

MEMORANDUM

To SENATE

From SENATE COMMITTEE ON AGENDA AND RULES

Subject ELECTION OF STUDENTS TO SENATE AND
THE BOARD - RULES OF SENATE

Date FEBRUARY 21, 1978

MOTION 1

"That Senate suspend the applicable Rules of Senate to permit debate and action on Paper S.78-12A at the March 6, 1978 meeting of Senate (including Rule VIII in part, suspending 'Alterations of these Rules of Senate shall require written notice at a regular meeting of Senate prior to the meeting at which a vote on the proposed alteration is taken,' but retaining 'which vote shall require an affirmative vote by two-thirds of the voting members present to carry')."

MOTION 2

"That Senate approve change to the Rules of Senate by deleting the present section IV F and substituting a new section IV F as described in Appendix I herewith."

If Motion 2 is approved,

- MOTION 3 a) "That the new Rules of Senate adopted through Motion 2 first be applied for the regular elections to the Board and to Senate being held in Spring 78-1 and thereafter."
- b) "That the new Rules not be applied to those persons now holding membership on the Board or Senate with term of office ending May 31, 1978."

SIMON FRASER UNIVERSITY

MEMORANDUM

To SENATE

From SENATE COMMITTEE ON AGENDA AND RULES

Subject ELECTION OF STUDENTS TO SENATE AND
THE BOARD - RULES OF SENATE

Date FEBRUARY 21, 1978

1. At its meeting of February 6th Senate considered Paper S.78-12. It did not approve an amendment proposed to that paper nor the motions of the paper. That paper, S.78-12, concerned itself with the Rules of Senate, Section F (copy attached), pertaining to elections of student to the Senate and to the Board, and to amendments to the Universities Act proclaimed late in 1977.

In view of the potential serious impacts that could arise from conducting elections under present rules, legal opinion has been obtained by the University. This is shown as Appendix A herewith. In brief that opinion indicates that further action by Senate would be required to make the present Rules of Senate consistent with the Act. (Section 43 stipulates "The Senate shall make and publish all rules necessary and not inconsistent with this Act in respect of nominations, elections, and voting, and the registrar shall conduct all elections as are required.")

It is proposed that Paper S.78-12 be further considered by Senate with change to subsection 3(iii) of Appendix I of that paper now reading as follows:-
(with this change the paper is now numbered S.78-12A, copy attached)

(iii) "If an undergraduate student then must remain registered in an average of at least 9 semester hours credit in two of the three semesters associated with the one-year term of office, and in not less than 6 semester hours in each of those two semesters. If a graduate student must continue to be so registered throughout the period of office."

2. Various methods are possible to consider the paper and the Committee has proposed that the most direct action be taken through motion as follows:

"That Senate suspend the applicable Rules of Senate to permit debate and action on Paper S.78-12A at the March 6, 1978 meeting of Senate (including Rule VIII in part, suspending 'Alterations of these Rules of Senate shall require written notice at a regular meeting of Senate prior to the meeting at which a vote on the proposed alteration is taken,' but retaining 'which vote shall require an affirmative vote by two-thirds of the voting members present to carry.'"

Under Rule IX a motion to suspend the Rules requires an affirmative vote by two-thirds of the voting members present to carry. Similarly if approval is granted as suggested any final change to the Rules requires the two-thirds vote.

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SHRUM, LIDDLE & HEBENTON

BARRISTERS & SOLICITORS, EIGHTEENTH FLOOR, 505 BURRARD ST., VANCOUVER, CANADA V7X 101

February 16th, 1978

Simon Fraser University
Burnaby, B.C.

Attention: Mr. H. Evans,
Registrar

Dear Sirs:

RE: Student Candidates for the
Senate and Board of Governors

You have asked whether a student as defined in Section IV. F of the Rules of Senate is eligible for election to the board of governors or to the senate. Section IV. F states which students shall be considered to be the members of the Student Association (who constitute electors), but does not define "full-time students" for the purpose of determining student representatives eligible for election to the senate and board of governors.

Accordingly, Section F does not presently deal with the requirement under recent amendments to the Universities Act that student representatives on the board and senate be full-time students. However, you have informed us that Senate proposes to apply the definition of "student" in Section IV. F to the determination of eligible student representatives. The current definition includes "a person who is presently enrolled at the university in a credit course". In our opinion, a person enrolled in only a single credit course cannot be considered to be a full-time student as that term is used in the Universities Act.

