

25 May, 2010

Board of Governors

Terri Van Steinburg
President
Kwantlen Faculty Association
Kwantlen Polytechnic University
Surrey Campus

Dear Ms. Van Steinburg,

Notice to Faculty Unions at Post-Secondary Sector Universities

We have now had an opportunity to review the decision of the British Columbia Court of Appeal in *Faculty Association of the University of British Columbia v. University of British Columbia*, 2010 BCCA 189. The following notice replaces the notice we provided to you on December 1, 2009 regarding matters addressed in the Court's decision.

Kwantlen Polytechnic University is governed by the *University Act* rather than the *College and Institute Act*. Under the provisions of the *University Act* governing the special purpose, teaching universities, our governance structure has changed. We now have a modified bicameral model under which operational governance is largely vested in the Board, specified aspects of educational policy are vested in the Senate, and the exercise of some Board powers requires the prior advice or approval of the Senate.

As we were formerly subject to the *College and Institute Act*, it is possible that there are some current provisions in the collective agreement that were bargained in good faith at the time but that deal with areas that may now be under Senate's exclusive jurisdiction, or that require Senate's advice or approval.

Under the *University Act*, the Board does not have power over matters that fall within the exclusive jurisdiction of the Senate. If, in the future, the Senate, in carrying out statutory powers vested exclusively in it adopts educational policies that conflict in whole or in part with the collective agreement, or if the collective agreement language were successfully challenged based on a conflict with the Senate's exclusive statutory powers, those parts of the collective agreement that infringe upon the Senate's exclusive jurisdiction will be void and of no effect.

Further, with regard to matters within the powers of the Board but which require the advice or approval of Senate, the Board will not be in a position to agree to a collective agreement renewal that addresses such matters without first obtaining such advice or approval.

We are advising you so that you are aware of these implications of the new governance structure mandated by the amendments to the *University Act*. We are not bargaining anything around these statutory requirements, nor can we. This communication is simply for the purpose of our all sharing a similar understanding about some of the possible effects of the University now being governed by the *University Act*.

Sincerely,

A handwritten signature in black ink, appearing to be 'S. Nicoll', written in a cursive style.

Scott Nicoll
Chair, Board of Governors

c President's Group
 Senate
 Deans