

# Kwantlen

## POLYTECHNIC UNIVERSITY

April 1, 2010

Kwantlen Polytechnic University welcomes the Government of British Columbia's review of the Society Act, and we are pleased to provide our input regarding possible revisions of these rules as they apply to student societies.

As you are aware, student associations are incorporated under the Society Act, and, apart from section 27.1 of the University Act that speaks to Student Society Fees, operate autonomously as does any other not-for-profit agency within the Province.

There is, however, one fundamental difference that should be stressed when considering the rules for registration and governance of a student association, and that is that a student association can not exist without an associated educational institution. This means that the institution is linked financially (because the institution collects student fees and remits them to the student association in good faith) and by reputation, because the public does not understand the governance dynamics between the institution and the student association that bears their name.

Under Section 27.1(4) of the University Act there are provisions for a board to cease to collect or remit student society fees to a student society if audited financial statements are not made available to its members, or if the society is struck off the register. There is no requirement for the student society to share any fiscal reporting with the associated institution, and the criteria for having a society struck off the register is difficult for an institution to address, let alone in a timely manner. Historically this has left institutions powerless to quickly address issues of fraud and misappropriation of funds by student associations that bear their names, and has also led to issues of mistrust of the institution by a public who does not understand the operational dynamics. (Most recently, Douglas College and Kwantlen were seriously affected by this.)

The review of the Society Act gives us the opportunity to suggest changes that govern the way student societies relate to colleges and universities. We would like to suggest that the Government of British Columbia *consider legislation similar to that currently in place under the Post Secondary Learning Act in Alberta*, legislation that provides for oversight and intervention of the Minister if there are allegations of misconduct.

In Alberta, student organizations (student associations and any graduate student associations) are corporations under the *Post-secondary Learning Act* (s. 93) with certain powers (s. 95). However, in addition to having to provide annual audited financial statements to the board (and to students on request (s. 97), the Minister of Advanced Education and Technology may appoint an investigator to investigate (s. 99) the financial

condition of the students organization. Investigators are given certain powers (s. 99), e.g. to examine, inspect and take copies of documents; make any inquiries the investigator thinks fit; and require and take evidence on oath. After receiving the investigator's report the Minister may make any order that the Minister considers proper. If irregularities are found in the management of the financial affairs of a students organization, the Minister may (s. 97(2)) do any of the following

- (a) suspend or terminate the term of office of one or more members of the council of the student organization,
- (b) appoint an administrator to exercise the powers and perform the duties of the council until a new council is elected (paid out of the funds of the student organization), and
- (c) take any other action that the Minister considers appropriate to remedy the irregularity.

The *Post-secondary Learning Act* was proclaimed in 2004. To date, a Minister of Advanced Education has not had to use the investigative powers to rectify an issue with a student association. The Ministry staff meets regularly with representatives of the student associations and has agreement that the Ministry will first try and work with them on any issues that may arise first rather than exercise the powers described above. Obviously the Ministry does have the option of exercising this power, though, should they need it.

The information on the *Post-secondary Learning Act* can be accessed at <http://aet.alberta.ca/post-secondary/campusalberta/legislation/psla.aspx>, but the applicable sections are provided below:

#### *Post-secondary Learning Act* (Alberta):

##### Definitions

1 In this Act,

...  
(h) "graduate students association" means a graduate students association of a university established under section 94 or continued under Part 5;

...  
(r) "students association" means a students association of a public college, technical institute or university established under section 93 or continued under Part 5;

(s) "student organization" means a students association or graduate students association;

##### Student Affairs

###### Students association

93(1) The Lieutenant Governor in Council shall by order establish a students association for each public post secondary institution other than Banff Centre and shall give the students association a name consisting of the words "The Students Association of" followed by the name of the public post secondary institution.

(2) Each students association is a corporation and consists of the students of the public post secondary institution, other than students enrolled only in non credit courses and, in the case of a university, graduate students.

(3) The students association of a public post secondary institution shall provide for the administration of student affairs at the public post secondary institution, including the development and management of student committees, the development and enforcement of rules relating to student affairs and the promotion of the general welfare of the students consistent with the purposes of the public post secondary institution.

(4) If it has the approval of the board to do so, a students association may acquire real property by purchase, lease or otherwise and may hold and dispose of it.

2003 cP 19.5 s93;2005 c44 s7

Graduate students association

94(1) If a university offers a program of graduate studies, the Lieutenant Governor in Council may by order establish a graduate students association for the university and shall give the graduate students association a name consisting of the words "The Graduate Students Association of" followed by the name of the university.

(2) Each graduate students association is a corporation and consists of the graduate students of the university.

(3) The graduate students association of a university shall provide for the administration of graduate student affairs at the university, including the development and management of graduate student committees, the development and enforcement of rules relating to graduate student affairs and the promotion of the general welfare of the graduate students consistent with the purposes of the university.

(4) If it has the approval of the board to do so, a graduate students association may acquire real property by purchase, lease or otherwise and may hold and dispose of it.

2003 cP 19.5 s94;2007 c7 s6

Management of student organizations

95(1) The business and affairs of a student organization of a public post secondary institution must be managed by a council, the members of which are

(a) to be elected by and from the members of the student organization as provided in the bylaws made by the council under subsection (2), or  
(b) if it is the first council of the student organization, to be elected in accordance with the procedures prescribed by the initial governing authority under section 5(2)(b)(ii) or 42(2)(b)(ii).

(2) The council of a student organization may make bylaws governing

(a) the requirements for membership in the student organization;  
(b) the qualifications for election as a member of the council and the time and manner of conducting the elections;

(c) the number of persons and the officers that the council is to consist of;

(d) the calling of meetings of the council and the quorum and conduct of business at those meetings;

(e) in the case of a students association, the maintenance of the association by the levy of membership fees on its members;

(f) in the case of a graduate students association, the maintenance of the association by the levy of membership fees on its members;

- (g) the acquisition, management and disposition of property by the student organization;
  - (h) any other matter pertaining to the management and affairs of the student organization.
- (3) Repealed 2005 c44 s8.
- (4) The council of a students association is the official channel of communication between the students of a public post secondary institution, other than graduate students in the case of a university, and the board.
- (5) The council of a graduate students association is the official channel of communication between the graduate students of a university and the board.

#### Audit of student organizations

- 97(1) Each student organization of a public post secondary institution shall provide audited financial statements annually to the board of the public post secondary institution and shall make the audited financial statements available to students of the public post secondary institution on request.
- (2) Where an investigator appointed under section 99 finds irregularities in the management of the financial affairs of a student organization, the Minister may
- (a) suspend or terminate the term of office of one or more members of the council of the student organization,
  - (b) appoint an administrator to exercise the powers and perform the duties of the council until a new council is elected, and
  - (c) take any other action that the Minister considers appropriate to remedy the irregularity.
- (3) An administrator appointed under subsection (2)(b) shall be paid the remuneration and expenses determined by the Minister out of the funds of the student organization.

#### Investigation

- 99(1) The Minister may in writing appoint an investigator to examine and inspect
- (a) in respect of the board of a public post secondary institution,
    - (i) the financial condition of the board,
    - (ii) the administrative condition of the board, or
    - (iii) any other matter connected with the management, administration or operation of the board,
  - or
  - (b) in respect of any students organization established under this Act, the financial condition of that organization.
- (2) For the purposes of subsection (1) an investigator may examine, inspect and take copies of
- (a) all books of record and account,
  - (b) all bank books,
  - (c) electronically stored information, and
  - (d) any other papers, documents or things,
- in the possession of any person.



(3) The person having custody of the books, information, papers, documents and things mentioned in subsection (2) shall make them available to an investigator at the time the investigator requests them from the person having custody.

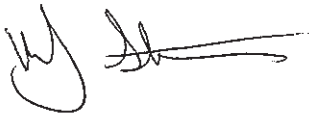
(4) An investigator may, during the investigator's examination and inspection, make any inquiries the investigator thinks fit and may require and take evidence on oath.