...../2

Senate is authorized to make rules in respect of elections that are not inconsistent with the Act. Since there is no controlling definition of a full-time student in the Act, senate has a degree of flexibility in establishing a definition but the definition adopted must be consonant with the plain meaning of the words adopted by the Legislature. Webster's Living Dictionary defines "fulltime" to mean "the length of time considered to constitute a complete work period" and "full-time" to mean "working the full schedule of hours; opposed to part-time". We conclude that senate is not entitled, under its power to make election rules to redefine "full-time" to make that expression inconsistent with its ordinary, plain meaning.

The important consequence of our opinion is that if an election were held in which persons who were not truly full-time students appear on the ballots, that election would be invalid and doubt would be cast upon all proceedings taken by the body in which those improperly elected took part. While each individual taking part in such proceedings and acting in good faith might be protected from personal legal liability under section 84 of the Act, this provision would not apply to "cure" defective proceedings as described above.

We believe that senate should adopt a definition of "full-time student" for the purpose of determining eligible student representatives to the board and senate. In developing a definition in this context, reference could appropriately be made to the definitions adopted in other university contexts. For example, we understand that the Ministry of Education has adopted a definition for its purposes and that Revenue Canada, Taxation has adopted a definition for the purposes of the Income Tax Act. While these definitions are not controlling, they illustrate the views of other bodies as to the meaning of "full-time", and may be of assistance to senate in developing a definition for the purposes of student representatives to the board and senate.

Yours very truly,

SHRUM, LIDDLE & HEBENTON



Sholto Hebenton

SH/rl

F. Students; Student Association

1. For the purposes of nominations and voting in the election of students to the Senate and to the Board:

'Student' means a person who is presently enrolled at the university in a credit course or who is designated by resolution of the Senate as a student; for the purposes of these elections for undergraduate students it includes

- i) Those registered in a credit course or courses in the semester in which nominations are due, or
- ii) Those in good standing who were registered in a credit course or courses in the immediately previous semester who certify that they intend to register again at Simon Fraser University before missing two consecutive registrations.

For the purposes of these elections for graduate students it includes any student duly registered as a graduate student other than one who currently is designated with "on leave" status.

'Student Association' means all full-time students who are members of the alma mater society or the graduate student society of the university:- for the purposes of the elections to Board and to Senate it shall be deemed to consist of those students defined above.

2. A candidate's eligibility to continue to hold office as a representative of students on the Board of Governors or on Senate requires the following:

- i) Must not miss more than one registration during the one year term of office.
- ii) Must not withdraw from the University or be required to withdraw from the University.

SIMON FRASER UNIVERSITY

MEMORANDUM

S.78-12A

To SENATE

From SENATE COMMITTEE ON

Formerly S-12
now adjusted to
Feb.21, 1978 with
change to page 5,
iii)

Subject NOTICE OF MOTION - PROPOSED
ADJUSTMENT TO SENATE RULES -

Date DECEMBER 22, 1977

ELECTIONS - NOT FOR DISCUSSION

General Background Information

I Prior to 1974, under the then-existing provincial legislation, the S.F.U. senate had provided in a rather unique way for student representation on senate at this institution, with provision for three student senator seats. In those provisions senate also had set some conditions on the requirements of an individual student to be a candidate and to continue to hold membership on senate. These conditions included a requirement that the individual candidate for or in office continue to be registered in specified semesters (2 of 3) in at least a prescribed minimum course load and with at least that minimum throughout the specified semesters. Throughout the same periods at this institution the requirements to be a student nominator or voter were less than those for candidates and basically required only that the individual be duly formally registered as a student in certain specified semesters.

In 1974 legislation was changed in the Universities Act and it technically set conditions that nominators, voters, candidates had to be full-time students. It was quickly ascertained through discussions with various bodies including government representatives that the impacts had not been fully intended and accommodations were made but with some considerable unease as to legality.

In 1977 some adjustments to the legislation were made and those changes now have been proclaimed. Some adjustments to the Rules of Senate governing elections are required.

II The pertinent changes to legislation are as follows, (Universities Act):-

1. Section 1 - Interpretation

"Student Association" means all full-time students who are members of the alma mater society or the graduate student society of a university.

(full-time has been dropped from the definition.)

