

Report of the Ad-Hoc Committee on Governance

Submitted to Academic Council

University of Ontario Institute of Technology

The Committee:

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Report of the Ad-Hoc Committee on Governance

At its May 17, 2011 meeting, Academic Council (Council) created an Ad-Hoc Committee on Governance. The mandate given the Committee was to examine the UOIT Act and Bylaws with respect to the governance structure of the University and to submit a final report by the November 2011 meeting of Council. Delays in establishing the Committee meant that the Committee membership was not approved until the September 2011 meeting of Council. This delay necessitated a request by the Committee to alter the date for submission of its report. At the November 2011 meeting of Council it was agreed that the Report would be submitted in March 2012. The Committee is pleased to submit this report for consideration.

As part of its review of the governance structure the Committee identified three key areas of concern.

- The relation between the Board of Governors (the Board) and Academic Council.
- The name “Academic Council”
- The composition of Academic Council

In reviewing these issues, the Committee examined the structures, bylaws and mandates of similar bodies at all other Universities in Ontario. The intent was to use this review as a guide with respect to establishing "best practices."

The Relation between the Board of Governors and Academic Council

As established in the UOIT Act, Section 10.2, Academic Council

...shall make recommendations to the board with respect to the establishment of academic standards and curricular policies and procedures of the university and the regulation of such standards, policies and procedures and shall make recommendations on such other matters as may be referred to it by the board.

It is also to be noted that Section 8.10(b) of the Bylaws specifies that

Subject to the general authority of the Board to plan, determine policies for and provide for the overall development of the University, including the Board's authority to approve strategic plans, budgets and expenditure plans, Academic Council holds delegated authority from the Board to establish academic standards and curricular policies and procedures of the University and to regulate such standards, policies and procedures..."

Thus, Council has already been delegated authority to establish academic standards, policies and procedures for the University. Further, in meeting the criteria for membership in the Association of Universities and Colleges of Canada (AUCC), UOIT was required to have a governance and administrative structure appropriate to a university, including a bicameral system of governance. In practice, the Board has respected Council's decision making on these matters.

Nonetheless, Section 10.2 of the Act does grant final authority on academic matters to the Board. This fact has led to considerable discussion and concern among some Council members about whether or not UOIT is truly bicameral. One way to clarify this situation would be for the University to seek an amendment to the Act that would recognise Council's authority in such matters. A minority of the Committee members were of the opinion that this would be the most desired option. However, the majority believe that to ask for a legislative change was not necessary at this time. Nonetheless, the full Committee agrees that an amendment to the Act that would establish in the Act itself that Council has authority in such matters would be desirable when and if the UOIT Act is amended.

Thus the decision of the Committee is that what is needed is to clarify and define the authority of Council to achieve its delegated authority by amending the University's Bylaws where there are references to the Board as the final authority in Council's designated areas of authority. According to Section 9.1(n) of the UOIT Act the Board may decide "...to conclusively determine which body within the university has jurisdiction over any matter." This leads to Recommendation # 1:

Recommendation #1

The Committee recommends that Section 8.10(b) of the Bylaws be amended by deleting the phrase "Subject to the approval of the Board" from Section 8.10(b).

The revised Section 8.10 would read as follows:

- (a) *Subject to the general authority of the Board to plan, determine policies for and provide for the overall development of the University, including the Board's authority to approve strategic plans, budgets and expenditure plans, Academic Council holds delegated authority from the Board to establish academic standards and curricular policies and procedures of the University and to regulate such standards, policies and procedures, including the powers:*
- (i) *To govern academic standards for admission of students to the University and for graduation;*
 - (ii) *To determine and regulate the contents and curricula of all courses of study;*
 - (iii) *To govern matters arising in connection with the award of fellowships, scholarships, medals, prizes and other awards for academic achievement;*
 - (iv) *To provide for the conduct of examinations and the appointment of examiners;*
 - (v) *To provide for the hearing and determination of appeals by students from decisions with respect to their academic standing in a course or program of study; and*
 - (vi) *To authorize the conferring of degrees.*
- (b) ~~Subject to the approval of the Board~~ *The Academic Council may appoint committees and authorize them to exercise its powers under this section. Academic Council shall have the power to appoint other committees it deems advisable; such committees shall report to Academic Council.*

This would reinforce the statement in Section 8.10(a) that Council has the delegated authority to act on these matters without interfering with those provisions in 8.10(a) that grant the Board

powers to control the University's budget and expenditures. In our view, this recommendation removes any doubt with regard to the authority of Council to act on these matters.

