

31 October 2016

Hubert Lai, Q.C.,
University Counsel
Office of the University Counsel
Old Administration Building
6328 Memorial Road
Vancouver, BC V6T 1Z2

SENT VIA EMAIL

Dear Mr. Lai,

Re: Proposed amendments to Policy 93 – Open and Closed Meetings of the Board of Governors and Standing Committees

The Faculty Association wishes to thank the University for its efforts to improve Policy 93 - Open and Closed Meetings of the Board of Governors and Standing Committees (hereinafter the "Policy").

As a result of our consultation with our members and our own review of the Policy, the Faculty Association has several concerns and wishes to provide feedback on the proposed amendments to the Policy and Procedures. We also wish to confirm that any comments and recommendations made by us are made on a without prejudice basis to any position we may take with respect to the Policy in the future.

Our comments on the proposed Policy relate to Sections 2 (Scope and Interpretation), 4 (Meetings – General), 6 (Closed Sessions of Meetings – Criteria) and 12 (Minutes of Closed and Open Sessions of Meetings of the Board); and Section 3 (Notice to Members Entitled to Attend the Meeting) of the Procedures. I will now outline our questions and recommendations.

Section 2.2: Scope and Interpretation

Overall, it is our view that the definition of "Meeting" in Section 2.2 of the Policy is overly restrictive.

Section 2.2.2 defines a meeting, in part, as *"receiving information from the UBC administration in support of, or in opposition to, a motion that has been proposed or that is anticipated to be proposed in the future."*

Why does the proposed Policy limit the definition of a Meeting to information received only from UBC administration? Is there a reason that the Policy excludes information that may be received from UBC faculty members, staff, alumni, or any other third party? The above definition also includes only information that is "anticipated" to lead to a motion rather than information which may "reasonably give rise" to a motion in the future. Our recommendation is to change the language in 2.2.2 to the following:

"receiving information from any party in relation to a motion that has been proposed or that may reasonably give rise to a motion in the future."

We also propose to strengthen the language in Section 2.3 by adding “and Board Members should not undertake Board and/or other University business in these situations or circumstances” to the end of that sentence. The new Section would therefore read

“a Meeting does not include a gathering that is merely social or by chance and Board Members should not undertake Board and/or other University business in these situations or circumstances.”

Section 4.1: General Meetings

We recommend that Section 4.1 “*Members of the Board may attend meetings of the Board and of Standing Committees of which they are a member*” be amended to include that notification of any such meetings must be communicated to all Members of the Board or any Standing Committee. Timely notification should be a requirement in order to ensure that Members of the Board or Standing Committees have every opportunity to attend.

Section 6: Closed Sessions of the Meeting - Criteria

Sections 6.1.1 – 6.1.6 of the proposed Policy enumerates the criteria that serve as a basis for the justification for a Closed Session of a Meeting. However, descriptions such as those in Section 6.1.4 (“*dealings with other*”) are vague and too all encompassing. It is not clear as to what “dealings” the Policy would be referring that would not be covered under the earlier Sections of 6.1.1 – 6.1.3. Section 6.1.6 uses the phrase “*sensitive internal Board governance matters*” which is too broad and has the potential to be open to abuse. We ask that a more comprehensive description of the constraints that will be accepted as criteria for moving into a closed session be specified in this section of the proposed Policy.

Sections 6.2 and 6.3 do not include any provisions for any Members of the Board to challenge the decision to move from an open session to a closed session, or to challenge whether a matter properly resides in a closed session. This policy should provide for such challenges by any Member of the Board. Any such challenge should be discussed and settled by the Board as a whole.

We submit that the annual audits set out in Section 6.4 should be carried out independent of the Board and Board Secretariat. There should be an external auditor, who should have access to all records to ensure proper compliance. We recommend that such an audit be undertaken every 5 years in keeping with the University’s policy on external reviews of academic units.

Section 12: Minutes of Closed and Open Sessions of Meetings of the Board

In Section 12.4, the Faculty Association’s view is that minutes should be kept for all Standing Committees as Standing Committees constitute meetings with a mandate to examine events that may lead to recommendations to the Board as whole. This would also contribute to greater transparency and accountability in Board operations.

We are recommending a change to Section 3 (Notice to Members Entitled to Attend the Meeting) of the Procedures. It is our view that all notice of meetings (Section 3.3) should be posted at least 1 week in advance to all Board and Standing Committee Members to ensure maximum participation.

Lastly, in general, we recommend that the University take the opportunity to ensure all language in the Policy is gender neutral and inclusive. We therefore recommend using "their" rather than "his/her."

In summary, the Faculty Association recognizes the University's attempt to provide a clear set of criteria that will further strengthen the relationship between the Board of Governors and the University community. Our membership sees this as an opportunity to set out the principles that will guide us all in the future and has taken this document under serious consideration. We therefore entrust to the Policy Review Committee that our concerns be addressed within the final document to be reviewed by the Board prior to finalizing the Policy.

Respectfully,

A handwritten signature in black ink, appearing to read 'Mark Mac Lean', with a long horizontal flourish extending to the right.

Mark Mac Lean
President