(5) An investigator shall report to the Minister on the investigator's examination and inspection, and on receipt of the report the Minister may make any order that the Minister considers proper.

(6) The costs of an investigator appointed by the Minister are payable by the Minister.

Thank you for this opportunity to provide feedback, and we look forward to seeing what legislative changes are recommended. We would be pleased to discuss this submission, or to give further details on what our unique experience has been at KPU.

Sincerely

A handwritten signature in black ink, appearing to read 'Mary Jane Stenberg', with a stylized flourish at the end.

Mary Jane Stenberg  
Executive Director, External Relations  
Office of the President  
Kwantlen Polytechnic University  
t. 604 599-2127  
maryjane.stenberg@kwantlen.ca

MAR 31 2010

Mr. Graham Whitmarsh  
Deputy Minister  
Ministry of Finance  
109, 617 Government St  
Victoria BC V8W 9V1

Dear Mr. Whitmarsh:


On behalf of the Ministry of Advanced Education and Labour Market Development (ALMD), I am responding to your invitation to comment on issues relating to the *Society Act*, which is being reviewed by the Ministry of Finance. This review, aimed at identifying potential areas for policy and legislative reform, is both timely and important. Thank you for seeking the input of ALMD and its stakeholders regarding the review.

As outlined in your message of December 2009, regarding the *Society Act* review, the numerous not-for-profit entities registered as societies in British Columbia are involved in many endeavours. Several are involved in matters relating to and impacting the mandate of ALMD, including both public and private post-secondary education, student services, labour market development, immigration, and the professions and occupations.

Attached please find ALMD's comments on some of the problems, gaps, inconsistencies or ambiguities within the *Society Act* in the context of several of these areas for your consideration.

Again, thank you for seeking the input of this Ministry regarding your policy and legislative review of the *Society Act*. We look forward to hearing about the next phase of the project.

Sincerely,



Lorne Brownsey  
A/Deputy Minister

Attachment

## ALMD's comments on the *Society Act* review

### Student Societies

In the public post-secondary sphere, ALMD has been contacted to explain and account for the government's involvement in monitoring and/or regulating the activities of student societies. In recent years, some public institutions' administrations have spent considerable time and resources addressing and managing issues relating to student societies' management, conduct, and activities.

As you may be aware, the public post-secondary education statutes, namely the *University Act* and *College and Institute Act*, do not serve to regulate the activities of student societies, which are governed solely by the *Society Act*. The post-secondary legislation requires only that institutions collect student society fees and transmit them to the student society on certain conditions. Despite institutions' knowledge of serious mismanagement of funds or other inappropriate activity on the part of a student society, an institution may cease to collect or remit student society fees only if the student society either fails to make audited financial statements available to its members and inform the institution that it has done so, or if the student society is struck off the register of societies in accordance with s.71 of the *Society Act*. Without legal authority to intervene, the Minister of ALMD has consistently declined to become involved in issues relating to the affairs of student societies.

You may wish to be aware that some representatives of public post-secondary institutions have expressed frustration that there are few meaningful safeguards under the *Society Act* to protect members of student societies from activities undertaken by the society's executive that may be illegal, fraudulent, or otherwise questionable. When advised, there is nothing the Minister of ALMD is empowered to do under the post-secondary legislation, concerned individuals have expressed concern that the Registrar of Societies has no ability or will to monitor or sanction societies that fail to comply with sound management practices, or appear to engage in illegal or fraudulent activities. It has been suggested to ALMD in passing, that perhaps the role of the Registrar of Societies should be broader, and encompass a monitoring role in the interest of protecting both members of the society, employees of the society, and those parties that have dealings with the society through business transactions and otherwise.

To clarify, ALMD has not specifically sought the comments of the post-secondary institutions on student society issues as part of this review. Should the concerns of institutions relating to student societies be of interest to you, we would be pleased to facilitate further communications between your staff and the administration of the institutions on this subject.



### **Accountability Mechanisms under the *Society Act***

It is clear that societies that are operating in British Columbia today are not homogeneous entities. As your message notes, some are small community-based sports or cultural organizations, while others are engaged in delivering social services for fees, having objects and responsibilities that are similar in many respects to those of corporate entities. ALMD staff work with several societies and not-for-profit organizations in the delivery and implementation of the Ministry's learning, post-secondary education, and labour market development programs. ALMD is responsible for ensuring the large number of private post-secondary institutions -- consisting of degree granting institutions, career training institutions, theological colleges, and private language schools, many of which operate as societies -- comply with legislation governing the private post-secondary sector, including the *Degree Authorization Act* and the *Private Career Training Institutions Act*. Consumer protection concerns are paramount in dealing with small entities that can readily go out of business. In the case of those that deliver post-secondary sector education and prepare students for future careers -- as opposed to small community-based volunteer societies -- there is a strong public interest in ensuring that education and training serve the needs of students and ultimately, those of future employers.

ALMD agrees that some streamlining and modernization of the legislative framework for the community-based non-profit sector is likely required. However, given that many societies engaged in the post-secondary education sector serve students who are routinely making significant financial and time investments; it is this Ministry's perspective that provisions that ensure the accountability of these organizations should be included within an amended *Society Act*.

There are several existing accountability mechanisms that are of value in assisting ALMD to ensure societies comply with legislation governing the private post-secondary sector, and it is desirable that these mechanisms be retained and even strengthened to ensure the public interest in the accountability of societies is safeguarded.

It is ALMD's perspective that any new *Society Act* must continue to include a vetting and approval process for the proposed name of a new society. The Registrar of Societies should continue to have the ability to reject a society's proposed name for valid reasons. For example, the organization should not be permitted to have a name that makes it appear as if it may be a government entity. As well, the use of some names or terms is restricted by other legislation; of particular importance to ALMD is the prohibition of use of the word "university" in the *Degree Authorization Act* and the *University Act* by unauthorized institutions. Should societies be permitted to incorporate with names that either suggest government sanction or imply they are publicly funded post-secondary institutions, there are implications for prospective students and the public. It is recommended that a society should have to display its approved name and advise of, and receive approval for, any name change. These measures will provide some measure of protection for the public when dealing with the society.

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Similarly, it is this Ministry's perspective that societies should continue to maintain a registered and records office and presence in British Columbia. Although globalization is affecting the way societies and corporations operate, having a physical presence in the province where records are stored and documents can be served would seem to continue to be a necessity. It may be helpful for the amended legislation to describe the types of records which should be retained by the society.

It is submitted that any new or amended *Society Act* must include provisions that require not-for-profit organizations to accurately share information about their governance, finances, and operations at particular intervals. Societies should be required to continue to file their bylaws with the Registrar of Societies. This is important given that not-for-profit organizations are considered to primarily provide services in the public interest. Any distortion or corruption of the society's bylaws could have significant impacts on the organization's ability to serve its public mission and meet its mandate and goals. In addition, copies of annual reports should continue to be provided to the Registrar and be available to the public when requested.

Furthermore, any society should be required to have a sufficient number of directors to enable it to carry out its mandate and promote its accountability to any applicable funding bodies and the public. It is submitted that it would be appropriate for the legislation to establish a minimum number of directors. The British Columbia Law Institute (BCLI) recommends only one member, but given the work that many societies are engaged in, it may be advisable to have two or three members as the minimum. It is likely also important that at least one director reside in the province to ensure that there is a significant linkage to British Columbia. It is undesirable to permit a situation where societies can be incorporated in British Columbia without any physical presence within the province.

