



# Memorial University of Newfoundland Faculty Association

## Review of the *Memorial University Act*

October 15, 2021

## Who is MUNFA?

The Memorial University of Newfoundland Faculty Association (MUNFA) is the recognized bargaining agent for the more than 800 full-time Academic Staff Members (ASMs) at Memorial University. Our membership is comprised of faculty, librarians, counsellors, and co-operative and field education coordinators. MUNFA's mission is to strengthen the academy through solidarity, advocacy for fair and equitable working conditions, and advancing excellence in teaching, research, and other forms of scholarship. Our work is based upon our right to academic freedom, collective bargaining, and the unfettered pursuit of knowledge and its dissemination. We value collegiality, transparency, accountability, fairness, and equity.

While MUNFA represents the voices of ASMs at Memorial University, it is important to note that our perspective is distinct from that of Memorial's senior administration. Given our members' academic freedom rights, MUNFA is able to offer honest, considered, criticism of governance at Memorial University. Therefore, to supplement recommendations from Memorial University's Board of Regents, we have outlined below a number of key considerations for the Government of Newfoundland and Labrador as they move forward with revisions to the *Memorial University Act*.

## Importance of Memorial University

While considering revisions to the *Memorial University Act*, it is important to reflect on Memorial University's special obligation to the people of Newfoundland and Labrador and its role as a key institution in our province, socially, economically, and culturally. As Newfoundland and Labrador's only public university, Memorial University has distinct objectives that are separate from, yet complementary to, those of other post-secondary institutions in the province and from those in other provinces where multiple universities coexist. Whereas the College of the North Atlantic aims to provide training in a variety of industries to meet specific labour market demands, Memorial University prepares students for their future roles by developing capacities that can be applied in a range of situations, while fostering the skills necessary to be engaged citizens and adapt to our changing society. As MUNFA wrote in response to the 2004 White Paper: "The university is not a 'knowledge factory' that produces marketable products, but a place for training students to think independently, critically, and creatively." This distinction must be recognized and considered as the *Memorial University Act* is reviewed.

## Memorial University as a Comprehensive University

In order to meet its special obligation to the people of Newfoundland and Labrador it is critical that Memorial University maintain its status as a comprehensive university and that support for this status continues to be enshrined in legislation. If we are unable to offer a full suite of programs in the humanities, the natural and social sciences, education, and the applied sciences, on the one hand, some students may be denied the chance to realize their full potential; and on the other, we will lose highly skilled people from our own province and the ability to attract such individuals from Canada and around the world. Facing an economic and demographic crisis, it is crucial for the province that Memorial University be able to attract, nurture, and retain the best and the brightest in a range of fields to meet the challenges that lie ahead.

### **Recommendation:**

- The *Memorial University Act* must maintain language as outlined in Section 8.(1) which clearly articulates the need to offer a full range of programs and degrees "in all branches of liberal education" to the benefit of all Newfoundlanders and Labradorians.

## Memorial University's Board of Regents

Memorial University must be guided by the principles of shared decision making and collegiality, not corporate or political interests. This means ensuring the full and meaningful participation, in all levels of decision making, of the full range of community members, including students, academic staff, and non-academic staff. Public university boards, at their best, are guided by representatives of the public, academia, students, and alumni.

Further, as a public institution in receipt of government funding, Memorial University must be open to public scrutiny, open in their accounts, open in their governance, policies and administration, open in their debates, and open in their decision-making processes while also maintaining the university's autonomy in its academic and operational affairs.<sup>1</sup>

At present, Memorial's Board of Regents makes critical decisions under conditions of considerable secrecy. Board meetings are almost entirely closed to the public and the Board operates according to a model of fiduciary responsibility that is more suited to a private sector institution than to a public university whose obligations are not to make profit but to serve society. The *Memorial University Act* should ensure that meetings of the Board of Regents be open to the public; in camera sessions should be exceptional and highly limited. Additionally, academic staff, non-academic staff, and students elected to the Board should be empowered to consult and report to their constituents and should not be prevented from doing.

Currently, Government makes a majority of the appointments to the Board but also permits appointments and elections from other groups to help reflect the needs and values of the larger community. To ensure accountability to the public while still increasing Memorial University's autonomy, membership of the Board of Regents should be amended so that a minority of appointments be made by Government. Further, as Memorial's governing legislation is unique in Canada, in that it precludes faculty members from sitting as Regents – a significant gap in collegial accountability – academic staff must be ensured a seat at the table.

