

## MEMORANDUM

<b>TO:</b>	Senate
<b>FROM:</b>	A. Francesca Hennigar, Legal Counsel
<b>DATE:</b>	March 17, 2022
<b>SUBJECT:</b>	Proposed Updates to the Board of Governors Election Rules

**Motion for approval:**

**“That Senate approve the updates to the Board Election Rules attached as Appendix 1.”**

**Background:**

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 group 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 In addition to addressing these objectives, the attached changes also update outdated terminology used to describe categories of university personnel and clarify the paramouncy of the *University Act* over the Rules.

An early draft of revisions to the Rules was shared with Senate for information on January 10, 2022. At that meeting, it was indicated that a further change would be made before the proposed updates were brought before the Board for recommendation and then brought back to Senate for approval. Namely, the faculty member section of the Rules would be simplified to explicitly list the categories of individuals eligible to stand and vote in the election of faculty members to the Board. Senate’s feedback was also solicited at that time.

At its meeting of January 27, 2022, the Board recommended proposed updates to the Rules for Senate approval. The version attached to this memo shows all of the changes that are proposed to be made to the Rules that are currently in place, which changes take into account all feedback received from the Board and Senate.

Senate’s approval of the attached updates to the Rules, as required by Section 43(1) of the *University Act*, is now requested.

## Appendix 1

### Board Election Rules

The Board of Governors ~~is and Senate are~~ the ~~senior~~ governing ~~body~~bodies at Simon Fraser University constituted under the *University Act*.- The ~~overall~~Board of Governors is vested with responsibility for the business of the University ~~(property, revenue and policies) is vested in the Board.~~

### **ELECTION RULES ("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~~is June 1st.
  - c) In order to be nominated, the individual must be eligible to hold the position being sought.
  - d) ~~The~~Terms of office for students, Eligible Faculty Members (as defined below), Staff Members (as defined below) are as set out in the University Act. As of the date of these Rules, the term of office for student members is one year.~~The; the~~ term of office for ~~faculty members~~Eligible Faculty Members is three years.~~The; and the~~ term of office for ~~employees of the university who are not faculty members~~Staff Members is ~~3~~three 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).
  - e) For greater clarity, the student, Eligible Faculty Member, and Staff Member positions on the Board of Governors are ex officio positions. As such, if any such member of the Board ceases to be eligible as a student, Eligible Faculty Member, or Staff Member under these Rules during their term of office, they will immediately cease to be a member of the Board, and the resulting vacancy will be addressed in accordance with Article H. of these Rules.

#### B. Nominations

1. All nominations of candidates for membership on the Board of Governors as ~~faculty members~~Eligible Faculty Members shall be signed by not less than five ~~members~~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 faculty members~~ Staff Members shall be signed by not less than five ~~members~~ Staff Members entitled to vote in the particular election.

4. The nomination paper must be signed by the candidate who shall state that ~~he/she is~~ they are eligible to hold office ~~and; they are~~ willing to permit ~~his/her~~ their name to stand in the election, ~~or on written enquiry from;~~ and confirm that they understand and, if elected, will abide by (a) Section 19.1 of the ~~Registrar, University Act, which states that members of the~~ candidate Board of Governors must indicate ~~he/she is willing to stand~~ 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 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*, ~~Part 7~~, Section ~~35h~~ 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. ~~During 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 ~~for at least two academic terms~~,

b) must not withdraw, or be required to withdraw, from the University.

#### D. Faculty Members

1. For the purposes of nominations and elections to the Board of Governors by and from **faculty members**, only ~~faculty members (or designated electoral equivalent) employed in a manner deemed to be of a continuing engagement nature~~ those holding the following appointments shall be entitled to nominate, stand as candidates and to vote in the pertinent faculty member elections to the Board. ~~This means only those holding the following appointments: tenure-track ("Eligible Faculty Members"); instructor;~~ instructor; ~~or laboratory instructor; lecturer; senior lecturer, or university lecturer;~~ or laboratory instructor; lecturer; senior lecturer, or university lecturer; assistant professor, associate professor, or professor; ~~or department chairs; associate deans; practitioner faculty; term faculty (also known as limited term faculty or non-continuing lecturer, senior lecturer, laboratory instructor, or professional faculty); and librarians and archivists (librarian- or archivist 1; librarian or archivist 2; librarian or archivist 3; librarian or archivist 4; division heads; library associate deans; and the university archivist).~~

