

Memo

To: AUNBT members
Date: November 17, 2014
Re: Proposed revision of the *UNB Act*: update

On September 26 2014 the *UNB Act* Review Steering Committee, a committee of the Board of Governors, released details of a proposed sweeping revision of the *UNB Act*. The documents were developed in secret over a year and half in the absence of any prior consultation with academic staff or student representative bodies. The proposed revision would destroy the existing balance between the Board and Senates. Proposed new Board powers include “discontinuance” of either or both Senates. The main device in the plan is to remove large parts of the current legislation, where they are protected by being in a public Act – including core collegial governance and public accountability provisions – into by-laws that could be changed unilaterally by the Board at any time.

Since our last memo to members on October 14, AUNBT has continued to work on a response to the proposal. An ad-hoc committee has met at least once a week since its first meeting on October 6. Currently, subgroups are going through the proposal in detail.

The Act is a long and complicated legal document and the proposed revisions are extensive, but even at this early stage strong areas of concern are emerging. Following is a by-no-means exhaustive list:

Loss of accountability/oversight: the proposal would remove public accountability provisions in significant matters such as the appointment of presidents and the sale of UNB land. While AUNBT is an emphatic proponent of institutional autonomy, it is AUNBT’s position that the government has a clear duty to ensure accountability in public universities as long as that role is clearly circumscribed and does not impinge on academic matters.

Loss of legislative protection: Significant portions of the Act, such as the composition and jurisdiction of the Senates, are designated for relocation to the by-laws. Members need to be aware that unlike the Act itself, which is a piece of provincial legislation, the by-laws exist at the pleasure of the Board.

Loss of collegiality and shared governance: Should the proposed revisions take effect, Senates would be more directly under Board control, up to and including the possibility of being dissolved. All mentions of Faculty Councils would be removed from the legislation. Faculty and

student positions on the Board would no longer be guaranteed; indeed all the places in the Act where the composition of various bodies is outlined would be moved into the by-laws or removed altogether.

Weakening of academic staff collective agreements and employee unions: Implementation of the proposed changes would have potential adverse implications for our collective agreements. For example, the collegial rights article, Article 5, depends upon the existence of the Senates and the Faculty Councils. The Senates also have an important role in Article 28, the lay-off article, and its diminution would leave units vulnerable to unrestricted “restructuring.” AUNBT’s viability and strength as a bargaining unit would itself be at risk, not desirable at any time but particularly not during a period of imposed austerity and ongoing crisis management.

While we have only considered the AUNBT collective agreements in any detail, there may well be comparable issues for other unionized groups, particularly those who contribute directly to the academic mission.

Loss of faculty and student rights: There are sections of the UNB Act that serve to protect various faculty and student rights which are simply deleted in the proposal, for example Sections 46(d) and 49, which outline the powers of faculty councils and give them the right to discuss and provide advice on any topic, such as non-confidence in the President. Section 74(8) of the Act gives students a general right to lodge complaints.

Changes to the meaning of “faculty”: “Faculty” is currently defined in the Act. In the proposal, those now referred to as “Faculty” would be called “Teaching Staff,” thereby diminishing the research component of an academic appointment. Moreover, the definition would be moved from the Act to the by-laws.

Changes to the meaning of research: Research is explicitly linked to faculties and research centres in the Act; the proposal would decouple that connection. As noted above, research would also be removed from the definition of “Faculty.”

Consolidation of power within the Board: The proposal reconfigures the existing balance of power, uneven as it already is, between the Board, the Faculties, and the public (as represented by the provincial government and the other groups or entities with representation on the Board who represent various constituencies within the province). The size of the Board would be halved and quorum would be reduced to *four*. Faculty representation would be reduced from six to *two*, one from each main campus, and their seats would no longer be guaranteed in legislation. The fact that the Board already has neither term limits nor the sort of conflict of interest language common elsewhere would become even more significant.

At the meeting of the Saint John Senate on October 22, when asked under what circumstances the Board would need the ability to create or abolish senates or to determine their jurisdictions, the *UNB Act* Review Steering Committee chairperson responded with the hypothetical scenario of an amalgamation of New Brunswick post-secondary institutions, an idea she described as “controversial.”