ALMD is supportive of the BCLI recommendation that a director provide some form of acknowledgement of his or her appointment or election to the Board of Directors. For example, one society familiar to a branch of ALMD listed the names of individuals in its documentation without their knowledge or consent. The new legislation should likely require that a society provide documentation, consisting of written consent, to show that the director has accepted appointment or election to the Board. This requirement would prevent similar abuses from occurring in the future. In addition, the names of directors who leave the Board through resignation, completion of their term, or death should be removed from any documentation, including websites, in a timely manner. The Registrar should be promptly notified of the change in board membership. The new legislation should perhaps ensure that paid employees of the society cannot serve on the board of directors as a voting member to avoid any conflict of interest.

There must be appropriate investigative mechanisms included in the new legislation to enable the Registrar to investigate, and act upon, potential abuses or deceptions. As well, directors of a society should be able to investigate their own organization. To this end, the BCLI recommends a provision for an auditor to be appointed on a voluntary basis.



The ALMD program areas dealing with private institutions and learning program providers echo the concerns expressed by public post-secondary institutions in stating that new legislation should ensure that there is ability for government to take appropriate action when significant problems arise that are not in the public's best interest. The legislation should include appropriate enforcement powers for the Registrar of Societies. If a society fails to submit required documents, pay mandatory fees, provides false information, has proven involvement in criminal activities, has been in contravention of a statute, or acts in some other manner which is not deemed to be in the public interest, the Registrar should have the ability to dissolve it and/or cancel its registration. For example, one society the ministry dealt with repeatedly provided false information to the Registrar. However, as the society in question continued to file documentation and pay fees as required, it has nevertheless retained its status as a society in the province. Such disregard for the registration system cannot be in the public's interest.

In summary, therefore, it is recommended that all of the accountability mechanisms within the *Society Act* be both enhanced and enforced in an effort to protect those dealing with societies.

#### **Part 10 of the *Society Act* – Occupational Title Protection**

Finally, ALMD can comment upon the matter of occupational title protection, which is presently addressed in Part 10 of the *Society Act*. As you are aware, the BCLI Report addressed Part 10 only very briefly, stating that occupational titles protection is a topic meriting its own statute, crafted by those who have expertise in the area, after consultation with affected parties. It seems to have been suggested, therefore, that occupational title protection, if it is to continue to be regulated, is to be addressed outside the *Society Act*. ALMD would concur with this perspective, given the significance of the matter for both members of an occupational group and non-members alike.

Governance of professions and occupations in British Columbia varies widely, and some of the professional and occupational associations ALMD interacts with see a need for extensive reform.

ALMD administers several Acts governing self-regulated professions and occupations in British Columbia, including:

- *Accountants (Certified General) Act*, which governs the Certified General Accountants Association of BC;
- *Accountants (Chartered) Act*, which governs the Institute of Chartered Accountants of BC;
- *Accountants (Management) Act*, which established the Certified Management Accountants Society of BC;
- *Applied Science Technologists and Technicians Act*, which governs the Applied Science Technologists and Technicians of BC;



- *Architects Act*, which established the Architectural Institute of BC;
- *Architects (Landscape) Act*, which governs the British Columbia Society of Landscape Architects;
- *Engineers and Geoscientists Act*, which governs the Association of Professional Engineers and Geoscientists of BC; and
- *Music Teachers (Registered) Act*, which governs the British Columbia Registered Music Teachers Association.

As ALMD anticipates an area of concern for some professional and occupational associations will relate to Part 10 of the *Society Act*, ministry staff have passed your invitation to comment upon the Act to each of the above associations, and asked them to submit any comments they may have to the Ministry of Finance directly.

The nature of rights conferred on professional and occupational associations through the *Society Act* or other legislation is of great significance to members, as rights to practice, scope of practice, and rights to title, impact the very nature of the work they may perform, and reflect their identities as working people. However, it is important to recognize the nature of the rights that are granted to members of associations also impact non-members, insofar as legislative limitations restrict the work they may undertake, and how they may describe their occupations.

In having granted legislation to a particular professional or occupational group, government has explicitly recognized the profession as one of significant importance, in which there is a public interest. While several Acts serve to restrict an area or scope of practice to members of a profession, some Acts governing professions and occupations confer little more than occupational title protection, in addition to incorporating the self-regulating professional association. In this respect, the substance of "right to title" legislation is not very different from what can be achieved through designation as a Part 10 society under the *Society Act*.

Part 10 societies, in addition to being incorporated under the *Society Act*, are conferred title protection, insofar as the Registrar is authorized to designate a specific occupational title for members of that society. Once an occupational title has been designated, non-members of the society are prohibited from using the occupational title, even if they perform substantially the same work as members of the society. The *Society Act* specifies, however, that the grant of title protection does not signify that "the society, its qualifications for admission to membership or its qualified members are in any way endorsed by the government." It seems clear the general public does not appreciate the significance of this qualification on Part 10 societies' recognition by government; use of a professional association name or associated title does not, on its face assist one in knowing whether the entity is endorsed by government, or one whose members possess an exclusive scope of practice.

More importantly, perhaps, the granting of title protection is a policy decision of considerable significance to others outside the applicant group. The continued segmenting of occupations over time will continue to create a complicated network of professional and occupational practices and limitations, which will be increasingly difficult for individual workers, and members of the public, to navigate. It is unclear how much scrutiny of an applicant's purposes, objects or membership is undertaken by the Registrar of Societies when an application is made under Part 10. In protecting Part 10 societies' members from unauthorized use of their titles, it is submitted that the Registrar ought to consider whether the applicants represent a unique and identifiable occupational stream meriting title protection, how the applicants' society would fit within the field of professions and occupations already established, and whether the grant of title protection would negatively impact other individuals' rights to practice the occupation without being a member. Since it appears that the Registrar of Societies, serving in a primarily administrative role, may not be in the best position to undertake this assessment, it would seem appropriate that government assign this responsibility elsewhere within government; as suggested by the BCLI, it would seem appropriate that occupational titles protection be regulated outside the *Society Act*.



KWANTLEN  
STUDENT  
ASSOCIATION

## **Proposed Changes to the BC Society Act**

### **Submission of the Kwantlen Student Association**

**to the  
Financial and Corporate Sector Policy Branch  
Ministry of Finance**

[fcsp@gov.bc.ca](mailto:fcsp@gov.bc.ca)

**April 1, 2010**



## Introduction

The Kwantlen Student Association (“KSA”) is the student association representing the students of Kwantlen Polytechnic University. The KSA is a society incorporated pursuant to the British Columbia *Society Act* (the “Act”) and has approximately 18,000 members.

As a BC society with a substantial membership, the KSA has significant experience working within the governance strictures of the *Act*. In addition to the adherence with the *Act* in carrying out its functions, the KSA has also been a party to a number of disputes in BC Supreme Court that relate in some way to membership based issues under the *Act*.

For example, since 2006, the KSA has been involved in the following matters decided by The Supreme Court of British Columbia:

- *Kwantlen University College Student Association v. Canadian Federation of Students-BC*, Unreported, January 20, 2010, Vancouver Registry S094085. In *KSA v. CFS-BC*, Madam Justice Brown interpreted s.24 of the *Society Act* to mean that only members may elect the directors of a society and that the members’ election of directors may not be vetoed by the directors of the society. The CFS-BC has brought an appeal of the decision and the KSA has cross-appealed on the basis that the court should have found oppression and remedied the oppressive actions of the CFS-BC.
- *Canadian Federation of Students v. Kwantlen University College Student Association*, unreported, March 14, 2008 & March 20, 2008, Vancouver Registry S081553. In *CFS v. KSA*, Mr. Justice McEwan considered whether a member of a society may end membership in that society in any other way except in strict accordance with the bylaws. McEwan J. ordered that a referendum into continuing membership of the CFS be delayed and also ordered rules for the referendum.
- *Danish Butt et al. v. KSA et al.*, unreported, 2006 & 2007, Vancouver Registry numbers S064619 / S067526. In *Butt v. KSA*, Mr. Justice Tysoe first endorsed a consent order for a general election of the KSA and then determined that the results of the court ordered election were *prima facie* valid unless held to be invalid by a court.

