

Organizational and Operational Review of the University College of the North

By

Dr John Loxley

Department of Economics

University of Manitoba

May, 2009

Amended

Contents

Executive Summary of Findings and Recommendations.....	3
Introduction	9
1. Transitional Experience	9
2. Academic Freedom, Tenure, Exigency and Redundancy	22
3. Composition of the Governing Council	27
4. Powers of the Governing Council	27
5. Powers of the Learning Council	30
6. Membership of the Learning Council	33
7. The Powers of Faculties and Departments	34
8. The Role of Elders in the Governance of UCN	36
9. Financial Year	41
10. Powers of the Minister	42
Appendix 1	44
Appendix 2	49

Executive Summary of Findings and Recommendations

1. The main focus of this review is the governance framework of the University College of the North (UCN), but it also covers transitional experience.

Transitional Experience

2. UCN has made great strides since its inception in 2004, in terms of student enrolment, staff recruitment, implementing a new governance structure, expanding infrastructure and creating a new culture.
3. Difficulties have been experienced in recruiting qualified and experienced faculty, especially senior and Aboriginal faculty, but progress has been made.
4. Student retention has been a problem in the non-degree programs but steps are being taken to deal with this.
5. Physical constraints are being lifted but remain for the library, student accommodation, recreation facilities and for housing staff in Thompson.
6. The budget of UCN has expanded rapidly but challenges remain in providing child care, counselling and advisory services for students and research and travel funds for staff. They are especially acute in the provision of funding for the B.Ed degree program.

Brandon University Teachers Education Program (BUNTEP).

7. The Province took a decision in 2004 to transfer the mandate of BUNTEP for the education of teachers in the north to UCN. The target date for the full transfer of was eventually fixed for July 1, 2007.
8. To date, no staff or money has been transferred from BUNTEP to UCN.
9. In 2008, UCN initiated a B.Ed degree program out of funds made surplus due to staff vacancies elsewhere in the university college.
10. Negotiations to transfer BUNTEP staff and resources have become complicated and protracted.

11. Proposals to phase BUNTEP staff into UCN have encountered resistance and generated acrimony, made worse by BUNTEP staff were not being involved in initial discussions.
12. BUNTEP staff feel that BU has an obligation to find them alternative assignments or offer them redundancy. Some might be willing to be seconded to UCN on current residency arrangements until 2012 as BUNTEP winds down. Residency is an issue for them after 2012 if they choose to join UCN.
13. BU will offer its degree to northern students registered in its program until 2012, but only if BU staff continue to teach. They would not offer staff redundancy but rather retrenchment which does not carry severance payments.
14. UCN still wants to employ BUNTEP staff, initially on secondment with current residency, but requires them to be resident up north from 2012.
15. If negotiations were to be started from scratch, the education mandate could have been transferred more slowly, residency until retirement could have been offered BUNTEP staff joining UCN as BUNTEP wound down, resources could have been gradually transferred to UCN and BU could have offered staff alternative employment, if available or redundancy if not (funded, if necessary, by the Province) once their BUNTEP teaching obligations were fulfilled.
16. As it is, if progress is to be made in the near future, compromises will have to be made: perhaps BU on redundancy, UCN on residency and BUNTEP staff on secondment.
17. Failing this, the COPSE approach of taking redundancy/retrenchment to arbitration and negotiating specific issues one by one, seems the only way forward. All parties can be expected to do what they feel they have to do to protect their interests.
18. Funding the UCN program out of surplus funds based on under-recruitment elsewhere is not prudent and some more permanent solution is needed quickly.

Academic Freedom, Tenure, Exigency and Redundancy

19. Faculty at UCN are now fully and comprehensively guaranteed Academic freedom in their collective agreement under Articles 72.01-72.06.

20. Tenure is provided for in Article 73 of the collective agreement and, with regard to criteria and procedures, is almost identical to that of other universities both within and outside of Manitoba.
21. The main difference is the provision for Elders with academic appointments to sit on tenure committees. This is dealt with in MMM.
22. The collective agreement also provides for financial exigency (Article 74 and redundancy (Article 79) with procedures again being very similar to those in place elsewhere.
23. Provisions for exigency differ from those elsewhere in three regards. First, the findings of a Governing Council/union appointed Commission are binding on the Governing Council. Secondly, there is no provision for academic input through the Learning Council in implementing exigency: this lies entirely in the discretion of the Governing Council. In other universities, the Senate usually has at least an advisory role and is guided by schools and departments. Thirdly there are displacement or 'bumping' provisions in the collective agreement where seniority is taken into account.
24. The redundancy provisions in the collective agreement do provide for academic input from the Learning Council, schools and departments. Again, there are displacement provisions.
25. Academic freedom, tenure, exigency and redundancy now seem to be adequately provided for. In future, however, provision should be made for academic input into exigency procedures.

