

OVERVIEW: Concerns regarding revisions to the *UNB Act*

October 14, 2014

Many at UNB have been concerned about both the process and the substance of the UNB Board of Governors' proposed changes to the *UNB Act* since the formation of a special Board committee was announced early in 2013. Those concerns have heightened and spread since the revisions were made available to all members of the UNB community on September 26. The proposed changes are even more radical than one might have expected from the very brief outline provided to the UNB Senates in late May 2014 (see the August 2014 AUNBT position paper at https://aunbtweb.files.wordpress.com/2014/08/unb_act1.pdf for that outline).

The Board has proposed sweeping changes to the *UNB Act* that would empower the Board to an unprecedented extent, and without effective oversight from either within or without. Specifically, government oversight is substantially removed and the role of the Senates is strictly circumscribed. The Board would be given explicit power to eliminate Senate(s) and Faculty Councils, as well as to determine the jurisdiction of these bodies. Other elements that allow for collegial governance would also be removed from the Act, where they are protected, and moved into the By-laws, where they could be changed entirely at the discretion of the Board.

The words "flexibility" and "effectiveness" occur within the explanatory materials. It concerns us greatly that these goals seem to have been elevated to higher principles than transparency, balance, or shared governance.

Following are some key concerns:

Secrecy

The UNB Board's Act Revision Committee (ARC) spent a year and a half, from Feb. 2013 to Sept. 2014, producing massive draft changes in secret. The two faculty members on the ARC were not permitted to disclose anything until late May 2014, when they were allowed to share a very brief overview with the Senates.

Lack of consultation

Members of the wider UNB community were not consulted about either the overall direction or the details of the proposed revisions.

- AUNBT members have collegial rights under their collective agreements in articles that are explicitly linked to provisions in the current Act, and AUNBT would have raised concerns much earlier had it been consulted.
- No academic bodies or committees, neither Senates nor Faculty Councils, were consulted.
- The proposed draft Act adversely affects students' rights, yet neither were they consulted.
- The faculty members of the ARC have acknowledged that they themselves had no effective role in producing the new wording.

The draft is an extensive, complicated series of documents, the product of months of work and considerable investment of time and legal fees, yet the community is only seeing it now, well into the process.

Timing

The framers of the proposed revisions could hardly have chosen a less suitable time to bring them forward. Last term saw the first strike and the first lockout in UNB's history. Subsequently, the majority of faculty members voted non-confidence in President Campbell, and he has done nothing substantive to attempt to restore confidence in his administration. Although no formal votes have been taken about the Board of Governors specifically, many faculty members have little confidence or trust in that body because the great majority of Board members appear to understand neither what a university is nor its fiduciary role in ensuring the president does his or her job properly and the institution serves the public interest. In summary, the current President and the Board lack any moral authority to put forward such radical changes.

Insufficient time

Six weeks is too short a time to discuss fully such significant changes. It took the ARC over a year and a half to write this draft and AUNBT has it on good authority that revisions to the Act were being discussed even before the PSE crisis (i.e. before 2007). All the more reason, one would think, not to rush anything through. In particular,

- AUNBT is considering whether it should respond with a complete redraft, a project that would require it to engage legal counsel and consult with colleagues nationally.
- Student organizations will need time to respond, and it is now mid-semester and a very busy time for them.

Imbalance

The proposed changes would mean a radical disenfranchisement of faculty, against longstanding practice at Canadian public universities. The ARC revisions are not "modernizations" as President Campbell has publicly claimed but are in fact reactionary and retrograde, concentrating all effective power into the hands of the President and Board. Rather than being "modern," the proposal offers in effect a return to UNB's governance structure prior to July 1, 1968, the effective date of an extensively revised UNB Act. The 1968 Act introduced the first substantial measure of academic democracy and collegial rights, including two governing bodies: a Board and a Senate with distinct and overlapping spheres of authority. Prior to 1968 there was only one governing body that, although called a Senate, had no faculty representation, and all powers— academic and financial— were vested in it. The proposal would return ultimate control of all matters to a

single body, a Board to which both Senates would be subordinate.

The proposed changes would mean that the balance of authority between the Board, the administration, the faculty, and the public (as represented by the government) would be lost. All significant power would rest with the Board, up to and including the power to disband the Senates. The existing Act spells out in considerable detail the make-up of various bodies, such as the Senates and the Board, in order that different constituencies are represented in University governance. The proposed revisions would remove those provisions or move them to the By-laws where the Board could change them unilaterally.

Lack of oversight and accountability

The ARC revisions have deleted all significant public accountability so that, if enacted, UNB would be run like a private, for-profit corporation instead of a public resource and service. Among the sections deleted are those requiring approval by the Lieutenant Governor in Council for appointment of the president and disposal of university lands. These deletions are not in the public interest. Huge portions of the existing legislation would be moved into the By-laws, where they could be quietly amended, rewritten or deleted at the will of the Board without process or oversight. Many detailed provisions in the current Act, dismissed as "laundry lists" in the materials distributed on September 26 2014, would be removed entirely, without regard to process or representation. Further, the revisions would allow the Board of Governors, the Board of Deans, and the President new sweeping powers over non-academic matters with regard to students.

Loss of status

The Board is seeking to reduce radically all government oversight to an annual "report," thereby weakening UNB's claim to be "the provincial university" in New Brunswick.

As our Task Force works through the proposal, this list will no doubt lengthen. Be sure to watch for updates.

Further reading

AUNBT Position Paper: https://aunbtweb.files.wordpress.com/2014/08/unb_act1.pdf

AUNBT Revisions to the Act page: <http://aunbtweb.wordpress.com/issues/unb-act/>

The *UNB Act* (the current Act):

https://aunbtweb.files.wordpress.com/2014/08/unb_act.pdf

The *UNB.ca* webpage: <http://www.unb.ca/secretariat/governors/unb-act-review.html>

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