In addition to mandating representation of academic staff on the Board of Regents, membership, as outlined in the *Memorial University Act*, should be sure to include non-academic staff, students, and alumni. Given commitments by Memorial University and the province to Indigenization and decolonization, the Board of Regents' membership should also provide space for Indigenous voices and every effort should be made to ensure the Board reflects the diversity of the community in which it is responsible to.

At Memorial University the "Lieutenant-Governor in Council" (LGC) features prominently in the *Memorial University Act*. The current relationship between Memorial University and the Government is an outlier within the context of Canadian jurisdictions as many decisions related to the university – for example, the appointment of the President and the appointment of the Board of Regents – require final approval by the LGC. Although this power is largely treated as a rubber stamp, we believe it the authority of the LGC provided in the *Memorial University Act* should be limited, or eliminated, to increase Memorial's institutional autonomy.

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<sup>1</sup> <https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-openness-and-transparency-in-post-secondary-institutions>

## **Recommendations:**

- Meetings of the Board of Regents must be open to the public, except for a limited list of in-camera subjects. This commitment must be enshrined in the *Memorial University Act*. (e.g. Section 14 of the *McMaster University Act*<sup>2</sup>, Section 2(18) of the *University of Toronto Act*<sup>3</sup>, Section 27 of the *University of Waterloo Act*<sup>4</sup>)
- The *Memorial University Act* should provide Regents with the power to confer their speaking rights to a member of the public. (e.g. Section 8.5.3 of the University of Calgary Board of Governors By-Laws<sup>5</sup>)
- Agendas, minutes, financial statements, and associated documentation approved by the Board of Regents must be maintained as up to date and made available for public access via the appropriate University office and website.
- Clear language should be included in the *Memorial University Act* that ensures Regents representing specific constituencies are entitled to consult with those they represent in accordance with the expansive understanding of fiduciary responsibility appropriate to a public university and collegial governance.
- To ensure accountability to Government and the public at-large, a minority of Regents should be appointed by the provincial government.
- Academic staff representation on the Board of Regents should be commensurate with the size of the Board. Academic staff should be allocated 20% of the membership with a majority being appointed by MUNFA and a minority elected amongst all academic staff at Memorial University.
- Consideration should be given to ensure the Board of Regents membership contains representation from students, non-academic staff, and alumni and that it represents the diverse community it is responsible to.
- Composition of the Board of Regents, as outlined in the *Memorial University Act*, should include an Indigenous representative, as appointed by Government in consultation with Indigenous communities in Newfoundland and Labrador.
- The requirement for the Lieutenant-Governor in Council to approve appointments to the Board of Regents be removed from the *Memorial University Act*.

## **Memorial University's Senate**

Although Memorial University operates under a bicameral structure, the flow of information between the Board of Regents and Senate could be improved significantly. Ensuring public access to meetings and documentation of the Board of Regents, as recommend above, is one measure which could improve this relationship but further consideration should be given to language in the *Memorial University Act* to address this concern.

As noted in the Canadian Association of University Teachers' (CAUT) *Governance Policy*<sup>6</sup>, "Senate should have unlimited power of recommendation to the Board on any matter within the Board's purview that the Senate considers to be of import to the institution. This requires that the Senate is apprised of Board and administrative proposals or initiatives before final decisions are made and has meaningful

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<sup>2</sup> [https://secretariat.mcmaster.ca/app/uploads/2019/05/McMasterAct\\_760607.pdf#page=12](https://secretariat.mcmaster.ca/app/uploads/2019/05/McMasterAct_760607.pdf#page=12)

<sup>3</sup> <https://governingcouncil.utoronto.ca/system/files/import-files/ppdec1519784709.pdf#page=7>

<sup>4</sup> <https://uwaterloo.ca/secretariat/governance/university-waterloo-act#Meetings-and-By-Laws>

<sup>5</sup> <https://www.ucalgary.ca/secretariat/sites/default/files/teams/1/board-of-governors/University%20of%20Calgary%20Board%20of%20Governors%20Bylaws%202021-03-26%20Final.pdf#page=12>

<sup>6</sup> <https://www.caut.ca/about-us/caut-policy/lists/caut-policy-statements/policy-statement-on-governance>

opportunities to consider and provide recommendations.” Furthermore, as noted in Section 5 of policy, Senate should be comprised of a majority of academic staff elected by their colleagues, along with student representation, and ex-officio members of the University administration. Although the President and Vice-President (Academic) should maintain the right to vote at Senate, the *Memorial University Act* should make explicit that other academic administrators at the rank of Dean and above have a voice but no vote at Senate.