~~This~~ 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):~~ 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;~~ teaching assistants; tutor markers, ~~language instructors;~~ non-faculty employees who are assigned overload teaching contracts or who teach courses on an add-pay basis; sessional lecturers, sessional instructors; non-credit contract instructors and non-credit instructors. It also does not include; post-doctoral fellows; research assistants; ~~research associates or persons funded on external research grants.~~

#### ~~2. Continuing Part-time~~

~~Continuing part-time tenure-track; Associate Members who are not otherwise members of the Simon Fraser University Faculty Association; and tenured faculty (instructors, assistant professors, associate professors and professors and continuing lecturers, senior lecturers, laboratory instructors and professional librarians-faculty members with post-retirement appointments of 50% or greater shall be granted the same rights as full-time colleagues holding the same rank to nominate, stand for election and vote in the elections to the Board of Governors.~~

#### ~~3. Limited Term~~

~~Limited term faculty members holding full-time appointments for more than one year or~~

~~who have two or more consecutive one-year appointments may stand for election and vote in elections to the Board of Governors.~~

E. Continuing Employees who are not Faculty/Staff Members

1. For the purposes of nominations and elections to the Board of Governors by and from **employees of the University who are not ~~faculty members~~Eligible Faculty Members**, all persons ~~holding employment employed by the University who are not Eligible Faculty Members (as professional, administrative and support staff described in section D above, whether part-time or non-academic staff full-time)~~ shall be entitled to nominate, stand as candidates and to vote in the pertinent elections ~~only if the employment position held is likely to be of a continuing engagement nature. (“Staff Members”).~~ This includes CUPE, APSA, Poly Party, members of employee groups that have standing at the University and Excluded staff, as well as research associates (R50.01), and Program Coordinators in the Faculty of Education (A12.06).

~~This~~For certainty, this does not include individuals who are not employed by the University, such as (without limitation): contractors; Faculty Associates, visiting faculty, teaching assistants, tutor markers, language instructors, sessional lecturers, sessional instructors and non-credit instructors. It also does not include or Program Coordinators seconded from school districts; post-doctoral fellows, research assistants, research associates or persons funded on external research grants.

~~2. A person, who has been an employee of the University other than a faculty member for more than three consecutive academic terms but who does not have any other entitlement to vote for a member for the Board of Governors, may request in writing from the Registrar that he/she be permitted to be a candidate and/or to vote in the election to the Board of Governors by and secured funding from members of staff who are not faculty members. Such request shall be authorized provided service an external funding organization or a fellowship program which is continuing and has remained continuous over not less than the three previous consecutive academic terms.~~

~~3. Continuing Part-time~~

~~Part time continuing support staff (CUPE, APSA, Poly Party, and Excluded) with appointments of 50% or greater, shall be granted the same rights as full-time colleagues holding the same type of appointment, to nominate, stand for election and vote in elections to the Board of Governors external to the university and whose salary is paid wholly from such funding; 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~~10 days and not later than ~~fifteen~~15 days following the date of the call for nominations in the case of elections by and from **faculty members**Eligible Faculty Members, by and from students, and by and from ~~members of staff who are not faculty members~~Staff Members.

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

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 **faculty members**Eligible Faculty Members and by and from

~~members of staff who are not faculty members~~ Staff 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~~ nominations 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 ~~a faculty member~~ an Eligible Faculty Member to the Board of Governors, the ~~faculty member~~ Eligible Faculty Member with the highest numbers of votes shall be elected.

3. In the election of a ~~non-faculty employee~~ Staff Member to the Board of Governors, the ~~employee~~ Staff Member 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 ~~tie~~ tie 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~~ downloading online ballot results and, in the presence of the candidates or their official 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~~ 10 days of the announcement of the results to the candidates. The ballots/electronic data shall be destroyed after ~~ten~~ 10 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 ~~faculty member~~Eligible Faculty Member, an elected student member, or an elected employee of the University who is not ~~a faculty member~~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.