Composition of the Governing Council

26. The UCN Act provides for a representative Governing Council, similar to the provision for Boards in Manitoba's other major universities. The only departure is provision for Aboriginal and Elder representation, which this reviewer finds absolutely appropriate given the history and context of the UCN.

Powers of the Governing Council

27. The UCN Act gives the Governing Council all the usual powers available to university boards elsewhere in Manitoba. It also gives the GC powers over academic matters that are elsewhere given to Senates or their equivalence. This is dealt with later under powers of the Learning Council.

28. The Governing Council follows a modified Carver model of governance, delegating much of its power to the President and holding the President accountable for performance in meeting clearly specified goals. The only person hired by the GC is, in fact, the President.
29. UCN's policy manual clearly specifies the constraints under which the President is to operate, e.g., with regard to the ethical treatment of staff etc.
30. How the President exercises the powers delegated by the GC is a matter for her discretion alone.

Powers of the Learning Council

31. The Learning Council has only some of the powers of traditional Senates, as far as the university side of UCN is concerned. It sets qualifications for admission, criteria for examinations and evaluating student performance, requirements for graduation and for award. It can discipline students, set rules and procedures surrounding academic appeals by students and determine curriculum content for courses leading to degrees, certificates and diplomas.
32. However, it only advises the Governing Council on the courses or programs to be offered and the degrees, honorary degrees, certificates and diplomas to be granted by UCN. In the other universities, these powers are vested in the Senate.
33. The current President has chosen to delegate the powers delegated to her by the GC to the Learning Council and its newly created academic committees. In practical terms, therefore, the restrictions on the powers of the LC have not been an issue.
34. Important academic governance issues, such as the autonomy of the LC, should not, however, be left to the whim or the management style of the President. The UCN Act should be changed to give the Learning Council complete control over the academic matters that it now, in law at least, simply advises on.

Membership of the Learning Council

35. The size and membership of the LC seem reasonable, but it might be advisable to extend membership to all Deans, which is the practice elsewhere, given the responsibilities of Dean.

36. It might also be advisable to extend representation to support staff,. This is not the practice elsewhere but, given the potentially important impact of academic decisions on the working lives of support staff, it ought to be.
37. There is also provision for the representation of Elders on the LC. This is dealt with later.

The Powers of Faculties and Departments

38. There is ambiguity as to roles, functions and responsibilities of the faculties and departments at UCN. There is no explicit provision for them in the Act though the GC is responsible for 'the administrative and academic organization of the university college'.
39. The Learning Council, however, has no power under the Act to specify how faculties/schools and departments will be organized and with what powers. It has, however, recently passed motions formally creating new faculties.
40. The by-laws of the LC will need to be updated to provide for the uniform governance of academic units.
41. Faculty councils and departments will also need to develop their own by-laws consistent with those of the Learning Council, as they evolve.

The Role of Elders in the Governance of UCN

42. Aboriginal Elders have a unique role in the governance structure of UCN compared with other Manitoba universities. They have their own Council of Elders, they sit on both the GC and the LC, and on recruitment, promotion, tenure, curriculum and other committees.
43. They are fully integrated into both the administrative and the academic management of the university college, reflecting the importance given by government to an Aboriginal presence in the university college and the central role the Elders played in helping establish the institution.
44. There have been concerns about the precise role of the CE. It is essentially advisory and promotional and appears to work well.
45. There are ongoing concerns about the presence of Elders in promotion and tenure committees, for which, under the Collective Agreement, they need to have academic appointments. It appears that none of the current members of the CE has such an appointment.

46. Trent University has attempted to overcome this hurdle by granting tenure on the basis of assessment of traditional or indigenous knowledge of candidates and it has a carefully constructed procedure to do this. Other universities resolve the problem by giving Elders a purely advisory role on these committees.
47. Instead, UCN is considering selecting for these committees those Elders who have teaching and education backgrounds and giving them the designation of Adjunct Faculty. This seems a reasonable approach, is consistent with the wording of the collective agreement, avoids potential controversy around tenured appointments and is consistent with precedents in other universities as regards the appointment of external adjunct professors.
48. The role of Elders in the LC is less controversial, their having only one vote in 28. More importantly, their participation is viewed very favourably by those interviewed.

Financial Year

49. Consideration should be given by the government to changing Section 23 of the UCN Act so that the fiscal year of UCN ends on 31 March each year.

