



OFFICE OF THE CHAIR
THE GOVERNING COUNCIL
UNIVERSITY OF TORONTO

February 6, 2003

Memorandum to: Members of the Governing Council

From: Thomas H. Simpson

Re: Procedure for Consideration of Tuition-Fee and Budget Proposals

At its meeting of May 2, 2002, the Governing Council received notice of the following motion:

That, for next year's tuition fee schedule and budget, any proposed increases in excess of 5% be considered separately.

The Executive Committee, at its meeting of May 21, 2002, referred the notice of motion to the Vice-President and Provost for advice. At the Executive Committee meeting of October 18, 2002, Professor Neuman (according to Report Number 353) "indicated that it would not be appropriate, nor would she be willing, to separate out tuition fee increases in excess of 5% within the tuition fee schedule and budget. It would not be possible to prepare a budget without seeking approval of the schedule or the budget as a whole. She reminded members that the Governing Council had decided that tuition and student financial support were distinct matters, and that accessibility must be assured regardless of the amount of tuition."

Professor Neuman's advice reflects a long-standing convention concerning consideration of the tuition-fee schedule and the budget: that they form a whole cloth which would not retain its integrity if any piece is removed. This convention holds that it is practically speaking impossible to amend one element without affecting the others. If one element of the expense budget is increased, either another must be reduced or new revenue found or a deficit accepted. Similarly, if one tuition fee is reduced, others must be reconsidered both for reasons of fairness and for reasons of maintaining the necessary level of revenue.

Given this context, the Executive Committee at its meeting of February 3, 2003 considered a process that would formally dispose of the notice of motion while allowing consideration of both the member's intention in giving notice of motion and the Provost's advice.

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Members of the Executive Committee agreed that the appropriate step for a member with concerns about some specific aspect(s) of the “Tuition-Fee Schedule for Publicly Funded Programs” is to make a motion at the Governing Council to refer the entire schedule back to the Business Board with a view to reconsidering the aspect(s). A vote to support the motion to refer back would signal that the Governing Council was not willing to approve the particular aspect(s) of the proposal in its present form. Referral back would then give the administration the opportunity to deal with the Council’s concern while maintaining the integrity of the whole proposal – making other adjustments that might be required to the tuition fee schedule to take into account the aspect that had not won the support of the Council. The administration

would be able to submit a new piece of whole cloth to the Business Board. A similar motion would be in order with respect to the budget, with the referral back to the Academic Board.

This procedure could, of course, cause delay. A successful motion to refer back would delay the approval of the full tuition-fee schedule or the full budget report. Nonetheless, this has traditionally been thought the lesser of two evils. Where there have been delays in the approval of the tuition fee schedule (previously caused by late government announcements), students have been charged the proposed fees, but they have been advised that the fees remained subject to Governing Council approval and that additional charges or refunds would be made if necessary. With respect to delays in the Budget Report (again previously caused by delayed government announcements), the Business Board has been asked to approve interim spending authority equal to two-twelfths of the proposed budget, with the understanding that adjustments would be made to appropriations for the remainder of the year if necessary.

It would be very important that motions to refer back not be put on the floor until a full discussion of all aspects of the proposals. It would not be appropriate for the Council to consider a motion to refer back with a view to re-examining factor (a) only then to pass a motion at the next meeting to refer back with a view to re-examining factor (b). Rather, the Council should debate all aspects of the proposals, and any motion to refer back should consider all factors that might be of concern to the Council as a whole. If necessary, a straw vote could be held on inclusion of particular factors in any later motion to refer back.

It is important that this procedural question be dealt with before the tuition-fee schedule for publicly funded programs and the budget report for 2003-04 come to the Council. A debate that focuses on procedural questions when the tuition fee schedule or the budget is before Council would detract from a debate on the substantive merits of the matter. In addition, some members who might support the objective of a particular procedural motion might be unwilling to vote for it because of their unwillingness to risk the integrity of the entire fee schedule or budget. They might, in other words, be sympathetic to the objective of a procedural motion but be unwilling to cut into the whole cloth. The procedural matter and the substantive matter would best be determined separately, with the clarity of the debate on each matter not disturbed by considerations related to the other matter. The Executive Committee is therefore recommending to the Governing Council a process for consideration of the tuition fee schedule and the budget report.

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This recommendation is not intended to constrain members of the Governing Council in their discussion of the tuition fee schedule or the budget; it is simply intended to allow discussion of the procedural matter before the substantive motion is considered by the Governing Council. Similarly, it is not intended to be a subtle rewriting of By-Law Number 2. The recommendation will reaffirm and formalize an existing convention. It also alerts members to the appropriate motion to be made and provides the Chair with a clear basis on which he may rule out of order a motion to divide or amend motions with respect to these items. The process is a flexible one that gives the Chair the discretion to apply it in most cases, but to depart from it in the case of unforeseen circumstances.

In the absence of such a determination in advance by the Governing Council, there would be real procedural risks. A motion to divide would allow for no debate on the procedural matter. Such a motion would not be debatable, apart from the mover briefly explaining the reason. The argument for integrity of the whole proposal could not in those circumstances even be put before Council and discussed. The Chair might rule out of order a motion to divide based on the “whole cloth” convention or on the basis that it is not possible to divide a motion such as “that the tuition fee schedule be approved” or “that the budget report be approved.” That ruling would, however, be subject to appeal. Again, an appeal of the Chair’s ruling is not debatable, apart from the mover briefly stating her/his reason. A motion to amend at the Governing Council would clearly be out of order, given the procedure established by the Council in 1988 that after the level at which a proposal is first introduced, “the proposal will normally be considered at that [higher] level in the accept, reject, refer-back manner.” (Report of the Chairman’s Advisory Group on Governance [Balfour Report], approved by the Governing Council on May 19, 1988.) A motion to divide a whole cloth proposal in order to accept one part and reject another part is in substance an amendment and therefore is also contrary to the Balfour convention.

The Executive Committee recommends to the Governing Council the following procedure for consideration of tuition fee and budget proposals:

- (a) THAT the Governing Council consider each of the following as integrated proposals:
- the tuition fee schedule for publicly funded programs,
 - long-term budget guidelines or frameworks, and
 - budget reports,

and that any member who opposes a part(s) of these proposals put forward, after a full debate on the entire proposal, a motion to refer back to the appropriate Board the entire proposal with a view to reconsidering the relevant part(s); and

- (b) THAT motions to amend the above proposals or to divide the proposals for separate consideration could be ruled out of order at the discretion of the Chair.