

MEMORANDUM

TO:	Senate
FROM:	A. Francesca Hennigar, Legal Counsel
DATE:	January 10, 2022
SUBJECT:	Proposed Updates to the Board of Governors Election Rules

For information:

Pursuant to Section 43(1) of the *University Act*, Senate must make and publish all rules in respect of nominations, elections and voting that occur under the *University Act*, including elections of the faculty, non-faculty staff, and student members of the Board of Governors (Board).

Senate last approved amendments to the Board Election Rules (Rules) in 2012, at which time the Rules were intentionally separated from the Senate election rules and updated to conform with amendments to the *University Act* made at that time.

A review of the Rules has recently been undertaken in light of a number of inconsistencies being identified between the Rules and the current *University Act*, which has been amended in the years since 2012. Furthermore, the Governance and Nominating Committee of the Board and a separate Board governance initiatives working committee have suggested that updates to the Rules may be useful to increase awareness of opportunities to serve on the Board and to clarify the duties of Board members. In addition to addressing these objectives, the attached changes also update outdated terminology used to describe categories of university personnel and clarify the paramountcy of the *University Act* over the Rules.

Management wishes to bring the proposed updates to the Rules before the Board's Governance and Nominating Committee for recommendation to the Board on January 19, 2022, and to the Board for approval and recommendation to Senate at the Board meeting of January 28, 2022. In advance of doing so, the proposed updates are being provided to Senate for information now, so that Senate is aware of these proposed updates and is given the opportunity to provide feedback for the Board's consideration.

Should the Board approve and recommend the updates to the Rules, the Rules will be brought back before Senate for approval as required by Section 43(1) of the *University Act*.

Board Election Rules

The Board of Governors is governing body at Simon Fraser University constituted under the *University Act* that is vested with responsibility for the business of the University.

ELECTION RULES

A. Elections for the Board of Governors

1. That subject to approval of appropriate rules covering nominations, elections, and voting:
 - a) The nomination and election of members to the Board of Governors under the University Act be undertaken in the Spring academic term, and completed by April 15th.
 - b) The normal date of assumption of office in the regular elections to the Board of Governors shall be June 1st.
 - c) In order to be nominated, the individual must be eligible to hold the position being sought.
 - d) Terms of office for student, Eligible Faculty Members (as defined below), and non-Eligible Faculty Member employees of the university are as set forth in the University Act. As of the date of these Rules, the term of office for student members is one year; the term of office for Eligible Faculty Members is three years; and the term of office for employees of the university who are not Eligible Faculty Members is 3 years. Elected members of the Board of Governors are eligible for re-election, provided that no elected member may hold office for more than six consecutive years (See *University Act*, Sections 20(1), 20(2), and 21).

B. Nominations

1. All nominations of candidates for membership on the Board of Governors as Eligible Faculty Members shall be signed by not less than five Eligible Faculty Members entitled to vote in the particular election.
2. All nominations of candidates for membership on the Board of Governors as an undergraduate student shall be signed by not less than five undergraduate students entitled to vote in the particular election.

All nominations of candidates for membership on the Board of Governors as a graduate student shall be signed by not less than five graduate students entitled to vote in the particular election.
3. All nominations of candidates for membership on the Board of Governors being elected by and from employees of the University who are not Eligible Faculty Members shall be signed by not less than five employees of the University who are not Eligible Faculty Members entitled to vote in the particular election.
4. The nomination paper must be signed by the candidate who shall state that they are eligible to hold office; they are willing to permit their name to stand in the election; and confirm that they understand and, if elected, will abide by (a) Section 19.1 of the *University Act*, which states that members of the Board of Governors must act in the best interests of the University and (b) Section 4.1 of the Board Rules, which states that each member of the Board of Governors, regardless of how they

Commented [A1]: Updates were made to this section to include a requirement for candidates to acknowledge the duties that apply to members of the Board to act in the best interests of the University, for the purpose of increasing awareness of these duties throughout the election process.

become a member, must act in the best interests of the University and must function primarily as a member of the Board of Governors, not as a member of any particular constituency.