Powers of the Minister

50. Sections 21(1) and 21(2) of the UCN Act which gives the Minister the power to issue directives to UCN, either directly or delegated through COPSE, should either be redrafted to clarify that they apply only to college programming or, ideally, they should be removed altogether

Introduction

This review was commissioned by the Governing Council of the University College of the North (UCN) under Section 12 of the *University College of the North Act* which requires the Council to 'conduct an Organizational and Operational Review at least every five years, in accordance with guidelines provided by the Minister'. These powers were delegated to the Council on Post Secondary Education (COPSE) in August 2005, and COPSE has requested that the main focus of this review of the years 2004/5-2007/8 be on the governance framework of the UCN. The guidelines for this review note that 'the UCN has only been in operation since July 2004, and its full governance structure has only been in operation since July 2006. Accordingly, this review is limited in its scope to those issues relating to the transition to UCN from Keewatin Community College and the operation of the UCN's governance structure' (Appendix 1).

1. Transitional Experience

A. General

The transition from KCC to UCN, though a huge task, has taken place relatively smoothly. It has involved the creation of a new governance structure, the recruitment of staff to fill new academic and administrative positions, the negotiation of a new collective agreement covering university as well as college staff, the development of a strategic plan, the introduction of new programs, diplomas and degrees, the planning of new physical and IT infrastructure and the negotiation or renegotiation of a number of arrangements with other educational institutions operating in the north. It has involved both an increase in the scale of operations and, as importantly, if not more so, the development of a new educational culture, relative to KCC.

To facilitate the transition from a community college to a university college, in July 2004, an Interim Governing Council was established in accordance with Section 30 of the UCN Act. This provided the ground work for the creation of UCN, undertaking the functions of both the Governing Council and the Learning Council, until June 2006. In that year, the Governing Council was appointed. The Learning Council, the main academic organ of UCN was also established in 2006. The Council of Elders has been in operation since 2004/05. The rules and by-laws of these governing institutions have been developed and the three councils are meeting regularly.

Staff recruitment has proceeded apace, the numbers increasing from 241 in 2004 to 315 in 2008 or by 30 per cent. Of the increase, 25 were in positions related to the university side of UCN. This included a Vice-President Academic and Research, 4 new Deans (Arts and Science, Education, Libraries and Instructional Services and Health), 2 Administrative Supports, 1 staff person in the Centre for Aboriginal Languages and 17 faculty (including secondments, 9 in Arts and Science, 4 in Health and 4 in Education), in addition to sessional/stipendiary faculty as needed. This represents a huge recruitment effort of people not previously hired by KCC and it was not without difficulties. Obtaining qualified and interested Deans at the salaries available was very challenging, but that hurdle has now been overcome. Recruiting other faculty has not been without difficulty either and many people interviewed choose not to join UCN, which also makes recruitment an expensive and time consuming business. Potential candidates have many reasons for deciding against joining UCN. For some, it is a free trip up north with the candidates having no real interest in living there. This is a problem shared by all the universities in Manitoba as potential candidates wing their way across the country, more out of site seeing and being entertained than real interest. But UCN faces genuine recruitment obstacles too, namely housing, child care, medical services and, in Thompson, lack of a campus, schooling quality and some serious social problems. These are well documented. Some housing is being provided for in the approved capital budget, and a new

campus will be built in Thompson, but these problems will be ongoing ones and the UCN has been quite successful in attracting staff despite them.

Recruitment has strengthened the administrative side of things at UCN, with Finance, Administration, Human Resources, Counselling and Advisory services all seeing improvements.

Outstanding issues on the human resource side are the recruitment of Aboriginal staff. So far, tremendous progress has been made with 52% of the staff being Aboriginal. On the Faculty side, the dilemma has been whether to go for speed and hire people who already have PhDs or to go for capacity building and hire people with potential and help them achieve the higher qualifications. In the former cases, this might mean hiring non-Aboriginal faculty over less qualified Aboriginal candidates. The latter route takes time, is potentially riskier and costs more money, but ultimately, may be a necessary way forward, given UCN's commitment to the Aboriginal community. UCN is on top of this issue and is seeking additional funds to pursue the further education of Aboriginal faculty.

