

CalFASA

Calgary Faculty and Student Alliance

Alberta College of Art and Design Faculty Association ♦ Alberta College of Art and Design Students' Association ♦ Bow Valley College Faculty Association ♦
Bow Valley College Students' Association ♦ Mount Royal College Faculty Association ♦ Students' Association of Mount Royal College ♦ SAIT Academic
Faculty Association ♦ SAIT Students' Association ♦ Faculty Association of the University of Calgary ♦ University of Calgary Graduate Students' Association ♦
University of Calgary Students' Union

July 25, 2003

Mr. Phil Gougeon, Assistant Deputy Minister
Adult Learning, Alberta Learning
7th Floor, Commerce Place
10155 102 Street
Edmonton, AB, T5J 4L5

Dear Mr. Gougeon:

Re: Bill 43 Post-secondary Learning Act

The Calgary Faculty and Student Alliance (CalFASA) is pleased to have the opportunity to comment on Bill 43: The Post-secondary Learning Act. CalFASA was formed in 1995 and our membership includes all eleven student and faculty associations from the five public post-secondary institutions in Calgary:

- Alberta College of Art and Design Students' Association,
- Alberta College of Art and Design Faculty Association,
- Bow Valley College Students' Association,
- Bow Valley College Faculty Association,
- University of Calgary Students' Union,
- University of Calgary Graduate Students' Association,
- Faculty Association of the University of Calgary,
- Students' Association of Mount Royal College,
- Mount Royal Faculty Association,
- Southern Alberta Institute of Technology Students' Association, and
- Southern Alberta Institute of Technology Faculty Association.

Our members have reviewed the proposed legislation with great interest. This submission speaks to the issues raised by our membership in a broad way. Individual member organizations may follow with submissions of their own which may provide more detail on these broad points. We have categorized our comments on the proposed legislation into five themes:

1. Board Representation
2. Powers of Boards of Governors

3. Representation
4. Financial Authority
5. Legislation vs. Regulations

Our comments are arranged as follows:

1. Board Representation

The composition of Boards of Governors under Section 44 does not provide appropriate or equitable representation across all types of institutions. CalFASA recommends that:

- a) Faculty Associations be given representation on University Boards of Governors. We believe that Faculty Associations should have their own voice on University Boards of Governors consistent with Non-Academic Staff Associations at all post-secondary institutions and Academic Staff Associations at colleges and technical institutes;
- b) there be an increase in the number of Students' Association representatives on the College Boards of Governors from one to two students. Students' Association representatives on College Boards of Governors should be increased to be in line with the Boards of Technical Institutes with two student representatives and University Boards with two undergraduate student representatives.

2. Powers of the Board of Governors

The powers of Boards of Governors have been inappropriately expanded or strengthened at the expense of other bodies. CalFASA recommends that:

- a) under Section 64, the definition of "bodies" be modified to exclude Students' Associations, Academic Staff Associations and Non-Academic Staff Associations. These autonomous representative organizations have a very different structural relationship to the Board than institutional bodies such as the General Faculties Council. They are governed independently and are not part of the institutional governance process. Without revision, the overarching nature of the powers assigned to the Boards of Governors places them in a position of inappropriate authority and affects the ability of stakeholder groups to negotiate on an equal footing and independently represent their organizations and the views of their members;
- b) the finality of some decisions of Boards should be conditional. In Section 64, Boards have the final decision in all situations of overlapping jurisdiction among stakeholders. This would include situations where the Board is among the parties in conflict, and situations where the legislation or regulations are simply not clear enough to prevent conflict among stakeholders. Appeal mechanisms must be present in order for the process to be sound and naturally representative;
- c) the powers of the Boards of Governors and those of other campus bodies should be treated equally in legislation. The powers of the Boards of Governors are entrenched in legislation

(Section 60) while the specific powers of other campus bodies such as the Students' Associations and General Faculties Councils are left for regulations to define;

- d) under Section 97, regarding investigation of Students' Associations, the Minister should make the decision whether an investigator is needed only after the Students' Association's own internal corrective measures have been exhausted. Perhaps the legislation should mandate the inclusion of such mechanisms within the constitution and bylaws of Students' Associations. Further we recommend that the power to initiate an investigation of a Students' Association be limited to specific circumstances and the steps towards an investigation be transparent to the implicated Students' Association. We would also like to see the power to request an investigation removed from Boards of Governors as we see the potential for misuse of this authority. Section 97 should define what an "irregular manner" is, limiting it to financial malfeasance;
- e) unlimited powers of delegation should not be given to the Boards. It isn't appropriate that they have the ability, under Section 63, to delegate decisions to any body on any topic, regardless of sensitivity or situation (such as tuition and collective bargaining). Perhaps this should be defined more specifically so that these issues cannot be delegated.