If this recommendation is accepted, amendments to Articles 8.1, 8.3(f), 8.4, 8.6, 8.10, 8.11, and 8.12 are also required as enumerated below.

Recommendation # 2

The Committee recommends that Article 8.1 of the Bylaws be amended as follows:

8.1 Composition - General

As set out in Section 10 of the Act, the membership of the Academic Council consists of the President and such voting and non-voting members as provided for in the By-laws, so long as a majority of the voting members are members of the teaching staff of the university. Subject to sections 8.2 to 8.7 below, the detailed composition and duties of the Academic Council shall be established by a resolution of the Board.

The deleted passage removes the authority of the Board to determine the detailed composition of Council, thereby formally transferring that authority to Council.

Recommendation # 3

The Committee recommends that Article 8.3(f) be amended to read as follows:

The ~~Academic Council Board~~, by resolution, may provide for voting membership on the Academic Council to be extended to persons who are not members of any of the teaching staff, the non-academic staff or the student body.

Recommendation # 4

The Committee recommends that Article 8.4 be amended as follows:

The ~~Academic Council Board~~ shall determine, on recommendation of the Executive Committee and the President, the manner and rules for electing members of the Academic Council, including the establishment of constituencies and voting practices.

Recommendation # 5

The Committee recommends that Article 8.6 be amended to read as follows:

Non-voting members

The ~~Academic Council Board~~ may, on recommendation of the President, appoint non-voting members of the Academic Council, either ex-officio or otherwise.

Recommendation # 6

The Committee recommends that article 8.10(b) be amended as follows:

The ~~Academic Council Board~~ may appoint committees and authorize them to exercise its powers under this section 8.10. The Academic Council shall have the power to appoint other committees it deems advisable; such committees shall report to the Academic Council.

Recommendation # 7

The Committee Recommends that Article 8.12 be amended as follows:

Subject to section 8.11, ~~and with the approval of the Board,~~ the Academic Council may establish rules for the conduct of its affairs.

Recommendations 2 to 8 are intended to be consistent with and to reinforce Recommendation # 1. Taken together they clarify and confirm what has been prevailing practice with regard to the authority granted to Council by the Board. They also reaffirm the University's commitment to a bicameral governance structure as appropriate for a University.

While additional recommendations will be made later in this Report regarding the composition of Council, the Committee would like to also use this opportunity to strengthen connections between the Board and Council. At present, Article 8.3(b) does allow the Board to appoint one of its members as a member of Council. To date the Board has not exercised this option. The Committee believes it would be advantageous for both the Board and Council to have a member of the Board as part of Council. In our view having a member of the Board sit on Council would enhance communication between the Board and Council, and that is perhaps the intent of Article 8.3(b). However, the Committee concluded that while it is beneficial to have a member of the Board on Council there is a better way to achieve more effective communication and understanding between the two bodies. The Committee concluded that it would be best to have a member of the Board sit on Council as a non-voting ex-officio member, and that a member of Council also sit on the Board as a non-voting ex-officio member of the Board. This leads to the next recommendation.

Recommendation # 8

It is recommended that the membership of Academic Council be amended to permit one representative from the Board of Governors to sit as a non-voting, ex-officio member of Council.

The committee is not making a specific recommendation to the Board to reciprocate by also amending its bylaws to permit a member of Council to sit as a non-voting, ex-officio member of the Board, but is suggesting that the Board consider such an amendment. Adoption of this recommendation and the suggestion for reciprocity would, in our view, increase communication between the two bodies and thus contribute to a more open and inclusive form of bicameral governance.

