

The Crisis of Confidence in University Boards Across Canada

Voting is underway for the faculty representative on the U of S Board of Governors, with ballots closing on May 25th. If you have not yet voted, consider participating in the process to determine who will take the seat of the faculty member on our Board of Governors. As recent events across Canada have shown, the role of faculty representatives on these boards is becoming an increasingly controversial issue, and has the potential to be so in the context of our university as well.

Academic Freedom and Gagging

On April 11, four days after Carleton University professor Root Gorelick delivered a [keynote address](#) to USFA members describing his troubling experiences as a faculty representative on the Board of Governors at his institution, the Carleton University Academic Staff Association (CUASA) unanimously adopted a motion of [non-confidence](#) in its Board of Governors and senior administrative staff. The motion came after nine months of continued conflict over what many see as a growing lack of transparency and accountability in governance.

On March 30th, members of the University of British Columbia Faculty Association (UBCFA) also [voted](#) in support of a motion of non-confidence in their Board of Governors. The vote was a consequence of the [events](#) that followed the surprise resignation of the UBC President in August 2015. The UBCFA also filed a complaint with the Information and Privacy Commissioner for British Columbia asking UBC's admin-

istration to [release](#) e-mail records and records of the Board of Governors' committees and meetings.

On April 19th, with the highest participation rates for a university-wide vote in 30 years, 81% of [Thompson Rivers University Faculty Association](#) (TRUFA) members who cast a ballot voted "No Confidence" in five senior administrators: President, Provost and Vice-President Academic, Vice-President of Advancement, Vice-President of Finance, and Associate Vice-President Academic (Faculty Relations).

This troubling trend is a predictable and unfortunate result of conflict between core values of academia and the corporate mentality that is growing in university administration. More and more, universities model themselves on corporations: they seek to maximize profitability, productivity, and marketability. Collegial governance is facing a critical challenge from new managerial practices and an increasing concentration of power in the administration.

In Dr. Gorelick's address, "Academic Freedom in University Governance: Blogging and Gagging," he told his story of the attempts to silence him by Carleton's upper administration and its Board's executive because he presented a dissenting voice, raising concerns and posing questions about due process, and writing blog posts about open session board meetings. ([You can read about it here.](#)) In his talk, Dr. Gorelick set out 10 forms of gagging by Carleton's Board of Governors experienced by himself and others in his 3 years on the Board. Dr. Gorelick

spoke of how the Board implemented codes of conduct that prohibit board members from expressing dissenting views, how it had made practices intended to allow transparency more opaque, and how it had stifled and intimidated board members. "Silencing tactics have gone from relatively benign to draconian," he said.

Academic culture is predominantly a culture of disclosure—not concealment—and widely accepted standards of shared governance include principles of inclusiveness and transparency. However, as Carleton shows, university governance is moving towards secrecy and exclusivity, and the presence of faculty representatives on Boards of Governors at Canadian Universities is becoming a sensitive issue.

Financial Responsibility, Independent Decision-making, and Transparency

While there still seems to be agreement that university Boards of Governors should include a faculty member, the debate about the conduct of such a board member often centres around the notion of the Board's fiduciary responsibility—and this responsibility is all too often described in terms of a

Questions about Collegial Governance?

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usfa@usaskfaculty.ca
Or 966.5609

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corporate rather than a collegial model of governance. As the [Ottawa Citizen](#) reports, Carleton's claim in defending its code of conduct directive that all members must publicly support Board decisions was that "The board of governors is a legal fiduciary board. ... Not an elected parliamentary style body."

One recent contrasting example is provided by the report of a task force struck in 2015 by Western University's Board of Governors in response to motions of non-confidence in its President and Chair of the Board of Governors. The motions had been triggered by decisions concerning the President's compensation. After undertaking a review of governance policies, practices and processes, and the relationship of the Board to the Senate, the university community, and the wider community external to the university, the task force delivered [its Report of the Governance Review](#).

The report defines Board members' duties with regard to fiduciary responsibility as follows:

Fiduciary responsibility is a legal responsibility, commonly described as comprising three "duties": duty of care, duty of loyalty and duty of obedience. Duty of care means that members carry out their responsibilities in good faith and with diligence, care and skill, all in the best interests of Western. Duty of loyalty means that each individual Board member must be independent of any outside influence, including the body or group that appointed or elected the member to the Board, and make decisions solely on the basis of his or her good judgment. Finally, duty of obedience speaks to the need to ensure that the institution is operating in accordance with its purposes and that it is compliant with the law.

In contrast to what has been happening at Carleton, the task force also states

that, "In keeping with a commitment to openness and transparency, care must be taken to ensure that matters are dealt with in closed session only when necessary and that confidentiality restrictions are lifted when possible."

Faculty Representatives on Boards of Governors: In-scope or Out-of-scope?

Up for debate too is whether or not a faculty member who has a seat on the Board should maintain membership in the faculty union or association while on the Board. Faculty members on university Boards of Governors play a pivotal role. Most crucially, they bring information and insight into the purposeful work of the institution to the highest level of decision making. At times their insights and opinions will be appropriately divergent from those of the other Board members, and faculty should be able to participate fully as Board members without fear of repercussion. The faculty representative on the Board, therefore, should not be an academic administrator who is out of scope, and whose career progression or further employment is not protected by a Collective Agreement.

In the view of the USFA, maintaining membership in the union or association does not undermine a Board member's responsibility to the institution. In fact it is very important to help Board members understand the positions and experiences of faculty, and having the protection of a Collective Agreement allows divergent and dissenting views to be presented and debated. As illustrated by Dr. Gorelick's experiences, if not for his right to exercise academic freedom and criticize Carleton's Board as protected by a Collective Agreement, he would have little redress available to him.

The Election at the University of Saskatchewan

We have had governance challenges that are the direct result of a corporate mentality that required secrecy at the ex-

pense of collegial sharing and open dialogue. Members of the U of S Board of Governors, regardless of the particular constituency—senate, faculty, students, government—need to have the unfettered ability to carry out their responsibilities on the Board on the basis of their own good judgment.

Right now at the U of S, among those running for the position of faculty representative on the Board of Governors is an out-of-scope Associate Dean. ([List of Academic Administrators](#)) Electing out-of-scope faculty representatives has the potential to result in a new iteration of "the Silence of the Deans." Out-of-scope administrators do not have the legal workplace right to criticize their employer, unlike in-scope faculty members who have that right enshrined in the Collective Agreement.

It is troubling that the ability for an out-of-scope academic to seek election to the Board of Governors as the faculty representative is a change of interpretation of the U of S Act. Past University Secretaries, who are responsible for overseeing the election process, have interpreted the Act in such a way that only in-scope faculty are eligible to run, and to vote, in this election. This new interpretation of the Act has the capacity to profoundly change the traditionally collegial governance of our university.

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