To: Governing Council
   Members of the University Affairs Board
   Mr. Ben Crase, Trinity College Meeting
   Mr. Mauricio Curbelo, U of T Engineering Society
   Mr. Munib Sajjad, UTSU

CC: The Varsity

From: Cheryl Misak, Vice-President & Provost

Date: May 24, 2013

RE: Fee Diversion Referenda: Governance and Policy Context

Please distribute widely.

We have seen over the last year an ongoing series of complaints and frustrations on the part of some divisional student societies towards the University of Toronto Students’ Union (UTSU). Trinity College Meeting (Trinity) and the Engineering Society (EngSoc) have recently held referenda requesting diversion of fees collected by the University on behalf of UTSU.

The response of the Office of the Provost during these debates between student societies has been to encourage electoral and representational reforms on UTSU’s part and to note to the divisional societies that the Office of the Provost cannot simply divert fees from UTSU to them. I write now to amplify and provide more contextual information after the vigorous debate at the May 23, 2013 meeting of Governing Council.

Governance and Policy Context

The University of Toronto Act, 1971 sets out the powers of Governing Council, which include those granted under the University of Toronto Act, 1947. Among the powers in the latter Act is the power to recognize “committees” representative of the students, now called “student societies.”

Governing Council has chosen to recognize various student societies for specified purposes. UTSU is one such society. Governing Council has also enacted the Policy for Compulsory Non-Academic Incidental Fees to deal with, among other things, the collection of fees on behalf of such student societies. The Policy states that a student society is an organization “on whose behalf the University collects a compulsory non-academic incidental fee, in which membership is automatic and determined by registration and status in a particular division or program, or in one of a number of divisions or programs of the University of Toronto”.

Undergraduate students in Arts and Science at Trinity College, and in the Faculty of Applied Science and Engineering, are among the many members of UTSU, which automatically represents full-time
undergraduate students, as defined by division of registration, registered in a faculty on the St. George campus in a program leading to a degree, diploma or certificate.

It is important to note that the Governing Council itself, by policy, has both recognized UTSU as a student society, and has committed itself to collecting fees to support its activities. It is also important to note that there is no current provision in policy for the administration, acting on behalf of Governing Council, to divert compulsory fees from UTSU to local divisional societies such as Trinity or EngSoc. Diversion of compulsory student society fees to local or divisional societies would require a policy change, since Governing Council has not chosen to enact policy providing for such action, nor has it given the Provost authority to do so.

A significant feature of the Governing Council’s recognition of student societies is the autonomy they receive, subject to the requirement expressed in the Policy for Compulsory Non-Academic Incidental Fees that such societies operate in “an open, accessible and democratic fashion, following the terms of their constitutions” and subject to the need for financial transparency for audited financial statements and other financial provisions.

Governing Council has given the Provost a role in ensuring that these standards are met. The same policy states that where the Provost has reason to believe that a society is not operating in an open, accessible and democratic fashion, the Provost can take various steps which ultimately may lead to the withholding of the fees the University collects on behalf of the society, subject to an appeal to the University Affairs Board of Governing Council.

I have had cause to withhold fees once during my term as Provost, with respect to a divisional student society. When the democratic issue was resolved, the fees that had been withheld were flowed to the student society in question. I do not have the authority to divert fees. That is, I do not have the authority to withhold fees and then redistribute them to other student societies.

Where does the University Affairs Board (UAB) fit into this picture?

The terms of reference of the UAB state in section 5.2 that with respect to compulsory non-academic incidental fees, such fees are approved by the Board. Changes to those fees must of course be consistent with the policies of Governing Council. The diversion of fees is not permitted in those policies. At the meeting of Governing Council on May 23, the Secretary of the Governing Council commented on the interrelationship of the Governing Council’s own policy and the terms of reference of the UAB. There is no conflict between the two.

At the University of Toronto, policy creation falls within the authority of Governing Council, which has chosen to exercise this authority in a way that is typical of governance boards – by looking to administration to develop, consult, and eventually put forward proposed policies for Governing Council’s consideration. Governing Council looks at the big picture and the interests of the University as a whole. Through its meetings and other work, Governing Council engages its members, representing various estates including students, in arriving at conclusions as to how it wants its powers to be exercised via policy, as it has done in the case of the Policy on Compulsory Non-Academic Incidental Fees.
The Provost’s Role in Ensuring Open, Accessible and Democratic Operation

It is not necessary for me to get into the background details, but it suffices to say that for several years concerns have been brought forward by students about whether UTSU has been operating in an open, accessible and democratic manner, particularly with respect to elections issues. The persistence of these concerns has led to my Office becoming involved on several occasions. I have highlighted the importance of electoral reform, and, most recently, have indicated clearly that in the complex University of Toronto context, on-line elections are an essential feature of open, accessible and democratic operation. I have indicated to UTSU, in writing, that on-line voting must be available for the 2014 elections. If that is not the case, the clause in the Policy with respect to the withholding of fees will be applied. I have also indicated my expectations regarding electoral reforms, including the redundancy of proxy voting in an on-line voting environment. I am pleased that UTSU has committed, in writing, to making on-line voting available and has instituted various electoral reforms. I and my office will continue to monitor UTSU’s progress in meeting these expectations.

But electoral reform is not the whole of the picture. It is clear that some divisional societies have become so dissatisfied with UTSU that they are seeking to have fees, that would otherwise go to UTSU, diverted to their own organizations for similar purposes but under local administration. Trinity and EngSoc have gone so far as to conduct referenda, indicating overwhelming support for fee diversion. Trinity and EngSoc have asked that this issue be placed on the UAB agenda. I have recommended to the Chair of the UAB – and she has agreed – that such a motion not be placed on the agenda since it is not consistent with Governing Council policy, as stated above.

What are the next steps?

First, consistent with the concept of autonomy of student societies, the issues that are being raised are ones that the students themselves ideally should agree upon. But, given the importance of enhancing the student experience through activities supported by student societies, we are not prepared to let such significant points of dissent among the students be ignored. Accordingly, I am arranging for meetings between UTSU, Trinity and EngSoc to take place to discuss the matters that have sparked the fee diversion referenda on May 30 and June 6. I have indicated that it is best for the parties to meet on their own initially – this is, after all, an issue for the students themselves – but thereafter my Office would be pleased to arrange a facilitator. I have consulted with both the Dean of Arts and Science and the Dean of Law regarding a suitable expert to assist, and I hope to have someone available soon.

Second, while it is of course possible that Governing Council will decide to change its Policy so that fee diversion is allowed, the case for fee diversion will need to take into consideration demarcation issues, possibilities for fragmentation, the impact on students as a whole, and so on. Any such proposal for policy change, that is, would require a careful process.

In sum, the Provost’s Office takes these issues very seriously and we are working actively to assist in productive change. There is real prospect for a resolution when electoral reform, on-line voting, and facilitated discussion are combined with what I hope will be a spirit of collegiality among the students,
recognizing that coherent sub-groups among them have some unique interests that the body as a whole needs to consider.

So as not to prejudice the dialogue, I will be limiting my public statements on this matter. But I will be reporting to governance at appropriate times as the issues move forward. This will include an information session involving governors and student leaders. As matters currently stand, I do not believe that this issue should be placed on the agenda for the next UAB meeting.

I remain optimistic that the upshot of the ongoing conversation will be a strengthening of democracy in our student governments and a fair and responsive use of student fees that balances campus-wide and divisional interests.