2. Section 20 - The board shall be composed of fifteen members, as follows:- - - - -

(e) Two full-time students elected by and from the Student Association

(full-time has been added to the section, and the words by and, have been dropped. Similarly the words by and are dropped from section 21 (1).)

3. Section 35 (2) The senate of each university shall be composed of - - - - -

(f) a number of full-time students, equal to the number provided in clauses (a) to (f), elected by and from the Student Association in a manner that ensures that at least one student from each faculty is elected.

(full-time has been added to this section and the words by and have been dropped.)

These changes now provide a distinction between those who can make nominations and/or vote and those who can be candidates for or members of the Board or of Senate. Nominators/Voters need not be full-time, nominees/members need be.

(UVIC has received legal opinion that to be a candidate and to continue in office the individual must continue to be full-time in the pertinent periods.)

III There are a number of differing definitions that are applied to full-time students, for differing purposes, e.g.

full-time equivalents - 15 semester hours is used

full-time student - 12 semester hours is used by agreement with Stats Can. and for certain Ministry of Education reports.

full-time through full course fee - 12 semester hours was used and is still used by UBC for many faculties

full-time for Canada Student Loan and B.C. Provincial Grant purposes - 9 semester hours is used (60% of full-course program.)

Full-time for Revenue-Canada (Taxation) for \$50 monthly exemptions - 10 hours weekly is applied.

Discussion has been held with Ministry of Education officials pertaining to the changes and intent, noting the provincial use for grant-in-aid purposes of full-time definition of 9 semester hours minimum, with assurances that use of this or higher value would be taken as falling within the intent. UBC and UVIC will use 12 hours as minimum.

MOTIONS

1. That Senate approve change to the Rules of Senate by deleting the present section IV. F and substituting a new section IV. F as described in appendix I herewith.

If motion 1 is approved

2. (a) That the new rules of senate adopted through motion 1 first be applied for the regular elections to the Board and to Senate being held in Spring 78-1, and thereafter.
- (b) That the new rules not be applied to those persons now holding membership on the Board or Senate with term of office ending May 31, 1978.

Explanatory Notes:

Regular amendments to the rules of Senate are governed by the rules, section VIII, Method of Amending which stipulates:- Alterations of these Rules of Senate shall require written notice at a regular meeting of Senate prior to the meeting at which a vote on the proposed alteration is taken, which vote shall require an affirmative vote by two-thirds of the voting members present to carry.

It is intended that Notice of Motion be given at the January 1978 meeting of Senate, with voting to occur at the February meeting. The rules to be applied need be known at that time to permit completion of the extensive Spring 1978 elections by the dates stipulated in rules.

APPENDIX I

IV.F. Students; Student Association; Full-Time Students

1. For the purposes of making nominations and/or voting in the election of students to the Senate or to the Board:

'Student' means a person who is presently enrolled at the university in a credit course or who is designated by resolution of the Senate as a student; for the purposes of these elections for undergraduate students is includes

- i) Those registered in a credit course or courses in the semester in which nominations are due, or
- ii) Those in good standing who were registered in a credit course or courses in the immediately previous semester who certify that they intend to register again at Simon Fraser University before missing two consecutive registrations.

For the purposes of these elections for graduate students it includes any student duly registered as a graduate student other than one who currently is designated with "on leave" status.

'Student Association' means all students who are members of the alma mater society or the graduate student society of the university:- for the purposes of making nominations or voting in the elections to Board and to Senate it shall be deemed to consist of those students defined above.

2. For the purpose of being a candidate in the election of full-time students to the Board or to Senate the undergraduate student must fulfil the conditions in F 1(i) and be registered in 9 or more semester hours credit or must fulfil the conditions in F 1(ii) and have been registered in 9 or more semester hours credit at the close of the semester and certify that he/she intends to register in the immediately forthcoming semester in not less than 9 semester hours. A graduate student must be duly registered as a graduate student other than one who currently is designated with on-leave status.
3. A candidate's eligibility to continue to hold office as a representative of students on the Board of Governors or on Senate requires the following:
 - i) Must not miss more than one registration during the one year term of office.
 - ii) Must not withdraw from the University or be required to withdraw from the University.

- iii) If an undergraduate student then must remain registered in an average of at least 9 semester hours credit in two of the three semesters associated with the one-year term of office, and in not less than 6 semester hours in each of those two semesters. If a graduate student must continue to be so registered throughout the period of office.