3. Representation:

Bill 43 impacts the ability of organizations to represent their membership. CalFASA recommends that:

- a) a stakeholder group not be required to communicate to the Boards of Governors exclusively through the institution's President as is stated in Section 95(3). Only elected representatives should have the authority and responsibility to speak for their constituents;
- b) the requirement that Board of Governors members act in the best interests of the institution, as stated in Section 44, be further defined to include the additional mandate of the student and academic staff members to represent the views of their constituents. This will help to clarify the role of these stakeholder representatives;
- c) Student Associations remain the "official" representatives of students. Section 95(3) appears to weaken the authority of Students' Associations to represent students by changing the wording "students' council is the official medium of communication" to "the council of a Students' Association is responsible for maintaining appropriate communications" regarding the representation of the views of students to the Board;
- d) Academic Staff Associations and Non-Academic Staff Associations be recognized as the official representatives of their respective members (Section 85);
- e) the legislation should not eliminate the ability of an association to legally strike. This ability had previously been negotiated into the collective bargaining agreement of one of our stakeholder groups (MRFA), and it is unfair to remove this ability from their collective bargaining agreement. We further object to removing even the possibility that such means of

dispute resolution could be negotiated into the collective agreements of the other Faculty Associations in the province or into the collective agreements which must now certainly be negotiated with the Graduate Students' Associations, which are made the official negotiating bodies for graduate student employment in the proposed legislation;

- f) the legislation leave the issue of intellectual property for Boards of Governors to bargain with Academic Staff Associations and other bargaining units rather than imposing a default position (Section 69). This Section will have massive implications that do not appear to have been fully considered by the government. For example, academic staff at an institution where the ownership of intellectual property has been negotiated would be ill-advised to teach using such intellectual property at another institution where no such agreement has been negotiated. This is because the ownership of intellectual property could be ceded to the other institution's Board making it difficult to teach at the first institution.

4. Financial Authority:

The financial authority of Students' Associations should be clarified in Bill 43. CalFASA recommends that:

- a) the legislation entrench the authority of a Students' Association to set Students' Association fees (Sections 95(2) and 62). This authority exists in the current acts and should be carried forward in the new legislation;
- b) as the Graduate Students' Associations are being made the official negotiating bodies in the proposed legislation, we feel that it is especially critical that the Graduate Students' Associations be given the right in legislation to charge not only Students' Association fees, but also dues, which would be used to defray the costs which will almost certainly ensue as they become the official negotiating bodies for graduate student teaching assistants;
- c) Students' Associations be given the authority to borrow money, with reasonable requirements given for borrowing. The ability to obtain this credit influences the ability of student organizations to effectively conduct their financial affairs in a manner reflective of their opportunities and needs;
- d) Boards of Governors not have the ability to refuse a Students' Association's acquisition of real property except within certain specific circumstances;
- e) the cost of auditors and mediators during an external investigation be shared between the government and the Students' Association, since smaller groups could be crippled by the costs of these services. If Boards of Governors are involved (see point 2 d., which recommends against this), they should at least have to pay a portion of the costs.

5. Legislation vs. Regulations

The inclusion of some topics in the legislation and others in the regulations seems somewhat arbitrary. CalFASA recommends that:

- a) critical issues (like General Faculties Council powers, Students' Associations powers and accountabilities, and the tuition cap) be included in the legislation, rather than in the regulations. We would like these issues to be given the same treatment and level of protection from changes as the powers of the Boards of Governors (Section 60);
- b) the Campus Alberta Accreditation board (Section 109) composition and powers be more thoroughly defined in the legislation and that criteria such as quality of programs be given higher consideration than criteria such as cost or duplication of programs;
- c) the proposed content of the regulations be made available prior to the next readings of Bill 43. It is very difficult to review this proposed legislation without having a full understanding of the implications of the regulations.

Thank you for your thoughtful review of this submission. We sincerely appreciate the opportunity to provide our perspective on the proposed legislation because it will fundamentally affect our member organizations. Please see the members' individual submissions for more detailed information on the points raised in this paper.

Sincerely,

James Wood
Chair, CalFASA