5. Each candidate for election to the Board of Governors shall be requested to provide a short curriculum vitae and a statement of interest on the candidate's views on related matters falling under the jurisdiction of the Board as laid down by the University Act. The combined information is limited to one page of single spaced copy. Photos will not be included.

C. Students and Student Association

1. For the purposes of nominating, voting and standing for office in the election of students to the Board of Governors:

- a) i) the Simon Fraser Student Society is the undergraduate student society, and
- ii) the Graduate Student Society at Simon Fraser University is the graduate student society

(See *University Act*, Section 19(1)(e))

b) "undergraduate students" means those who are members of the Simon Fraser Student Society and who also:

- i) are in good academic standing and are registered in at least one credit course in the academic term in which nominations are due, or
- ii) are registered in a co-op work term in the academic term in which nominations are due, or
- iii) are designated by the Registrar and reported to Senate as an undergraduate student; and

c) "graduate students" means those who are members of the Graduate Student Society at Simon Fraser University and who also:

- i) are duly registered as graduate students in the academic term in which nominations are due, or
- ii) are designated by the Registrar and reported to Senate as a graduate student.

2. Undergraduate students are eligible to be nominated and stand for election as one of the two student members of the Board of Governors.

Graduate students are eligible to be nominated and stand for election as one of the two student members of the Board of Governors.

3. Throughout the one-year term of office as a student member of the Board of Governors, undergraduate students and graduate students:

- a) must maintain registered status, as described in sections C.1.b. and C.1.c. above, at the University ,
- b) must not withdraw, or be required to withdraw, from the University.

Commented [A2]: Updates were made to this section and section 3.a) below to align these criteria with the definition of "student" in the *University Act*, which that defines a student as a person who is "presently" enrolled in a credit course.

D. Faculty Members

1. For the purposes of nominations and elections to the Board of Governors by and from **faculty members**, only faculty members who are members of the Simon Fraser University Faculty Association (whether part-time or full-time), provided they are not precluded from standing for election under the Collective Agreement between SFUFA and the university, shall be entitled to nominate, stand as candidates and to vote in the pertinent faculty member elections to the Board (“Eligible Faculty Members”). This means, as at the date of these Rules, only those holding the following appointments: tenure-track instructor or laboratory instructor; lecturer; senior lecturer, or university lecturer; assistant professor, associate professor, or professor; practitioner faculty; term faculty (also known as limited term faculty or non-continuing faculty); librarians or archivists (librarian or archivist 1; librarian or archivist 2; librarian or archivist 3; librarian or archivist 4; and division heads); and faculty members who are assigned overload teaching contracts.

For greater clarity, this does not include members of any other employee group that has standing at the university or any employees that are Excluded staff, such as (without limitation): Faculty Associates and Program Coordinators; visiting or adjunct faculty members; teaching assistants; tutor markers; non-faculty employees who are assigned overload teaching contracts or who teach courses on an add-pay basis; sessional instructors; non-credit contract instructors; post-doctoral fellows; research assistants; research associates; persons funded on external research grants; Associate Members who are not otherwise members of the Simon Fraser University Faculty Association; and faculty members with post-retirement appointments.

E. Employees who are not Faculty Members

1. For the purposes of nominations and elections to the Board of Governors by and from **employees of the University who are not Eligible Faculty Members**, all persons employed by the University who are not Eligible Faculty Members (as described in section D above, whether part-time or full-time) shall be entitled to nominate, stand as candidates and to vote in the pertinent elections. This includes members of employee groups that have standing at the University, other than SFUFA, and Excluded staff.

For certainty, this does not include individuals who are not employed by the University, such as (without limitation): contractors; Faculty Associates or Program Coordinators seconded from school districts; external post-doctoral fellows; individuals employed by other persons or organizations for whom the University acts as payroll provider; and individuals for whom the University acts as employer of record.

F. General Regulations Covering Nominations and Voting

1. The due date for nominations shall be not earlier than ten days and not later than fifteen days following the date of the call for nominations in the case of elections by and from Eligible Faculty Members, by and from students, and by and from employees who are not Eligible Faculty Members.