Notwithstanding competition from other educational institutions, student enrolment in university programs, understandably, has grown apace. Students in degree programs rose from 136 in 2004-05 (all in Bachelor of Nursing) to 351 in 2007-08 (141 in Nursing, 201 in the BA program and 9 in Midwifery), an increase of 158%. With the introduction of the new B.Ed degree, this trend will continue. . During this period, the number of Regional Centres rose from 8 to 12 and the number of course offerings rose from 15 to 36. This huge increase in UCN's presence outside of the main campuses is a significant indication of it fulfilling its mandate in the North; it also represented a huge organizational effort for a fledgling institution Overall, however, enrolments in UCN fell by 6.8% between 2004-05 and 2007-08, from 2326 to 2168. Much of this fall was in students in General Studies programs but there were also reductions in Apprenticeships and High school programs and in Contract training

A number of problems have been advanced in explanation for the enrolment trends. On the program side, the General Studies programs are considered problematic by some because they do not lead to readily identifiable credentials. As well, while they were considered to be Access Programs, the accompanying supports essential for such programs were not forthcoming. Thus, housing (with room for only 166 students in total) and child care for students are inadequate, resources for student remedial programs, counselling, advisory services, gymnasias and libraries are also considered insufficient. These are likely to be ongoing problems. Recently announced plans to cut federal funding for First Nations students will not help increase student access to UCN. Also, with the boom in well-paying jobs in the northern economy in recent years, the demand for some programs has fallen off.

It may well have been that in the formative stages of UCN, the retention problem may not have received the attention it warranted because of the preoccupation with institution building and university staff recruitment. But by 2007-08, the problem was well recognized and steps were being taken to deal with it. A new Dean of Student Development was tasked with developing a strategy to improve retention, a proposal to assist students requiring profound healing was developed, an early intervention system was put in place in some programs, aids to those with disabilities were improved, approaches to teaching were being reconsidered and supportive services were being put into place. All of this augurs well for the future, but clearly, student retention will be an ongoing issue which may also require reconsideration of program offerings.

It should be noted that UCN feels it does not receive proper credit in enrolment statistics for students it teaches who are receiving their final degrees from other institutions.

Like other universities in Manitoba, UCN feels it is under funded in general by the Province. Senior personnel identify several areas of need: shortages of space (now being rectified in the Capital Plan), of library resources, of IT equipment, of

travel funds and of funds for faculty research and further education are the major ones. Reference was made several times in interviews to the need for an extra \$7 million in the budget last year, which was not forthcoming. But in 2008, the budget from COPSE increased by \$4.7 million or by 25%. As well, since its inception, the operating funds of UCN (including CEI and Access grants) have increased by \$8.8 million or by over 61%, and hence COPSE feel that UCN has been treated generously.

One budget area that may require careful consideration by the Province is that of the funding of the Bachelor's programs. It appears that the launching of the B. Ed program in 2008 was funded by surpluses in the budget which arose from staff vacancies. If this was indeed the case, then this would be a matter of some concern as this program needs to be put on a solid financial footing. The funding problems of the B.Ed program had quite specific origins, in the failure to transfer the BUNTEP program from Brandon University to UCN, as planned. This transitional problem is a serious one and is ongoing. It needs treating in some detail and it is to this that we now turn.

B. Brandon University Teachers Education Program (BUNTEP).

The single most difficult and challenging issue which UCN has had to deal with during these transitional years is the transfer of BUNTEP staff and resources to UCN. The decision to transfer BUNTEP's mandate for delivering education programs in northern Manitoba was arrived at in 2004 by the Provincial Government. Meetings between the Presidents of Brandon University (BU) and UCN and COPSE were held in 2005 to discuss the issue and a framework document was prepared by them on how the transition should be managed. This mandate transfer document established a transition committee composed of administrative representatives of BU and UCN, and of representatives from the three unions involved, Brandon University Faculty Association (BUFA) and the Manitoba Government Employees Union representing staff at BU and faculty and staff at UCN. COPSE was to provide support. Since that time, a number of

proposals have been put forward and discussed but no agreement has been forthcoming and staff and resources of BUNTEP remain with BU. This has not only been a major impediment to the UCN being able to move forward with its academic agenda, it has also been a significant distraction for senior staff, as negotiations have been ongoing and, at times, fractious. It has, of course, also been stressful and upsetting for BUNTEP staff who were not involved in the initial meeting and who now face potentially fundamental changes to their terms and conditions of employment.

In its three year plan for 2006/7 to 2008/9, UCN assumed that they would have received sufficient BUNTEP resources to launch the B.Ed program except for travel and related symposia and rental facilities in the first year amounting to \$45,000, and ongoing administration costs of \$40,000, rising by inflation in subsequent years. The BUNTEP budget which was expected to be transferred in its entirety to UCN (footnote 14, UCN Three Year Plan, 2005) was thought by UCN to amount to \$2,025,000 and cover ten professors, 8 tenured, 2 tenure track, a Director and a Director of Field Experience. There were also three MGEU administrative staff.¹ None of this funding has been received and, more to the point, none of the expertise of BUNTEP staff has been available for the launch of the UCN B.Ed program.