Finally, to date, the process by which the University's budget has been created and implemented has often left many members of the UOIT community in the dark and frustrated. Few issues seem to stir more interest than issues related to the budget. There have been years in which the budget was not approved until near the end or even after the budget year has passed. This is clearly not a desirable situation. However, the Committee is encouraged that the administration has made a commitment to a more open and transparent budget process, and has made a commitment to present the budget to Academic Council Executive in a timely manner and to also make a timely and more complete presentation of the budget to Academic Council. This commitment is consistent with the terms of reference for Academic Council Executive. Given this commitment from the administration, the Committee will not make any specific recommendation with respect to the budget. However, failure to act on the commitments to a more open and transparent budgetary process, as well as a more detailed budget, could lead to

renewed frustration and discontent among some members of the UOIT community, and this could have a strongly negative impact on morale among members of the Community.

A New Name for Academic Council?

The current name for Academic Council has generated considerable discussion among some members of the UOIT community. With one exception (The University of Toronto), the bodies governing academic matters at Ontario universities are called “Senate.” Thus changing the name of **Academic Council** to **Senate** would mean that UOIT would conform to conventional naming practices for such bodies in Ontario. However, the Committee concluded that the real issue was not the *name* but rather the *function* and *authority* of **Academic Council** with respect to its ability to “*establish academic standards and curricular policies and procedures of the University and to regulate such standards, policies and procedures.*” In our view, the Recommendations 1 through 8 would clearly establish that Council has the same authority and power to act in such matters as all other *Senates* in Ontario. Consequently the Committee is **not recommending** changing the name of **Academic Council**.

The Composition of Academic Council

During its deliberations the Committee discovered a number of unique features built into the UOIT Act. UOIT is one of the few universities in Ontario that is mandated to provide undergraduate and postgraduate university programs. While perhaps not the only university in Ontario to have this mandate, it is nonetheless an important and vital feature of the Act that is worth preserving. Also of interest during our exploration of mandates of Senates at other Ontario universities is the specification in the UOIT Act that the majority of members of Council shall be teaching staff of the University. At present, the majority of member of Senates at most Ontario universities are not teaching staff. Only at a small number of universities in Ontario do teaching staff outnumber all other members of Senate. This feature of UOIT is worth preserving.

However, while the Act and the Bylaws clearly state that the majority of the members of Council shall be teaching staff, the actual composition of Council has never met that standard. Part of the problem has been the requirement in Article 8.2 of the Bylaws that limits the size of Council to between 30 and 36 members. Given the requirements in Article 8.3(a) that require specific administrators to be on Council, it has been difficult to meet the requirement that a majority of Council be teaching staff. Therefore, noting the desirability of the standard, the Committee recommends deleting Article 8.2.

Recommendation # 9

The Committee recommends that Article 8.2 of the Bylaws be deleted.

8.2 Number of Members

Initially, the voting membership of the Academic Council shall be between 30 and 36 members.

While we are asking for deletion of Article 8.2 we are also aware that removing the limit might result in Council becoming too large to be effective. We maintain, however, that coupled with the recommendations specifying the composition of Council (Revised Article 8.2) and the recommendation regarding the Review of Membership (Article 8.3) we believe that the size of Council should not grow beyond a reasonable, but unspecified limit.

With regard to the composition of Council, the current membership rules in Article 8.3 present several problems. First, they assume a constant state with regard to the number of Deans, the number of Faculties, and the number and titles of specific administrators. It is safe to assume that the University may from time to time change (add or delete) the number of Deans and or the number of Faculties, or may change (add to or delete) some of the designated administrative positions listed in (a).