2. The 'date of election' shall be interpreted to mean the last date on which valid ballots are due.

Commented [A3]: Updates were made to this section to track the certification section of the current SFUFA Collective Agreement and align to the definition of “Faculty Member” in the *University Act*.

Commented [A4]: The language in this parenthetical has been added for clarity, as these terms are used sporadically in the SFUFA Collective Agreement and/or informally by faculties.

Commented [A5]: Noting that these persons are members of SFUFA, but are specifically prohibited from standing for elections to the Board of Governors by s.41.11 of the Collective Agreement

Commented [A6]: Sections requiring a certain percentage of part-time appointments and appointment terms for limited term members for eligibility have been removed, as these members have standing in SFUFA without reference to specific lengths of appointment or percentage loads.

Commented [A7]: This section has been updated to describe eligible non-faculty employees more generally to include all employees who do not meet the definition of “Eligible Faculty Members”.

Commented [A8]: Sections relating to special permission to stand for election or vote; and to restricting part-time employees’ eligibility have been removed as there is no basis in the *University Act* for a special voting permission, and the *University Act* was amended to remove the criteria that employees eligible to stand or vote be full-time employees.

3. The period for casting online ballots shall be not less than two days nor longer than four days in the case of elections by and from Eligible Faculty Members and by and from members of staff who are not Eligible Faculty Members. The period for casting online ballots shall be not less than two days nor longer than five days in the case of elections by and from students.

4. In the regular elections to the Board of Governors, balloting is to be completed no later than April 15th in any year.

G. General Regulations

1. a) When elections are being held for the Board of Governors and for Senate a qualified candidate may accept nomination to run for office in both those elections.

b) Candidates may not run for a seat on the Board of Governors from more than one constituency.

2. In the election of an Eligible Faculty Member to the Board of Governors, the Eligible Faculty Member with the highest numbers of votes shall be elected.

3. In the election of a non-faculty employee to the Board of Governors, the employee with the highest numbers of votes shall be elected.

4. In the annual election of students to the Board of Governors, there shall be one undergraduate student elected by undergraduate students and one graduate student elected by graduate students. In the election of an undergraduate student to the Board of Governors, the undergraduate students with the highest number of votes by undergraduate student shall be elected. In the election of a graduate student to the Board of Governors, the graduate student with the highest number of votes by graduate students shall be elected.

5. If there is a tied vote between two candidates for one position, the winner shall be determined by a toss of the coin conducted by the Registrar at a time set by the Registrar and in the presence of the affected candidates or their representatives. Where there are more than two candidates tied for one position there shall be an additional ballot to choose between the persons concerned.

6. At the end of the balloting period, the Registrar shall, at the place, day and hour fixed in the notice of election, be responsible for opening printed ballots or for the download of online ballot results and, in the presence of the candidates or their representatives as officially attend, the counting/tabulation of votes for each candidate.

7. The Registrar shall state the name of the persons elected. Recount of printed ballots or complaints concerning electronic ballot tabulation may be requested/submitted within ten days of the announcement of the results to the candidates. The ballots/electronic data shall be destroyed after ten days following the recount period. All candidates declared elected are to be recorded in the Minutes of the Board and reported to Senate. The Registrar is to inform all candidates of the number of votes cast for each candidate.

8. These Rules are intended to be in accordance with the *University Act*, as amended from time to time. In the event of any conflict between the *University Act* and the Rules, the *University Act* will prevail.

9. These Rules will be reviewed periodically, and in any event, at least once every five (5) years.

H. Vacancies

1. Where a vacancy arises in the case of an elected Eligible Faculty Member, an elected student member, or an elected employee of the University who is not an Eligible Faculty Member to the Board of Governors, a by-election will be held under the same principles as pertain to the regular election provided there is at least four months remaining in the unexpired term at the time for call for nominations.

I. The Senate Electoral Standing Committee oversees the conduct of elections to the Board of Governors.

Commented [A9]: Sections were added to clarify the paramountcy of the *University Act* and to mandate periodic review.