The problem has been in arriving at transfer arrangements that are satisfactory to members of the two unions represented at BU, BUFA and MGEU and, especially, to the professors represented by BUFA. The principles laid out in the Framework document (January 24, 2006) were as follows:

- BUNTEP would operate as a BU program until the mandate was transferred.

¹ Data from BU, however, suggest that the BUNTEP program was \$2.35 million in 2005-06, falling gradually to \$2.253 million in 2006-07 and \$2.058 million by 2007-08. Currently, the budget is about \$2.1 million. Staffing data from BU suggest that there are 8 or 8.08 tenured staff, 1 probationary and 5 term appointees. It is not clear why there are discrepancies in these data.

- Once transferred, UCN would honour all BUNTEP program commitments remaining at the time of the transfer.
- All resources and costs of the BUNTEP program would be transferred with the mandate at which time BU's financial obligation would cease.
- The existing rights and obligations of BUNTEP faculty would be honoured during the transition period.
- BUNTEP staff would be offered employment by UCN at the end of the secondment period. Staff refusing this offer would have no other rights.
- All tenured, probationary and regular employees would be offered reasonable employment opportunities by UCN as a result of the transfer of the mandate.
- The MGEU would be the bargaining agent for faculty and staff transferred to UCN.
- During the transition phase BUNTEP faculty would, as resources permitted, assist UCN in the development of its new B.Ed. degree program.

The target date for the full transfer of the mandate from BU to UCN was to be July 1, 2007.

Subsequent negotiations with employees showed that the issues were much more complex than the Framework document envisaged. A draft Memorandum of Agreement (MOA) in 2007 allowed current BUNTEP sites to continue until completed (2012) and for students currently enrolled in BUNTEP to receive BU degrees while, at the same time, agreeing that UCN would manage and administer the northern teacher education program with the co-operation of the Director of BUNTEP. The draft MOA gave BUNTEP employees three choices: i) transfer to and become employees of UCN by 1 September, 2007; ii) remain BU employees but be seconded to UCN from 1 September 2007 until June 30, 2012

or iii) terminate their employment at 31 August and exercise their rights under the BU collective agreement.

Option ii) appears to have been the one to which BUFA gave serious consideration. Under this, BUFA members were given the choice of remaining at their current location (Brandon or Winnipeg) or re-locating to either Thompson or The Pas during the period of their secondment. Though this was not stated explicitly in the draft MOA, it appears that faculty would not have a choice of location, other than Thompson or The Pas, after the end of the period of secondment. This appears to have been an important issue for members of BUFA as only one of them has expressed a willingness to relocate.

At the end of the period of secondment, BUNTEP employees would be offered equivalent positions at UCN or, if they refused this, their employment would be terminated on June 30, 2012 'and no other rights exist' (Draft Secondment Agreement, 2007, p.2). It should be noted that detailed negotiations are very much point in time and that what is on the table is a moving target. Hence, it has been acknowledged, since this draft was drawn up, that if staff choose not to accept employment with UCN at the end of the transition period, they can exercise their rights under the collective agreement, whatever these turn out to be.

BUFA members had and continue to have concerns about their status should they decide not to exercise either option i) or ii) above, i.e., should they choose not to join UCN on either a permanent or a secondment basis. The BU/BUFA collective agreement provides for both retrenchment (Article 15) and redundancy (Article 17) of BUFA members. The first occurs when it is deemed necessary to reduce salary costs for financial reasons, the second when members are 'declared unnecessary due to long-term changes in academic priorities, student enrolment patterns, or some such similar development'. Under **retrenchment**, members are laid off first according to program needs and then according to seniority. Laid off members have four years in which they have right of first

refusal to any vacancy in their former Department and to be considered for vacancies elsewhere in BU. They also receive 6 months notice if they are on term or probationary appointments and 12 months if they are tenured. There are no severance payments. In the event of **redundancy**, the notice period is the same, redeployment possibilities within BU will be examined, a retraining possibility is provided for, but failing this, a severance allowance of one month's salary for every year of service to BU beyond the first year, to a maximum of 12 month's salary is provided for.

The Administration of BU, under advice from their legal counsel, takes the position that retrenchment under Article 15 would be the appropriate course of action should BUFA staff opt not to be seconded to UCN nor to join UCN either now or at the end of the period of secondment. They see retrenchment as the least expensive and administratively most defensible and practical option. They acknowledge that this decision would be grieved by BUFA but are confident they would win the grievance. At the same time, they acknowledge this would cost them money.

BUFA argues that losses of jobs at BU due to the government moving the BUNTEP program to UCN would fit the definition of redundancy under Article 17 and that members opting not to join UCN would be entitled to severance payments.