Furthermore, the definition of "teaching staff" in (d) is somewhat imprecise. Teaching staff are defined as those persons holding a 25% teaching appointment but there is no clarity with respect to what constitutes a 25% appointment. The practice to date has been to seek nominations to fill teaching staff positions on Council from those holding core faculty positions. But the 25% rule can be interpreted as meaning that persons holding other types of teaching positions, such as those with long term, full time teaching only or continuing contracts should be eligible to serve as elected members of Council. At the same time, part time teaching staff are excluded from consideration since it can be argued that their teaching duties do not constitute a 25% appointment. It is a frequent, but not universal practice at other universities to grant representation on Senate to persons in these positions.

Taken together these rules are imprecise and cumbersome. They do not allow flexibility in times of change, nor do they provide clarity. To resolve these issues the Committee is recommending changes to Article 8.3 (which then becomes new Article 8.2).

Recommendation # 10

The Committee recommends that Article 8.3 be amended as Article 8.2 to read as indicated in the chart below:

Current	Proposed
<p>(a) <i>The President, the Provost, the Deans of each academic school of the University, the University Registrar, the University Librarian, the Vice President of Student Services, the Associate Provost, Research, the Associate Provost, Teaching and Learning, and the Dean of Graduate Studies. The Vice-President, Finance shall be an ex-officio, non-voting member.</i></p>	<p>(a) <i>The Chancellor, the President, the Provost and Vice-President Academic, all deans, the University Registrar, the University Librarian, and all associate provosts shall be voting members. The chairs of the Research Board, the Curriculum and Program Review Committee, and the Graduate Studies Committee shall also be voting members, if not otherwise included. The Secretary of Academic Council, the UOIT Vice-Presidents and a representative of the Board of Governors shall be ex-officio, non-voting members.</i></p>

(b)	<i>The Board may by resolution appoint members of the Board, including the Chancellor, as members of Academic Council.</i>		<i>[delete]</i>
(c)	<p><i>Teaching staff, other than those referred to in subsection (a) and (b) above, shall be elected by and from among the teaching staff of the academic schools of the University.</i></p> <p><i>At least one member shall be elected from each Faculty. Beyond this minimum requirement, the relative numbers elected from each school will be in proportion to the relative sizes of the full-time teaching staff equivalent of such schools.</i></p>	(b)	<p><i>Teaching staff, other than those referred to in subsection (a) above, shall be elected by and from among the teaching staff of the Faculties of the university. The total number of teaching staff members shall always constitute fifty percent plus one of the total membership of Academic Council, and shall include:</i></p> <p><i>i. At least one full-time faculty member elected from each Faculty. Beyond this minimum requirement, the relative numbers elected from each Faculty will be in proportion to the relative sizes of the full-time tenured, tenure-stream and continuing teaching staff of such Faculties.</i></p> <p><i>ii. One part-time faculty member who has taught at the university for at least two consecutive academic years.</i></p>
(d)	<i>All teaching staff with appointments of 25% or greater (of a full-time equivalent) shall be eligible to vote and to be elected as members of the Academic Council.</i>		<i>[delete]</i>
(e)	<i>Student and non-academic staff members of Academic Council shall be elected by and from among their respective constituencies.</i>	(c)	<i>Student and non-academic staff members of Academic Council shall be elected by and from among their respective constituencies.</i>
(f)	<i>The Board, by resolution, may provide for voting membership on the Academic Council to be extended to persons who are not members of any of the teaching staff, the non-academic staff or the student body.</i>	(d)	<i>The Academic Council, by resolution, may provide for voting membership on the Academic Council to be extended to persons who are not members of any of the teaching staff, the non-academic staff or the student body.</i>
		(e)	<i>Membership on Academic Council cannot be delegated.</i>

The proposed changes more clearly specify those entitled to attend Council as voting members. Rather than list individual administrators, we have opted to specify categories of administrators. We have also clarified the definition of teaching faculty and the right of faculty on continuing contracts and part time contracts to sit on Council. Finally, we have added a new provision (e) that specifies that no member of Council can designate someone as a temporary replacement to attend meetings of Council. The current rules are silent on this issue and from time to time certain members of Council have named others to act on their behalf when the member was unable to attend a given meeting. In our view, this should not be permitted.