Thus, the KSA has had significant experience with the *Act* and is well qualified to address the efficacy and efficiency of the current legislation. Since the KSA is a student society, it has focused its comments herein largely on student societies and student organizations, but if afforded the opportunity through further phases of the ministry’s review, we would be happy to offer broader input as well.



## Proposals

### **1. All student societies and organizations should be reporting societies.**

The KSA submits that all student societies<sup>1</sup> in BC, extra-provincially registered national student organizations, and provincial student organizations<sup>2</sup> incorporated under the *Act* as societies should be required to be reporting societies.

As a reporting society, the *Act* requires enhanced financial reporting. Importantly, a non-reporting society is not required to appoint an auditor or place before the members a report of an auditor at a general meeting. Student societies and student organizations in BC handle far too much money, collected mandatorily from students, not to be required to appoint an auditor and have audited reports placed before their members at AGMs.

### **2. Non-voting members should *never* exceed voting members.**

Section 7(1) of the current *Act* requires that every voting member of a society has only one vote, and, despite any contrary provision in the bylaws, may exercise that vote on every matter without restrictions. Section 7(2) of the *Act* indicates that a society may have non-voting members but their number must not exceed the number of voting members. Section 7(3) of the *Act* indicates that the registrar may exempt a society or class of societies from the limitation on the number of non-voting members in subsection 7(2).

The KSA proposes that the registrar should *not* have the power to permit for a society or class of societies to have more non-voting members than members. It is essential for the democratic governance of societies that non-voting members not be held captive to the whims of a superior class of voting members. For example, if a society had 15 members and 25,000 non-voting members, the rights of the 25,000 non-voting members could be dictated by a much smaller group of voting members if the exemption under s.7(3) of the *Act* were granted.

The powers of voting members include changes to bylaws of a society, the ability to elect the directors of a society, and the ability to requisition a general meeting. In the circumstances of a student society, where members are *required* to pay fees, if more non-voting than voting members are permitted, the majority of students could be deprived of an entitlement to vote on amendments to the bylaws of a society or even participate in the election of the directors of the society. There is no circumstance involving student societies and organizations where this could be appropriate.

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<sup>1</sup> In using the term “student society”, the KSA adopts the definition of “student society” set out under the *University Act*, [RSBC 1996] c. 468: ““student society” means an organization incorporated as a society under the *Society Act* whose purpose is to represent the interests of the general undergraduate or graduate student body, or both, but does not include a provincial or national student organization.”

<sup>2</sup> In using the term “student organization”, the KSA means: organizations incorporated or extra-provincially registered under the *Act* purporting to represent student interests on a provincial or national basis and of which student societies and their members form the membership of the organization.

**3. Members of societies should always be allowed to exercise their democratic rights regardless of age.**

The *Act* should not be amended to remove the right of those members of societies below the age of majority to participate in the governance of societies to which they are voting members. Because some students commence college and university prior to the age of majority, any change to the *Act* to limit the right of participation on a board of directors or in other democratic aspects of a society, would mean that these students are required to be members of and pay fees to student societies, but would not have any right to participate in the democratic affairs of the society. If a change in this regard is contemplated, student societies and organizations should be exempt from the change. Student who are mature enough to be accepted to study at a post-secondary institution, are also mature enough to participate in the democratic affairs of their student society or organization.

**4. Changes to the *Act* should not eliminate the remedies available to members currently provided under the *Act*. Remedies available to members under the *Act* must be more transparent.**

When issues arise with the conduct of a society, the members must have access to the courts. The government should not make any changes to the *Act* which would make access to the courts more difficult or eliminate remedies currently available to members under the *Act*.

*Oppression Remedy*

The oppression remedy, although rarely accessed by members of societies in BC, must be preserved under the *Act*. The oppression remedy offers a powerful tool to ensure that fairness to members is accorded and that they have a access to relief from unfair, burdensome, prejudicial, and harsh actions of a board of directors or other members of a society.

Currently, access by members to the oppression remedy is via section 71 of the *Act*. Section 71 of the *Act* grants members access to the provisions of the “winding up provisions” under s.272 of the now defunct *Company Act*, R.S.B.C. 1996, c. 62. The winding up provisions under s.272, in turn, incorporate the codified powers under s.200 of the *Company Act*. The provisions under s.200 are commonly known as the oppression remedy. Unfortunately, the convoluted access to the oppression remedy through the winding up provisions of the now defunct *Company Act* is less than transparent. Most members of BC societies are completely unaware of the codified equitable remedies available to them under the *Act*. This would likely explain why members rarely access the oppression remedy to resolve issues.

The KSA submits that the oppression remedy and jurisdiction of the court to provide a wide range of remedies to relieve from oppression must be incorporated directly within the *Act* so that members can easily determine the extent and source of their rights. The KSA further submits that the extensive remedies available to superior courts accorded under s.200(2) to relieve from oppression and unfair and prejudicial conduct must be preserved.

*Derivative Action*

Inexplicably, the current *Act* does not permit for a member to bring an action in the name of or on behalf of his or her society. This is problematic because, in the circumstances where the

board of directors refuses to enforce a right, duty, or obligation to the society, the member has no recourse except to seek to remove the board of directors by way of a general meeting and elect new directors. The basic right to bring a derivative action under appropriate circumstances is included in other corporate legislation across Canada and there is no reason that a member of a society should be denied access to a derivative action when appropriate. As with the oppression remedy, the KSA submits that the right to bring a derivative action should be codified within the *Act*.

**5. Members of student societies or organizations in BC *must* be accorded the right to democratically vote on any fees that they are required to pay.**

As a pre-condition to requiring universities and colleges to collect fees from students and remit them to student societies, s. 27.1 of the *University Act* and s.21 of the *College and Institute Act* require that the amount of the student society fees be approved by referendum by a majority of the students who are members of the student society.

With respect to the student organizations, s.27.1 of the *University Act* and s.21 of the *College and Institute Act* also contain provisions requiring universities and college to collect and remit fees to the student organization. However, unlike the requirement for student societies, there is no requirement for students to have ever approved the amount of fees being collected from them. Instead, all that is required is that a student society must hold a referendum of its members and the majority of the members of the student society voting in the referendum must vote to *join* the provincial or national student organization. There is no requirement for a vote on fees. There is also no requirement that the referendum to join the provincial or national student organization disclose that there is a fee attached to membership.

The KSA submits that the requirements of s.27.1 of the *University Act* and s.21 of the *College and Institute Act* with respect to collection of fees of students on behalf of student organizations lacks transparency. In fact, students who join national and provincial student organizations may be completely unaware of membership fees associated with joining those organizations. Furthermore, the fees for tens of thousands of students may be raised by a small number of representatives. The KSA submits that, as with student societies, student organization fees should be approved by referendum by a majority of the students who are individual members of the student organization.

With respect to this issue, the KSA points to a concrete example: the Canadian Federation of Students-BC (the "CFS-BC"). The CFS-BC claims to represent 150,000 members across BC. The fees for each individual member are set out in the CFS-BC's bylaws. The CFS-BC bylaws permits its institutional voting members (one vote per each student society in the CFS-BC) to change its bylaws. There are only approximately 15 institutional voting members in the CFS-BC. This means that 11 individuals ostensibly have the power to change the fees of 150,000 students across BC and, furthermore, *require* that the universities and colleges collect and remit those fees.

The KSA proposes that the new *Society Act* require that where student organization fees are directly collected from the individual members of the student organization, those fees must be approved by a majority of the individual members by way of referendum.

April 1, 2010

The British Columbia Council of Senior Student Affairs Leaders (CSSAL)<sup>1</sup> welcomes an opportunity to identify and address any legislative obstacles within the *Society Act*. As you are aware, official student unions or associations at public colleges, institutes and universities are incorporated under the *Society Act* and also governed by relevant clauses in their respective acts of the post secondary institution. These acts require student unions/associations/alma mater societies to be registered under the BC *Society Act* and indicate that they operate autonomously as does any other not-for-profit agency within the Province.