Senior COPSE staff feel that neither clause in the collective agreement fits the situation precisely but raise the question of whether or not it might 'be best in the long-run to consider accepting redundancy as the right approach?' Indeed, as far back as October 2007, COPSE obtained the necessary authority to ensure that severance was paid to BUNTEP staff if that were found to be necessary under the collective agreement.

The problem faced by BU is that if BUNTEP faculty opted to take severance packages before 2012, there might be an insufficient number of them left to see

remaining cohorts of students through their BU degree program and the BU Senate might then balk at granting these students BU degrees.

Because they had not received a response to the secondment proposal by January 2008, UCN withdrew it and COPSE began pursuing other proposals.

In late 2008, BUFA drafted an alternative proposal which differs from the 2007 MOA mainly in providing that should there be insufficient work in BUNTEP centres for BUNTEP employees, they will be eligible to pick up courses from BU up to a full workload. It contains the same secondment provisions. It also states that members electing not to transfer to UCN would be subject to the general redundancy provisions of the collective agreement, Article 16, not the retrenchment provisions under Article 15 and not the Redundancy for Members Employed in the Special Projects, under Article 17.²

The problem with this proposal is that it does not free up resources for UCN as BUNTEP winds down; it provides for no BUNTEP staff to be transferred to UCN at all.

If things had been different...

There is no doubt that the current situation with regard to the transfer of the BUNTEP program to UCN is, as one senior administrator has put it, 'nuts'! The BUNTEP program is winding down and yet no resources have been transferred to UCN. The mandate for the education of northern teachers is now, by default, a joint one between BU and UCN. The current impasse is unacceptable and a way forward must be found. Perhaps the biggest mistake was in not involving BUNTEP staff in the exercise from the very beginning, in the preparation of the initial framework document. Any future program changes in the province should certainly avoid repeating that mistake. But there appears at this stage to be no easy way forward in transferring the BUNTEP program.

² It appears that BUFA still stand by Article 17 and that this was simply a typo in the draft MOA.

If the exercise was being started from scratch, this reviewer might have recommended the following, or some variation of it, couched in current terms as if it formed the basis of the 2005 MOA:

1. BU will remain responsible for the BUNTEP program and required staff and funding until the last cohort graduates in 2012.
2. BUNTEP finances surplus to the requirements of teaching the remaining BUNTEP students will be transferred to UCN as soon as they arise. These will be measured annually by COPSE in conjunction with BU, BUFA and MGEU and the amount agreed upon duly transferred to UCN's budget.
3. Those BUFA staff not required for teaching remaining BUNTEP students will be offered:
 - i) other courses at BU to make up a full course load, if these are available,
 - ii) alternative positions at BU if available,
 - iii) a transfer to UCN with current residency arrangements.
4. BUFA staff required to teach remaining BUNTEP students will remain as employees of BU with current residency arrangements during the period they are required to teach on the BUNTEP program (not beyond 2012 and for some, before then as cohorts graduate). Thereafter they will be invited to join UCN, with current residency requirements.
5. Options 3(i) and 3(ii) would be funded from resources other than current BUNTEP resources.
6. All BUFA staff will be given the above options eventually, as the BUNTEP program winds down, but not all will be given them immediately as staff will be required to fulfill BU's commitments under BUNTEP.

7. There will be no secondment option for any current BU faculty. Those needed to teach in the BUNTEP program will retain their current employment status. Those surplus to the needs of the BUNTEP program will be needed for teaching UCN courses full time and will, therefore, become full time employees of UCN on terms and conditions identical to those under existing BU collective agreements.
8. Current residency arrangements under options 3(iii) and 4 will be guaranteed for existing BUNTEP academic staff. (This option should have been made available to BUNTEP staff from the outset as it has become an unnecessary stumbling block to the transfer of resources. It is not unreasonable for BUFA members to wish to retain, as far as possible, current working arrangements and allowing them to maintain current residency does not in any way reduce resources now available for northern education. This would be a 'grand parenting' arrangement as new recruits would be expected to reside in the north.)
9. Those BUNTEP staff surplus to the needs of the BUNTEP program as it winds down, who opted not to join UCN permanently, and for whom no additional or alternative employment at BU can be found, will be declared redundant under Article 17 and eligible for severance allowances.
10. Any severance payments will be met out of the BUNTEP budget and the balance of the budget, after allowing for BU's on-going requirements for the BUNTEP program, will be transferred to UCN. An estimate of the amount likely available for UCN between now and 2012 will be drawn up as soon as BUNTEP staff have decided on their future. This will enable UCN to plan the expansion of its B.Ed. program.
11. In 2012, BU will cease to have a mandate to provide teacher education in the north and UCN will have the sole mandate.