Currently, Section 54 of the *Memorial University Act* delegates the position of Chairperson of Senate to Memorial’s President. In line with CAUT’s *Governance Policy*, MUNFA recommends a revision to this Section to provide Senate the power to elect their own Chairperson, and that this Chairperson should have no other administrative appointment within the university. This would fall in line with procedures being considered for the Chair of the Board of Regents.

Finally, to ensure more open communication between Memorial University’s bicameral governance structures, and to ensure Regents are familiar with the academic mission that is central to the university, we recommend that one or two members of Senate be elected by the Board of Regents and vice-versa.

### **Recommendations:**

- The composition of Senate in the *Memorial University Act* should include the MUNFA President or designate as an ex-officio member.
- The Duties and Powers of Senate, as outlined in the *Memorial University Act*, should include unlimited power of recommendation to the Board of Regents on any matter within the Board’s purview that Senate considers to be of import to the institution.
- The *Memorial University Act* should include language that ensures Senate is apprised of Board and administrative proposals or initiatives before final decisions are made and has meaningful opportunities to consider and provide recommendations.
- The Composition of Senate, as outlined in the *Memorial University Act*, should be comprised of a majority of academic staff elected by their colleagues.
- The *Memorial University Act* should make clear that academic administrators at the rank of Dean and above who sit on Senate by virtue of their position have a voice but no vote at Senate.
- The *Memorial University Act* should be revised to ensure Senate be empowered to elect their own Chairperson, and that this Chairperson should have no other administrative appointment within the university.
- The Composition of Senate, as outlined in the *Memorial University Act*, should include one or two members of the Board of Regents and vice-versa.

## **Autonomy of Memorial University**

Higher education is essential to the success of Newfoundland and Labrador socially, economically, and culturally. Memorial University must foster an environment where the pursuit and dissemination of knowledge is paramount. This is only achievable through the free enquiry of scholars, supported by the institution, without interference from government, industry, or other external or internal parties. In short, the public university requires institutional autonomy and academic freedom. To achieve and maintain the goals of higher education, independent governance structures have evolved to ensure the autonomy of the academic mission, while balancing the needs of society. Further, to continue to meet the needs of the province, the Government of Newfoundland and Labrador must recognize the importance of shared

decision making and collegiality, underpinned by openness and transparency, for the successful governance of Memorial University.

Institutional autonomy is necessary to protect academic freedom and to ensure our public university is able to set its direction, conduct research and educate for the betterment of society, without being guided by a narrow political agenda or the wishes of the current governing party. Further, true institutional autonomy can only be assured if Memorial University receives guaranteed, stable funding from the provincial government, without the need to rely on corporate donations, tuition fees, and private partnerships to achieve its academic mission.

### **Recommendations:**

- Enshrine language in the *Memorial University Act* which ensures Memorial University remains a public good and that its key objectives of teaching and research cannot be outsourced to private organizations.
- Restore funding to Memorial University back to 2012 levels and ensure the budgetary envelope increases, at minimum, by the rate of real inflation.
- The Newfoundland and Labrador Auditor General should be entitled to request unfettered access to the University's books/financial records while maintaining the University's autonomy as currently described in Section 38 of the Act.

### **Conclusion**

As the province's only university, Memorial University touches on the lives of all Newfoundlanders and Labradorians. High-quality, publicly funded, universally accessible post-secondary education is key to the future social, economic, cultural, and demographic growth of the province. We hope that MUNFA's submission helps ensure that the *Memorial University Act* continues to reflect our institution's important place in the province, and offers some considerations to improve collegiality, transparency, accountability, fairness, and equity within our governance structures.

MUNFA would like to thank the government for allowing us this opportunity to provide feedback on revisions to the *Memorial University Act* and we invite you to contact our office if you have questions or would like to discuss our submission further.