The BC Council of Senior Student Affairs Leaders (CSSAL) has identified several problems, gaps, inconsistencies and ambiguities in the *Society Act* and in relation to the governing legislation of our institutions. The senior administrative leaders of CSSAL are key to working with and facilitating the working relationships between the institutions and the student societies.

We recognize the need for independence of the societies however there are many issues around public accountability and the protection of the public post secondary system that need to be considered. These issues differentiate the establishment of student associations/unions/alma mater societies from other societies in the Province.

The issues identified below are a sample of topics, relating to the *Society Act*, that have arisen regularly on our agenda:

- Student associations are incorporated under the *Society Act* as well as being governed by sections of the acts that govern public PSE institutions. The *Society Act* does not consider the mandatory nature of membership of all post secondary education students.
- Society membership and payment of fees is mandatory for all credit students and therefore should carry public accountability similar to post secondary education (PSE) institutions or other public entities.
- There is no mechanism for students or institutions to appeal to the Registrar of Companies to remedy misappropriation of funds, breaches of trust or lack of compliance with either the Society or PSE Acts except for costly legal proceedings.
- The connection between a student association and the PSE institution is unique and not recognized in the *Society Act*. There is a fundamental difference between general societies of BC and Student societies
  - The student association cannot exist without an associated educational institution.
  - The student association is linked to the institution in relation to financial viability and public image.
  - The institution collects student fees and remits them to the student association in good faith.

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<sup>1</sup> See attached Terms of Reference for CSSAL

- The public does not understand the governance dynamics between the institution and the student association that bears their name. Therefore the public image and perception of public accountability is inseparable. There is no recognition of this in the *Society Act*.
- There is no requirement for the student society to share any fiscal reporting with their institution.
- Historically it has been difficult to address significant student society problems in a timely way. This has left institutions powerless to quickly address issues of fraud and misappropriation of funds. It has also led to issues of mistrust by a public who does not understand the operational dynamics. Recent examples include Douglas College and Kwantlen Polytechnic University.

This review of the *Society Act* gives institutions the opportunity to suggest changes in the governance of student societies related to colleges and universities. CSSAL has discussed these issues for the past four years and would welcome the opportunity to share our thinking with those doing the revisions. Some suggestions are listed for discussion only. Although this is not comprehensive nor have we solicited input from all institutions these are some that have been raised:

- Mandatory institutional representation on the finance committee of a student society
- That government retains the ability to audit student society finances under exceptional circumstances
- That Student Societies be governed under the Ministry of Advanced Education and Labour Market Development, similar to Alberta's model. (see Alberta Post Secondary Learning Act, Sections 93-93 at <http://aet.alberta.ca/post-secondary/campusalberta/legislation/psla.aspx> )

This not an official policy paper on the topic however as a group of senior administrators of British Columbia's public post secondary education system we feel it would be very appropriate to engage in the dialogue and produce a more complete list when the timing is right.

Sincerely

Blaine Jensen  
 CSSAL chair &  
 Vice President Educational Services  
 Douglas College  
 PO Box 2503  
 New Westminster BC V3L 5B2  
 jensenb@douglas.bc.ca  
 604-527-5385

Attachment:



## BC Council of Senior Student Affairs Leaders (CSSAL)

The Council of Senior Student Affairs Leaders (CSSAL) is a network of student affairs and services professionals of British Columbia's public post-secondary educational institutions including colleges, institutes, and universities.

### *Vision*

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CSSAL is the professional voice of student affairs and services leaders that champions the success of learners in the BC post secondary education system.

### *Mission*

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CSSAL is British Columbia's leading voice of student affairs and services professionals supporting education of the whole student, enhancing the student experience and integrating student life and learning. We support excellence in student affairs and services by:

- advocating for specific needs and issues regarding students and services for students;
- providing opportunities for the exchange of ideas and the sharing of information, best practices, research and resources;
- providing a forum for members to dialogue with the BC Ministry responsible for post secondary education;
- providing and supporting activities, events and initiatives that promote professional development for student affairs and services professionals;
- being responsive to the needs and interests of the membership; and
- recognizing the achievements and celebrating the accomplishments of student affairs and services professionals

### *Core Values*

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CSSAL is committed to the growth, development and success of learners and ourselves. Our transformative work embraces the following core values:

- ✓ Learning: Enabling learning for students as well as for ourselves and colleagues
- ✓ Integrity: Building and maintaining trust with students, our colleagues, among institutions and other organizations
- ✓ Inclusion: Actively incorporating the diversity of our global society at our institutions.
- ✓ Collaboration: Working together, sharing knowledge and expertise with students, colleagues and student affairs and services professionals
- ✓ Access: Promoting opportunities for all learners to access public post secondary education

G:\Douglas College\CSSAL\BC Society Act Review.docx

Dear Sirs/Mesdames:

I would call the attention of the Ministry of Finance to the 2008 review of the Society Act by the British Columbia Law Institute (BCLI). The BCLI embarked on a very careful review of the Society Act in light of the adoption of the British Columbia Corporations Act and recent developments in Canadian not-for-profit law, such as the Canada Not-for-profit Corporations Act (which has recently been passed and granted Royal Assent). As a former member, director, and employee of a number of Societies, I believe that the BCLI's recommendations deserve careful consideration by the Ministry.

In particular, I believe that the Ministry should incorporate the Oppression Remedy into any revision to the Society Act, as recommended by the BCLI. Both the Saskatchewan Non-profit Corporations Act and the Canada Not-for-profit Corporations Act include the Oppression Remedy as one of the essential tools available to aggrieved members and directors. This Remedy is of particular importance to student societies, to which all students attending a particular post-secondary institution are required to be members of by virtue of the University Act or the College and Institute Act. Students who are members of these student societies do not have the option of simply 'leaving' if they believe that their student society is acting in an oppressive manner. Therefore, there is a clear public policy interest for ensuring that members of these societies (and all other societies) have legal recourse to ensure that their legitimate rights to fair and non-oppressive treatment are upheld.

I also believe that the Ministry should consider digitizing the Corporate Registry. There is no legal barrier to storing society records in digital form. The official version of the Canada Gazette (the official newspaper of the Government of Canada) is the PDF documents that are available (at no charge) on the Canadian government's web site. Digitizing society records could improve the efficiency of the corporate registry and make it easier for societies and their members to access important records.

Lastly, I believe that the Ministry of Finance should consider lowering the fees that are assessed by the corporate registry. The current fee required to obtain copies of documents stored in the corporate registry is \$10, plus \$0.50 per page copied, which I submit is excessive. In contrast, the Government of Canada only charges \$1 per document -- and the first nine documents requested in each search are free.

Respectfully submitted,

*Submission by the*  
**Canadian Federation of Students-British Columbia**  
*to the*  
**Society Act Review Committee**  
**June 2010**

Canadian Federation of Students-British Columbia  
Suite 306, 780 Beatty Street  
Vancouver, British Columbia V6B 2M1  
(604) 733-1880  
information@cfs.bc.ca



# Canadian Federation of Students-British Columbia

**17 Member Student Societies**  
**150,000 University and College Students**

The Canadian Federation of Students-British Columbia is BC's provincial student organisation, and is affiliated with Canada's largest national student organisation, the Canadian Federation of Students. The CFS-BC was established to advocate for the delivery of accessible, high-quality public post-secondary education in BC. The CFS-BC is composed of the following local student societies, collectively representing 150,000 university and college students in the province:

University of British Columbia Students' Union Okanagan

Camosun College Student Society

Capilano Students' Union

Douglas Students' Union

Emily Carr Students' Union

Kwantlen Student Association

College of New Caledonia Students' Union

North Island Students' Union

Northwest Community College Students' Union

Okanagan College Students' Union

College of the Rockies Students' Union

Selkirk College Students' Union

Simon Fraser Student Society

Students' Union of Vancouver Community College

Thompson Rivers University Students' Union

Vancouver Island University Students' Union

University of Victoria Students' Society



## Introduction

The Canadian Federation of Students and its predecessor organisations have been the democratic voice of Canada's university and college students for over eighty years. Today the Federation unites over one half million university and college students across Canada, including 150,000 in BC.