12. It is acknowledged that support staff will not be able to maintain current residency arrangements. They will be offered the options of joining UCN and moving up north, alternative employment at BU or redundancy.

The logic behind these proposals is that they would have given BUNTEP academic staff a guarantee of both employment and residency, beyond the life of the BUNTEP program. They would also acknowledge that the disruption in the lives of BUNTEP staff is the result of government policy, not of narrow financial problems and hence, if staff choose not to be transferred to UCN, they should be offered redundancy. The costs of the redundancy would be recoverable from the BUNTEP budget as they have an upper limit of twelve months' salary.

Alternatively, Treasury Board could be asked to meet them, phasing them in as BUNTEP wound down.

Such an approach would have avoided difficulties that might have arisen with an immediate transfer of the complete education mandate to UCN and with an immediate and across the board offer of severance to all BUNTEP staff. It is in the nature of the complexity of the problems being addressed that this solution may have been less than completely satisfactory to all parties concerned. It is also recognized that BU might have wanted, in any case, to arbitrate the issue of redundancy versus retrenchment as there are potential obligations that go beyond the issue of severance payments: on the other hand, severance would be costless to BU and the obligation to offer staff alternative employment is not significantly different, in practical terms, under either option.

The way forward?

In any event, these proposals were not made and are unlikely to be acceptable at this point in time. Regrettably, the situation may have reached the point where positions are entrenched and cannot be redrawn. Thus, UCN may insist on it having the mandate for northern education immediately and having immediate access to BUNTEP staff through secondment until 2012. It may also insist on relocation for those staff in 2012 if they choose to join UCN. It may be that

Brandon University digs in on the question of retrenchment. BUFA members may insist that BU has a long-term obligation to them and that they should be offered alternative employment there. Otherwise, they may insist that their situation is more properly covered by redundancy provisions in their collective agreement. If this is the situation, there is little this reviewer can offer to move things forward. Some compromises would be needed by all parties to accomplish a resolution in the immediate future. The UCN might have to drop its insistence on northern residency for existing BUNTEP staff: BU might have to accept that redundancy is the appropriate line of action in the circumstances and BUNTEP staff might have to drop insistence on secondment. It is important that some means be found for resources to begin flowing as soon as possible to UCN to fund its BEd program, either from Brandon on account of BUNTEP being wound down, or from the Province. Funding an essential Bachelor's program from funds available only because of staff vacancies, is not a sound way to proceed. At the same time, the legitimate concerns of staff have to be dealt with fairly.

If lines cannot be redrawn, then COPSE's current approach of recommending arbitration of the status of BUNTEP staff while, in the meantime, negotiating the issues one by one, would seem to be the only feasible way forward. In the process, the individual parties can be expected to take whatever action they feel is appropriate to defend their interests.

2. Academic Freedom, Tenure, Exigency & Redundancy

There were concerns that no provision had been made in the creation of UCN for the guarantee of academic freedom and tenure, nor for exigency and redundancy of staff. These issues are considered vital to the lives of university academics and CAUT and faculty associations in Manitoba were concerned in the early days that they had not been allowed for. In other universities, these are not matters for the university legislation but for collective bargaining, and in the case of UCN

they appear to have been so addressed by the MGEU and the university administration.

The collective agreement between the University College of the North and the Manitoba Government and General Employees Union for 2006-2010 contains articles which explicitly address each of these issues and appears to do so in a comprehensive and acceptable manner.

A) Academic Freedom

Article 72.01 of the collective agreement states that the university foundation stresses 'community participation, diversity, inclusiveness and understanding' (p.52) and therefore it has a 'distinct responsibility to safeguard and promote academic freedom'. It acknowledges that academic priorities are paramount in the university.

Article 72.02 stresses the importance of free exposition and the safeguard of academic freedom in teaching and research. It protects the legal rights of faculty from arbitrary actions by either the employer or the union.

Article 72.03 guarantees faculty freedom from institutional censorship, lays out faculty responsibilities in exercising that freedom, including respect for the rights of other academics and tolerance of different points of view.

Article 72.04 stresses that academic freedom does not require neutrality but rather makes commitment possible, and it is to be exercised along with legal and employment obligations of members.

Article 72.05 specifies that academic freedom includes freedom to question, to teach and to learn; to conduct research and to publish its results and to produce and perform creative and professional work. It also includes 'freedom from institutional censorship and/or reprisal when academics act as members of society at large'.

Article 72.06 provides for separation from individual and institutional roles of academics.

