

29 January 2016

Hubert Lai
University Counsel
Old Administration Building
6328 Memorial Road
Vancouver, BC V6T 1Z2

Sent via email to university.counsel@ubc.ca

Dear Mr. Lai:

Re: Faculty Association questions and comments regarding proposed Policy 87: Research

The Faculty Association is taking this opportunity to comment on, and seek clarification regarding, the proposed revisions to Policy 87. In general, the Association supports the University's efforts to provide UBC Researchers clarity regarding the conduct and administration of research funding. Robust and innovative scholarly activity, and the academic freedom upon which it rests, is best achieved through the transparent elucidation of the rights and responsibilities of both the University and faculty at this institution. Despite our general support for the spirit of most of the revisions, the Association is concerned that the proposed Policy appears to intrude on the traditional rights of Faculty Association members by adding, omitting or altering a number of provisions in the existing Policy 87. The following is not an exhaustive list of our concerns.

Academic freedom

Chief among our concerns is the treatment of academic freedom set out in Article 1.1 and 1.2. As the University is aware, the only definition that governs academic freedom for members of the Faculty Association at this institution is that which has been negotiated between the Parties and codified in the Preamble to the Collective Agreement. The language set out in Article 1.1 is inconsistent with this negotiated definition. While the Association is happy to see further articulation of the University's commitment to academic freedom, the University cannot seek to entrench language into policy that conflicts with the Collective Agreement. This includes placing restrictions on the exercise of academic freedom as suggested by the proposed Article 1.2. As agreed by the Parties, academic freedom is fettered only by the law. The proposed Policy likewise suggests that UBC policies may also limit the avenues of enquiry pursued by UBC Researchers. The Faculty Association, therefore, recommends that the proposed Policy be amended to reflect the definition of academic freedom negotiated between the Parties as this is what governs the exercise and scope of the academic freedom of Faculty Association members at this University.

Shift in authority from BOG Policy to other University Offices

One of the stated purposes of the proposed policy revisions is to “enable change in administrative processes in the future without the need to update the Policy or Procedures.” This change is most evident in paragraph 1.3 of the Procedures, which gives the Responsible Executive power to introduce “administrative directives” regarding the conduct of research and funding. It appears as though UBC is proposing to shift authority over the regulations of research activities outside the consultative processes of Board of Governors and the broader sphere of faculty governance. Given that research and its funding are central to the work of our members, faculty need to continue to be consulted on any proposed changes to the University’s practices regarding the administration and use of research funds. We are therefore seeking clarification as to how the University intends to indicate how changes in administrative directives will be communicated to faculty, and what processes does the University intend, if any, to provide for consultation. Lastly, should any of the stakeholders wish to appeal a change to the administrative directives, what appeal process will be put into place?

Authority of Faculty member to access and manage research funds

The Faculty Association also seeks clarification as to why the University is proposing to remove all references to research funds being held “in trust” by the University in the name of the grantee. This is apparent in the alternations or deletions of paragraphs 1.4, 1.13 from the current Policy and paragraphs 3, 3.2.1, and 3.2.5 of the Procedures. We are concerned that in removing the existing language, the institution is seeking to change this traditional practice, which may fundamentally alter the ability of our members to pursue scholarly and educational leadership activities. We recommend that the University include the language similar to that set out in paragraph 1.4 of the current policy.

We are similarly concerned about the proposed removal of paragraph 3.2.12 of the existing Policy, which specifies that the University must seek permission of grantees prior to moving money into common services accounts. The proposed Policy limits the transfer of funds from different sources into a single account; however, nowhere does the proposed Policy specify that only UBC Researchers have the authority to approve the movement of money held in their names. Given that UBC Researchers are ultimately responsible for the use of their research funds, they must have the right to govern the transfer of those funds between accounts. The Association, therefore, recommends that any revisions to Policy 87 clarify that research funds are held “in trust” by the University and that permission of the associated UBC Researcher is necessary prior to account transfers.

There appears to be a contradiction within the proposed Policy regarding the right of Librarians, as UBC Researchers to apply for and receive research funding, and their right to research spending responsibility. They are the only continuing members of the Faculty Association bargaining unit with research and educational responsibilities that must seek prior written approval to administer funds they have secured. This proposal is all the more perplexing in light that this right is extended to Emeritus faculty, who are not University employees. The Faculty Association would like to understand the University’s reasoning in this instance as it appears, on the surface, to be a somewhat arbitrary and inequitable distinction that will serve only to make it harder for librarians to do their work.

Indemnification of faculty for consequences of research activity

Paragraph 2.1 of the proposed Policy Procedures states that “UBC Researchers are responsible for the conduct and consequences of their Research Activity.” The Association believes this statement merits refinement such that it conforms with our agreement with the University that it indemnifies faculty members for actions that arise from their UBC activities so long as the individual acted reasonably, responsibly, and in good faith and within the course and scope of her/his employment.

In closing, the Association appreciate the opportunity to provide feedback to the University on the proposed amendments to Policy 87 and the University’s efforts to create clear and simple processes regarding the administration of research funding. We 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. The Association therefore reserves our right to challenge the Policy and its application, in whole or in part, as we see fit, including through the grievance and arbitration process.

Sincerely,



Mark MacLean
President

c Deena Rubuliak, Executive Director