The Canadian Federation of Students-BC welcomes the occasion to provide input on the Legislative Assembly's review of the *Society Act*.

## Recommendation

*The Canadian Federation of Students-British Columbia recommends that membership in and eligibility for directorship of student societies continue to be open to students of all ages, including minors, provided that they are members in good standing.*

Members of the CFS-BC were concerned to learn that a committee of the BC Law Institute had tentatively considered recommending limiting membership in and directorship of societies to persons who have reached the age of majority. Ultimately, the Law Institute reported in its *Report on Proposals for a New Society Act (2008)* that it opposed the limitation of membership to the age of majority. The CFS-BC supports this recommendation. However, the Law Institute has recommended that the minimum age for directorship be set at eighteen years of age. Other stakeholders in this consultation process may also suggest that there should be an age limitation for persons wishing to serve as directors of societies, or for membership in societies. The CFS-BC strongly opposes such restrictions being placed on student societies.

A significant number of first-year students are younger than eighteen. These students are currently members and directors of student societies and the ongoing operation of these organisations is reliant on their dedication and enthusiasm. Imposing a minimum age for membership in or directorship of student societies would disenfranchise a significant number of post-secondary students in the province from directing and participating in the affairs of their student society, and would severely impede the operations of student

societies—particularly on college campuses—and the role student societies play in orienting young British Columbians to civic life.

## Why Not an Age Restriction on Membership?

Student societies are democratic organisations that provide a means for students to collectively express their needs and provide themselves with cost-saving services and a vibrant campus life. Exclusion from membership of those post-secondary students who are younger than a certain age would mean that those students would be unable to participate in student society programming on campus—such as free concerts and other special events, weeks of welcome events, and orientation events. It is often first-year students who participate in and benefit most from this programming.

Likewise, first-year students are some of the most frequent users of student society services—such as student discount cards, student-pricing at student society-run businesses, and dayplanners. This is particularly true of younger students from lower-income backgrounds who rely on student society services to cut costs at a time when the cost of education is very high and it is very difficult for young people to find employment that pays a living wage.

First-year students can also face particular challenges in the post-secondary system that lead them to rely on the representation of their student society. For example, academic advocacy services offered by student societies are a valuable service for those who may be unfamiliar with their rights and responsibilities as college or university students. Those who are most unfamiliar are most likely to be first-year students. Exclusion from membership would leave students who are under a minimum age without any voice or options for democratic representation on campus.

While students who would be under a minimum age rely heavily on the services, events, and representation offered through their student societies, student societies also rely on those students to be able to operate. Every student society in BC was established through a democratic vote of all students, with

the expressed purpose of pooling the limited resources of students to fund the operations of the student society. Student societies would not be able to sustain many of their operations if they lost the membership dues paid by those who are under the age of majority. In the case of college student societies, because of the nature of their memberships and their overall size, many would be unable to operate at all.

Student societies also play a vital role in orienting young British Columbians to civic life. Student societies actively recruit and welcome members to participate and volunteer. Such opportunities are an important step toward responsible and engaged citizenship. It opens the door to civic life for many, trains students to be effective board members and gives them skills and confidence that they carry with them when they leave college or university. The imposition of a minimum age would cut off many young people from a convenient and supportive outlet for civic engagement.

### **Why Not an Age Restriction on Directorship?**

Without the opportunity to be involved in the administration of student societies, those under a minimum age would not be able to realize the myriad benefits of membership to the same degree, as services, events and representation would be formulated with less input from those students. Without the opportunity to run for election as directors, members who are under a minimum age would also be less apt to become engaged in elections and other democratic participation in their student societies.

There may be an argument to be made that some societies should limit the age of directorship because directors who are minors may be shielded from a debt liability—to the disadvantage of a legitimate creditor—as a result of being underage. However, student societies have guaranteed funding legislated in the *University Act* and the *College and Institute Act*. Hence, issues of personal liability for directors for such things as unpaid wages or statutory remittances, which can arise for insolvent societies, are very unlikely to arise in the case of student societies.

## **Conclusion**

Every student society in BC was established through a democratic vote of *all* students, with the expressed purpose of pooling the limited resources of students to fund the operations of the student society. It is not the role of provincial public policy to exclude a segment of a society's membership from contributing, when that segment has contributed fully in the past, and wishes to continue to contribute. The only basis for doing so would be a belief that those members do not have the capacity to understand their membership, its costs, its benefits, its responsibilities, and its rights. Such a belief is clearly not supportable given these members' participation in post-secondary education. As such, the CFS-BC opposes any recommendation to limit membership of societies to those who are of the age of majority. Since all students benefit from the services, events, representation, and opportunities student societies provide, and since issues of personal liability for directors are far less likely for student societies, all post-secondary students should also be allowed a continued role in the administration and oversight of their societies as directors.

The Canadian Federation of Students-British Columbia remains committed to working with government to create a post-secondary education system that contributes to a prosperous province for all British Columbians, and a province that values the contributions that college and university students make to civic life. Members of the CFS-BC hope that the Society Act Review Committee will find this submission useful, and look forward to continuing to contribute as the review moves forward.

Hon. Kevin Falcon  
 MLA, Surrey-Cloverdale  
 108 – 17700 No. 10 Highway  
 Surrey, BC V3S 1C7  
 (604) 576-3792

Dear Hon. Kevin Falcon,

I am writing to you as a concerned Kwantlen Polytechnic University student and resident of British Columbia. As I am sure you are aware, historically the Kwantlen Student Association has been under fire for crooked financial records and money stolen from the student society. Recently, the 5 newly elected directors suspended the lawsuit against the 5 former directors involved in this fraud. The situation raised questions as to why a group of individuals would stop the lawsuit and remove the lawyer involved after years of work.

Both the Kwantlen Polytechnic University student newspaper and local newspapers have investigated only to find out about the association of the director of operations and director of finance to the original ringleader, Aaron Takhar. That being the director of operations is the sister of Takhar and the director of finance is the cousin of Takhar.

The Kwantlen Student Association is a separate entity from Kwantlen Polytechnic University, and the university cannot intervene on those matters. This issue lies within the Society Act of British Columbia, itself. These individuals involved with the initial fraud and the current directors are outcomes of the province's public post-secondary system and are supposed future leaders of this province. Currently, the Society Act gives far too much protection and far too much power to these types of individuals. This removes transparency and accountability. This act allows these types of directors to change their regulations as they see fit. This Society Act does not protect student societies' money, the money invested and trusted in the directors that are elected.

Currently, until the end of this month, I am a student representative on the University Board of Governors. My job as an elected official is to represent the students and to be their voice, while acting in their best interest. I understand that I cannot please all students, but decisions must be made while considering their values. I do understand that our elected officials within our student union may not always make the best decisions, but when a current student union is acting in a conflict of interest, this act is providing them protection and is providing the students or customers with no other options but to wait until an election is called.

I ask you, while the government is considering changes to the Society Act, to help protect students from student societies using their money for their own financial gain, and changing regulations that limit transparency and accountability. Please show your support and help protect the concerned students of Kwantlen.