Obviously, as the University evolves, change is inevitable. As such, there is a need for a process by which Council can make changes to its membership in a timely and clearly specified manner. If, for example, there is a change in the number of Faculties, or new administrators are added in Articles 8.2(a) or 8.2(d) the result could be that the teaching staff are no longer the majority of Council members. Consequently, the Committee recommends the following:

Recommendation # 11

The Committee recommends addition of a new Article 8.3 that would read as follows:

Review of Membership

The Executive Committee of Academic Council shall review on a yearly basis the allocation of positions on Academic Council based on up-to-date data on the distribution of appointments in subsections (a) and (b) above. In the event that an adjustment in the membership is required, it will be accommodated during the next election cycle.

This provides a clear and easily managed mechanism to enable changes to the membership of Council to be put forward when and if necessary. These changes to the way Council is constituted should ensure greater clarity with respect to who has a right to membership on Academic Council and the mechanisms by which members may be added, or deleted.

There is also a need to update the Bylaws to make them consistent with previous decisions made by Council. Specifically, Article 8.7(b) says that:

The Academic Council shall elect, in a manner to be specified by the Board, a Vice-Chair of the Academic Council.

However, in February 2006 Council decided that the *Provost and Vice President Academic* should be the permanent Vice-Chair of Council. Therefore, the Committee makes the following recommendation as a means of updating the Article to conform with the 2006 decision.

Recommendation # 12

The Committee recommends that Article 8.7 (b) be amended as follows:

The Provost and Vice-President Academic shall elect in a manner to be specified by the ~~Board, a~~ shall be Vice-Chair of the Academic Council.

This change also updates the title of the Provost to the current title and also reaffirms Recommendation # 1 with respect to the division of powers between the Board and Council.

The change also necessitates a change to Article 8.8.

Recommendation # 13

The Committee recommends that Article 8.8 be amended to read as follows:

- a. The Provost and Vice-President Academic is the designate of the President with respect to the discharge of the President's responsibilities with respect to matters that may come before the Academic Council. The President may designate another University Officer to act*

in the absence of the Provost and Vice-President Academic. ~~Neither of such designated persons shall be entitled to act as chair of a meeting of the Academic Council without being so appointed under subsection 8.7(c) above.~~

- b. *The President may appoint the Provost and Vice-President Academic or another University Officer as the Presidential Representative to committees of the Academic Council, for the purpose of assisting in the discharge of the President's responsibilities with respect to such committees.*

The underlined changes simply update the Provost's title, while the deletion reinforces changes made to Article 8.7.

Finally, a purely grammatical change to the title of Article 8.10 to distinguish it from Article 8.15 which bears the same title.

Recommendation # 14

The Committee recommends that the title for Article 8.10 be changed from *Authority to Act* to *Authority*.

Summary

The recommendations we are making are intended to further clarify and distinguish the role of the Board and Academic Council within the context of a bicameral system of governance, and to also clarify and amend the Bylaws with respect to the compositions and structure of Academic Council. With respect to bicameral governance, the Recommendations 1 through 8 clearly specified that Academic Council has the authority and powers it needs “...to establish academic standards and curricular policies and procedures of the University and to regulate such standards, policies and procedures. The Board maintains control over matters that are within its mandate “...to plan, determine policies for and provide for the overall development of the University, including the Board's authority to approve strategic plans, budgets and expenditure plans.” While it might be preferable for the UOIT Act to be amended to codify this division of powers within the Act itself, and at some point when and if amendments to the Act are made to it would be desirable to do so, we believe that the Recommendations 1 through 8 clearly reinforce the University's commitments to a bicameral governance system.

The recommendations we are making with respect to the structure of the membership of Council are intended to clarify previously imprecise or cumbersome guidelines. These changes more clearly identify who is eligible to sit on Council and provides a mechanism by which the composition of Council may be adjusted. In our view, these recommendations provide a level of clarity that did not previously exist, and should serve the interests of the Council and the entire University community well into the future.