currently delegated by means of Board approval of regular or special early retirement provisions in the pension plan.

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- **Item 5.12 – Health and safety.** Consistent with the theme established by the Task Force on Governance, it is proposed that responsibility for policy in the area of health and safety be exercised at the level of the Business Board rather than the Governing Council.
- **Item 5 – Procedures: Consent agenda and additional reports for information.** The Business Board has for several years used the “consent agenda” procedure. The Chair may include certain more routine items on the agenda of any meeting as “consent” items. Such items would normally be dealt with without presentation or discussion. Rather members would be invited to put any questions to the sponsor by means of a call or an electronic message before the meeting. Any member with concerns could request that the item be dealt with in the usual way. The process would continue to facilitate the Board’s focusing its attention on the more substantial items on the agenda.

It is proposed that similarly, certain reports for information could be published electronically, members notified of the publication, and questions again put to the sponsor between meetings. Again, with sufficient notice, any member with a concern could request that the item be placed on the agenda of the next Board meeting. Again, the process would enable the Board to focus its attention on the more substantial items on the agenda. In addition, publication of items between meetings would keep members abreast of developments in a timely manner.

BUDGETARY/FINANCIAL IMPLICATIONS:

N/A

ACTION:

- For Information only.