Sincerely,



Ryan M. Keigher  
*Kwantlen Student*  
*Student Member, Board of Governors*  
*President's Ambassadorial Team*

I work with a great many Societies and Non-profits and found this paper very important. One of the important principles that I feel needs to be kept in mind at all times is the capacity of many-NP's to actually deal with the Society Act. I know of many NP's who do not register as Societies because they feel that it is too complicated a process and the requirements for keeping up their status is too compacted. With this in mind, I am submitting the following comments:

- Can there be "categories of Societies" so that the less complex and grass root organizations would not find it too cumbersome to become a Society?
- Incorporation by one person- if you allow this, then I have to ask the question "then why have a Society?" A one person organization is not what I would encourage.
- #12- Deferral of AGM's- I am definitely against this. This allows Directors to continuously avoid the one general meeting where members might actually attend and hold the organization accountable by their presence. Having a requirement for a set time every year for an AGM ensures accountability.
- #15- In this day and age, we need to look for ways to engage more youth in these organizations. Continuously excluding them from officially joining Boards really keeps them away and many Societies have become "old boys clubs" because of this.
- #17- Allowing societies to indemnify directors and officers- is this not what liability insurance is for?
- Dispute resolution- I agree that there should be some type of dispute resolution process included in bylaws. If this happens, it needs to be a more formal process that the Act may want to include wording for in the templates provided.

In order to make things easier for societies, the templates provided need to address many of the issues that are being dealt with. Again, keep in mind that many groups are looking for something that follows the KISS method and meet the modern electronic standards for reporting, etc. Having a lack of government capacity for handling electric filing, etc. should not be an excuse to move forward.

Thanks for the opportunity to comment.

I attended the meeting in Vancouver yesterday (Feb. 13) in respect to the Society Act Discussion Paper. Thank you to whomever arranged the meeting. I wasn't too pleased with the location, but found the presentation, questions and answers very interesting. I am a Director on the boards of several societies.

While I agree with the thrust and vast majority of the proposals, there are a few I would like to comment on.

1. The definition of "public" and "private" societies is unclear to me. Perhaps it is the terminology. But whatever, clarification of what IS a "public" and what is a "private" society is absolutely necessary. Is there even a possibility that some societies have both public and private elements in their operations? Is there a "cross-over" definition to come for those societies?

2. **In Section A, page 8, #13** it is stated that there is no provision to enable individual members to have "an" issue placed on the agenda at an AGM. Did the author mean that only one ("an") issue could be placed on the agenda by one individual? If that is so, fine. However, I have been at AGMs where a dissatisfied/obstructive/revengful member wishes to "get back" at the society and becomes an obstructive force by attempting to place a dozen issues on the agenda (often with little relevance to the functioning of the organization) -- just to "mess up" the meeting/society/board of directors/executive officers. The society has to be protected from such individuals.

The supporting discussion in article #13 suggests that "a mechanism to formally *require* consideration of membership proposals would enhance member democracy". In the normal course of events, I agree. But the meeting requires some form of protection from obstruction to getting its business completed.

I'd suggest that consideration be given to something like allowing any member to place AN issue on the agenda. However, where that member wishes "many" (undefined number) issues be placed on the agenda, the Societies Act should not "require consideration" of them all. I'd suggest a rewording to encompass the idea that X% of the voting members present at an AGM must approve of the addition of more than one issue being placed on the agenda by one member. Such a proviso would allow the individual to have an issue discussed "despite the wishes of the Directors, or ...." but not give unwarranted freedom to seeking to tie the function of the meeting in knots. I don't think that the % required need be large (say 20%). Once an issue IS on the agenda (meeting the suggested requirement in this section), normal



meeting parliamentary procedures could deal with the disposition of that issue.

**3. Section A, Page 9, #15** I may be mistaken, but I understand that to be an "adult" you must be over the age of 19. Thus, I'm not sure why a person under that age is disqualified from holding office if he/she is 17 while an 18 year old can hold office. If an 18 year old is "OK" to hold office, why not a 17 year old? I'm of the view that if some 17, 18 or 19 year old is elected by the membership of the society, he/she should be allowed to hold office. If the society thinks individuals of that age (17, 18, 19, (or any other age)) shouldn't serve in office, they won't elect those individuals. In addition, isn't one of the premises of the Act that "members" are "equal"? They are not "equal" if there is an age restriction as proposed here. Obviously, and with tongue in cheek I'm not suggesting that a 5 or 10 year old would be eligible. If you can get a driver's license and serve in the armed forces at 16, why the prohibition to serve within a Society?

When it comes to legal matters, then the person holding office must be of an age that would allow him/her to be legally entitled to take some type of action on the society's behalf.

This issue may be of particular import to societies where a significant proportion of its members are under the age of 19 and/or the society is serving minors (e.g. minor sports groups). The Act should not preclude "minors" from responsible involvement in the governance of that society.

**4. Section A, Page 9, #16** I disagree with the thrust of this suggestion. The Directors of a society should be responsible for the debts of the society where those Directors acted on matters which were under their control. Those issues which were "outside of their control" are not their responsibility in any case. However, I think that the number of Directors in the society is irrelevant -- whether it is one, two, three, two dozen is immaterial. Why include some rule that where a society operates "with fewer than three members" personal liability be removed. In another section of this discussion paper, there is a proposal that a society may be formed with one director/member. How would that relate to suggestion #16?

**5. Section B, Page 13, #4** I do think that the current law should be changed so that members can look at *any record* of their society. Often there are issues the Directors consider "in camera" or "in committee" or "in private" that concern personnel, land acquisition/disposal, contract language, bargaining strategy, (and other matters) that may directly or indirectly be applicable to or

involve a particular member or members. In the context of the Municipal Act, "conflicts of interest" occur frequently and the member of the city council, regional district, village, and so on has to declare that conflict and abstain from involvement with that specific issue. I'm not sure if there is a similar provision in the Society Act to force a Director to declare a conflict of interest on such matters as I've mentioned above. If there is, good. If not, the Society Act should have similar regulations as those applicable to a member of a city council.

In the case of a member of the Society who is not a Director but "just an ordinary member", the present suggestion in 4) allows the individual to have access to "confidential" and sensitive records of the Society -- whether or not that member has direct, indirect, or perceived conflict of interest. "Having greater access" to members is democratic. The proposed proviso (of bylaws which can restrict procedural matters such as hours of access and the amount of notice) is fine. However the phrase "but not the general right of access" is too open-ended. Please see preceding paragraph.

**6. Part B, Page 14, #11** Could the phrase in the first sentence "to provide security" be defined, please? What security?

**7. Regulations, Page 22, #3** I agree with the sentence which states "For registered charities, this requirement could perhaps be satisfied by the public filing of financial statements with the federal government under tax rules." I am a Director of a federally registered charity (with its very strict financial reporting provisions) and I think that that should be sufficient "control" for operation under the BC Society Act.

Other than the points I made above, I think that the work done to this point on reviewing our present Act has been outstanding -- and overdue.





Enhancing Student Life



March 7, 2012

Financial and Corporate Sector Policy Branch  
 Ministry of Finance  
 PO Box 9418 Stn Prov Govt  
 Victoria, BC V8W 9V1

**Subject: Submission to the British Columbia Ministry of Finance – Society Act Review Discussion Paper (December 2011)**

Dear Madam or Sir:

On behalf of the Alma Mater Society (AMS) of the University of British Columbia Vancouver, we wish to thank you for providing us with the opportunity to make a submission with respect to the *Society Act Review Discussion Paper* published by the Ministry of Finance in December 2011. The AMS's mission is to improve the quality of the educational, social, and personal lives of the students of the University of British Columbia. The AMS promotes high-quality student learning, advocates for the interests of UBC's students (as well as those of the university and post-secondary education as a whole) and provides its members with diverse opportunities to become exceptional leaders. The AMS's members determine its priorities and the society strives to be democratic, fair, accountable, and accessible to its members by fostering internal and external communication. It provides services students want and can use. Although it cultivates unity and goodwill among its members, it also encourages free and open debate, as well as respect for differing views.