*The following are extracts from the University Act of British Columbia*

**Composition of Board**

~~19 (1) The board of a university, other than the University of British Columbia, is composed of 15 members as follows:~~

~~(a) the chancellor;~~

~~(b) the president;~~

~~(c) 2 faculty members elected by the faculty members;~~

~~(d) 8 persons appointed by the Lieutenant Governor in Council, 2 of whom are to be appointed from among persons nominated by the alumni association;~~

~~(e) 2 students elected from students who are members of an undergraduate student society or a graduate student society;~~

~~(f) one person elected by and from the employees of the university who are not faculty members.~~

**Term of office**

~~20 (1) Each member of the board elected under section 19 (1) (c) and (f) and (2) (c), (d), (h) and (i) holds office for 3 years and after that until a successor is elected.~~

~~(1.1) Each member of the board appointed under section 19 (1) (d) and (2) (e) holds office for a term of up to 3 years and after that until a successor is appointed.~~

~~—— (2) Each member of the board elected under section 19 (1) (c) or (2) (f) or (g) holds office for one year and after that until a successor is elected.~~

~~—— (3) The chancellor and president are members of the board for so long as they hold their respective offices.~~

### **Reappointment or re-election**

~~21 — The appointed members of the board are eligible for reappointment and the elected members are eligible for re-election, but those members must not hold office for more than 6 consecutive years.~~

### **Removal from office**

~~22 — (1) The Lieutenant Governor in Council may, at any time, remove from office an appointed member of the board.~~

~~—— (1.1) Despite section 19, the Lieutenant Governor in Council may, on a resolution passed by the vote of at least a 2/3 majority of the members of the board, remove from office a member of the board elected under section 19 (1) (c), (e) or (f) or (2) (c), (d), (f), (g), (h) or (i) if the board is satisfied that the person should be removed for cause.~~

~~—— (2) Unless excused by resolution of the board, a member who does not attend at least half of the regular meetings of the board in any year is deemed to have vacated his or her seat.~~

### **Persons not eligible**

~~23 — (1) The following persons are not eligible to be or to remain members of the board:~~

~~—— (a) members of the Parliament of Canada;~~

~~—— (b) members of the Executive Council or of the Legislative Assembly;~~

~~—— (c) [Repealed 2006-15-45.]~~

~~—— (d) a member of the public service in the ministry;~~

~~—— (e) a member of the public service designated by the minister.~~

~~—— (f) [Repealed 2003-48-32.]~~

~~—— (g) [Repealed 2018-36-3.]~~

~~—— (2) A member of the board who ceases to be eligible during his or her term of office immediately ceases to be a member of the board.~~

### **Vacancies on the board**



~~24 — (1) If a vacancy arises on the board because of the death of a member or for any other reason before the end of the term of office for which a member has been appointed or elected, the secretary of the board must enter a declaration of the vacancy in the minutes of the board.~~

~~— (2) A declaration under subsection (1) is conclusive evidence of the vacancy.~~

#### **Method of filling vacancies and effect of vacancy**

~~25 — (1) If a vacancy exists in respect of an appointed member, the Lieutenant Governor in Council must appoint a person to fill the vacancy.~~

~~— (2) If a vacancy exists in respect of an elected member, the appropriate body must elect a replacement.~~

~~— (3) A person appointed under subsection (1) or elected under subsection (2) holds office for the remainder of the term for which the person's predecessor was appointed or elected.~~

~~— (4) A vacancy on the board does not impair the authority of the remaining members of the board to act.~~

#### **Rules for elections**

~~43 — (1) The senate must make and publish all rules necessary and consistent with this Act in respect of nominations, elections and voting.~~

~~— (2) The registrar must conduct all elections that are required.~~

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~~Approved by the Board of Governors — May 31, 2012~~

~~Approved by Senate — July 9, 2012~~

~~Amendment to *University Act*, section 23(1)(g) — Board of Governors for Information January 24, 2019~~