Loss of identity and status as a public, provincial university: The removal of government’s traditional role would weaken UNB’s claim to be New Brunswick’s “provincial university.”

Consolidated power within a Board embedded in corporate culture and demonstrably unaware of academic practices and values, UNB's historic mission of being a public institution founded for the benefit of all the people of this province would be undermined.

Timing of initiative: Both the current proposal to revise the Act and the previous push in 2007 occurred at periods of particular difficulty, the first during the PSE crisis and the current iteration during the period of the first strike, lockout, and non-confidence votes in UNB history. Ironically, nothing in the proposed changes would strengthen the community or enable it to repulse future incursions; in fact, a top-heavy Board with even stronger authority would, if anything, impede the exercise of the democratic right to dissent. The Board is asking the UNB community to take a significant leap of faith at a time when trust in the management of the University is perhaps at its lowest. This incongruity hardly bodes well for their ability to represent our institution or us.

“Efficiency” and “modernization”: If this proposal had merely focused on these two stated goals, there might have been little to concern the wider UNB community. However, it goes considerably further and includes revisions that, if implemented, would reconfigure the culture, and indeed the core purposes, of UNB.

AUNBT actions so far

- Consulting with FNBFA and CAUT
- Meeting with provincial government to discuss our concerns
- Communications with members
- Media work
- Participating in the call for a longer consultation period

Current actions

- Clarifying how the consultation process is to unfold

Upcoming actions

- In January, AUNBT will host a series of information sessions where members will have a chance to discuss the issue.
- The committee will continue to meet and prepare AUNBT's response to the proposal.
- AUNBT encourages members to formulate their own responses, even if they feel the AUNBT response represents their views. The Board needs to realize that concerns are widespread.

Dates to note

- The UNB Act will be on the agenda for the AUNBT Fall General Meeting on Friday December 5 (time and locations will be announced).
- March 16 2015 is the new deadline for written submissions to the committee.

AUNBT communications*

- Letter to Board Chair Kathryn McCain supporting the call for an extension of the consultation period, October 29, 2014
- Memo to members on recent activity, October 14, 2014

- Overview of the issue, October 14, 2014
- Letter to President Campbell, October 6 2014
- Message to members, August 7 2014
- Changes to the UNB Act: an AUNBT position paper, August 7 2014
- Media release: AUNBT wants open discussion of the *UNB Act*, August 7 2014 (PDF)

**[Links to these items can be found at [http://aunbtweb.wordpress.com/issues/unb-act/.](http://aunbtweb.wordpress.com/issues/unb-act/)]*

Media coverage**

- “Proposed UNB Act revisions challenge public role of university.” Micah O’Donnell. *The Brunswickan* (Nov. 5/14).
- “UNB Act changes will impact students.” Micah O’Donnell. *The Brunswickan* (Oct 29/14).
- “Senates passes motion for extension of UNB Act consultation period.” Emma McPhee. *The Brunswickan* (Oct. 29/14).
- “More time needed to review UNB Act – union.” Tara Chislett. *Daily Gleaner* (Oct. 28/14).
- “Engineering faculty demands longer consultation period for UNB Act revisions.” Emma McPhee. *The Brunswickan* (Oct. 22/14).
- “Poster use, UNB Act discussed at [UNBSU] council.” Emma McPhee. *The Brunswickan* (Oct. 22/14).
- “UNB Act revisions released to public this week.” Emma McPhee. *The Brunswickan* (Oct 1, 2014).
- “AUNBT demands transparency in UNB Act changes.” Emma McPhee. *The Brunswickan* (Aug 11 2014).
- “UNB review needs transparency – union.” Tara Chislett. *The Daily Gleaner* (Aug 8 2014).
- “UNB teachers outline ‘grave concerns’ over attempts to amend university’s act.” The Canadian Press. *Telegraph-Journal* (Aug 7 2014).

***[Links to these items can be found at <http://aunbt.ca/communications/media/>]*

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