In general, the AMS believes that the proposed changes will revitalize the *Society Act* with respect to traditional and modern non-profit organizations that have a limited membership or for large organizations with a specialized purpose (charitable trusts, cultural organisations, etc.). The new Act, however, does not fully address challenges facing a large, generalist and democratically-run organization like the AMS. And the Act's age provision for board members poses a particular challenge for student societies like ours.

The AMS therefore requests that the new *Society Act* or some other formal mechanism address the following specific issues:

- Ensure that directorships are open to all members in good standing, regardless of their age: *Since students of all ages are full members of student societies and can vote in their elections, in the interest of maintaining the democratic nature of these societies, it is necessary to allow all members to run or serve as a director or executive, regardless of age. The AMS therefore asks that the age provisions set out in the present and future Society Act be suspended.*



Enhancing Student Life

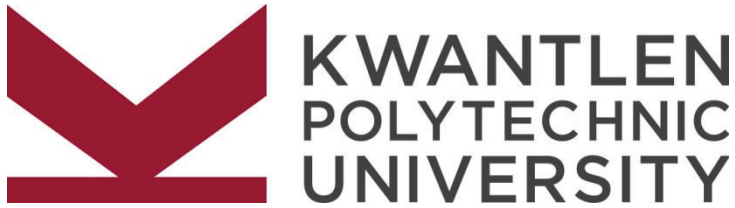
- Recognize in a more permanent fashion the special dispensation student societies enjoy from the Registrar of companies to conduct business by referendum, including the ability to remove directors under defined and highly exceptional circumstances: *Such a measure is essential in our view to maintaining the democratic aspect of student societies and increasing the accountability of their directors.*
- Allow student societies to remunerate directors and members of executive committees for their work, even though they are not permanent staff: *Unlike the directors of most other societies governed by the Act, student directors do not have any other source of income and often work longer hours (especially if course work is included in the total). In addition, members of the executive committee are expected to work on average no less than 40 hours per week and usually only take one course per semester, thus delaying their graduation by at least a year. In order to attract the best candidates to run the society as efficiently as possible and to compensate them fairly for a heavy work load and a high level of public accountability, we feel it is essential to continue remunerating our directors.*
- Clarify legislation to allow student societies to more readily meet their obligations to maintain a register of their members: *Currently, student societies rely on University Registrars to keep an accurate and up-to-date list of members, as required by the Society Act. A Registrar's ability to comply with requests for information, however, is greatly constrained by the Freedom of Information and Protection of Privacy Act. As a result, the AMS cannot communicate important society business to all or even most of its members. This situation can prove particularly troublesome around election time and may even prevent us from fully respecting the Society Act.*

In conclusion, we believe the four issues mentioned above must be addressed by the government as it renews the *Society Act* in order to maintain the democratic nature of student societies and to address certain other issues specific to them. Should you have any questions regarding this submission, do not hesitate to contact the signatories at: 604-822-2901 or by email at: [president@ams.ubc.ca](mailto:president@ams.ubc.ca) or [vpexternal@ams.ubc.ca](mailto:vpexternal@ams.ubc.ca).

Sincerely,

Matt Parson  
President

Kyle Warwick  
Vice-president, External



April 1, 2012

Kwantlen Polytechnic University welcomed the opportunity to make a submission to the Government of British Columbia's review of the Society Act ("Act"). We also welcome this opportunity to respond to the resulting Society Act Discussion Paper ("Discussion Paper") dated December, 2011.

As we noted in our original submission, student associations are incorporated under the Act. Apart from section 27.1 of the University Act, which governs matters related to student association fees, they operate autonomously like any other not-for-profit agency within the Province. However, there is one fundamental difference that should be stressed when considering the rules for the registration and governance of a student association: ***a student association cannot exist without an associated educational institution.***

This fundamental difference means that the institution is closely linked to the student association both financially (because the institution collects and remits student association fees) and by reputation (because the student association uses the institution's name and its members are the institution's students). This close linkage exists in the minds of both the institution's students and the public. Neither students nor the public are typically aware of the legal distinction between the institution and the student association that uses its name. For this reason, a student association's public profile becomes, to an unpredictable degree, an institution's public profile.

Student associations in British Columbia collect and manage over \$12,000,000.00 in student fees from full-time undergraduate students. Fees paid by graduate students further increase this amount. This is a substantial sum for students to manage without oversight given that few students enter an institution with financial management expertise.

When concerns arise about the financial management of a student association, section 27.1(4) of the University Act allows the board of an institution to stop collecting and remitting students' fees to the association if the association has not made audited financial statements available to its members, or if the association has been struck off the register. There is, however, no requirement to address the concerns that an auditor may have expressed in the audited financial statements, nor is there a requirement for a student association to share any financial reporting with its associated institution. As

well, the criteria for striking a society off the register are difficult for a third party to address, let alone address in a timely manner.

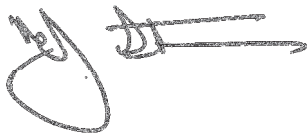
In the past, these limited options have left institutions powerless to address efficiently and expeditiously (or at all) allegations of serious financial mismanagement, including fraud and misappropriation, by student associations that use institutional names. This situation is inherently unsatisfactory and has exposed institutions to destructive reputational impacts among a public which does not understand the relationship between the institution and the student association.

The Paper suggests important and beneficial changes to the Act that would enhance the accountability of every student association. ***The most important recommendation is that student associations should be designated as Public Societies (see pp. 19 – 25). We wholly support this suggestion.*** Other recommendations for important and beneficial changes include prohibiting financial assistance (see p. 13), adding qualifications for directors and officers (see p. 9), and making directors liable for improper payments (see p. 9). We also support the recommendation that the minister's power to investigate be retained (see p. 15).

If made, the changes discussed in the Paper would be important and beneficial. However, they do not altogether address our fundamental issue which is an institution's inability to protect its reputation if a student association misconducts its financial affairs or is otherwise misgoverned. To address this fundamental issue, we recommend that the new legislation allow the minister to appoint an independent investigator, at the request of an institution, if the institution has serious concerns about the manner in which its student association is conducting either its financial affairs or governance or both. ***If the changes to the Society Act cannot accommodate this recommendation, it should be added to the University Act.***

We thank the Ministry for its detailed and careful consideration of important and beneficial changes to the Act. We would also welcome an opportunity for further discussion when the Ministry considers specific changes to the Act.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Mary Jane Stenberg', with a stylized flourish at the end.

Mary Jane Stenberg  
Special Advisor to the President  
Executive Director, External Relations





April 30, 2012

Financial and Corporate Sector Policy Branch  
Ministry of Finance  
PO Box 9418 Stn Prov Govt  
Victoria, BC V8W 9V1

RE: Society Act Review Discussion Paper

To whom it may concern,

I am writing on behalf of the Canadian Federation of Students-British Columbia, an organization that unites college and university student societies from 16 campuses in every region of BC. We have reviewed the Ministry of Finance's Society Act Review Discussion Paper and are pleased to say that we are encouraged by the approach taken and can support most of the proposals it contains.

One area that might benefit from further review is the proposal to add qualifications for directors and officers (#15). The Discussion Paper suggests prohibiting those under the age of 18 from holding office in a Society, and while this limitation may be practical in the context of the organizations governed by the *Business Corporations Act*, it is not necessarily appropriate for student organizations. Our organizations are majority youth-based, and all members deserve the right to hold positions in the leadership of these democratic structures. Granted, directors younger than 18 years of age are rare. But student organizations do have members of that age and a statute preventing their involvement in the society's leadership seems to run counter to the "primary objective" discussed in the introduction of the Discussion Paper. I encourage you to consider excluding this limitation from the forthcoming legislation.

As always, we are more than happy to meet with Ministry officials to discuss this matter further.

Sincerely,

  
Zach Crispin  
Chairperson



Canadian Federation of Students-British Columbia

202-1055 West Broadway, Vancouver, BC V6H 1E2 phone: (604) 733-1880 fax: (604) 733-1852 www.cfs.bc.ca

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