These provisions are the equivalent of Articles 19. A.1 and 34.2 in the University of Manitoba and UMFA collective agreement, Article 5 of the Brandon University/BUFA collective agreement and of Article 7 of the University of Winnipeg/UWFA collective agreement and, if anything, lay out the meaning and ramifications of academic freedom more comprehensively than the other agreements do.

The one departure from the terms of the other agreements is the requirement in Article 72.01 for academic staff 'to be responsible and sensitive not just to the academic communities they serve, but also to the 'Aboriginal and northern communities they serve'. Given the origins and context of the UCN this does not seem to be an unreasonable requirement but it is an unusual one, the practical implications remaining unknown at this point in time.

On the whole then, the guarantee of academic freedom seems to be firmly entrenched in the collective agreement.

B) Tenure

Likewise, provision for tenure of university faculty members is also laid out expressly in Article 73 of the collective agreement, and is considered essential to guaranteeing academic freedom (73.03). The tenure procedures are laid out explicitly and in almost all respects, such as tenure criteria, composition of tenure committees, voting procedures, recommendations, right to appear before the committee, early application, submission of teaching, research and service dossier, access to minutes of meetings by the candidate, procedure for and timing of recommendations and reasons for dismissal of tenured faculty, are similar to those of other universities both within and outside Manitoba. There are only two significant differences that this reviewer can discern. The first is provision for tenure (and promotions) committees to include one Elder with an

academic appointment, appointed by the Elder's Council. This issue will be dealt with in Section 8 on Elders. The second is that the service component has a specific reference to service to the Aboriginal community and the Northern community. However, since that reference is not exclusive, in that service elsewhere will be considered, this is not felt to be a requirement that limits in any way the type of service which is acceptable for tenure (or promotion).

C) Exigency and Redundancy

The collective agreement provides for both financial exigency (Article 74 and redundancy (Article 79). The provisions are very similar to those of other universities in Manitoba. Financial exigency has to be demonstrated by a Commission appointed jointly by the Governing Council and the union. Unlike other collective agreements, however, where the Board has the final say, the finding of a financial exigency by the Commission will be binding on the Governing Council. The collective agreement then provides for action to be taken by the Governing Council to alleviate the exigency by reduction of staff salaries or benefits, by lay-offs or other means. In the event that lay-offs are deemed necessary, provision is made for the order in which staff will be laid off. There are, again, some major differences here relative to provisions in the collective agreements of the Universities of Winnipeg and Manitoba. The first is that the Governing Council has complete discretion over how to manage the exigency and, although such an exigency would inevitably have important academic implications, there is no requirement for the Council to even consult with the Learning Council. In contrast, Article 34.10 of the University of Winnipeg-UWFA collective agreement provides for Senate to set the academic priorities within which any cuts are to take place. In the University of Manitoba-UMFA agreement, provision is made for an Academic Budget Allocation Committee (ABAC), with the same composition as the Senate Planning and Priorities Committee, to advise on how cut-backs will be allocated among academic units. Though advisory to the Board, the Board is required (Article 28.3.7) to 'give serious consideration to the report and recommendations of the ABAC' and the report of

this Committee would be made public. Thereafter, once the Board proceeds to implement budget cuts, schools and faculties are centrally involved in the details and ultimately advise Senate which, in turn, then advises the Board. Academic considerations and consultation with faculty and other staff are, therefore, essential components of the process and these seem to be missing in the case of UCN.³

The other major difference in the event of a financial exigency, is that at UCN provision is made for tenured faculty identified for lay-off to displace other faculty members with less seniority, provided they have the qualifications and ability to perform the duties of the person being displaced. While this is a common feature of collective agreements outside academe, it is an unusual one in a university setting.

In contrast to the provisions in UCN-MGEU's collective agreement on financial exigency, the provisions on academic redundancy (Article 79) are driven by the advice of the Learning Council which is also required to consult with affected academic units. If the Governing Council accepts the advice of the Learning Council that redundancy be declared, a Redundancy Committee with representatives of the administration and the union is appointed. It would seek alternatives to the lay-off of staff but if these cannot be found, staff may again exercise displacement options. Provision is made for notice and compensation for those ultimately laid off.

With the exception of the displacement provision, the redundancy article at UCN is very similar to that at University of Manitoba (Article 28), at University of Winnipeg (Article 33) and Brandon (Article 16).

It seems then, that the collective agreement has dealt satisfactorily with most of the earlier concerns surrounding provision for academic freedom, tenure,

³ In the case of retrenchment, such provisions seem also to be absent in Brandon University's collective agreement with BUFA. See Article 14

exigency and redundancy. The one issue that should be re-examined in subsequent negotiations is that of the role of the Learning Council and of academic units in the event of a declaration of financial exigency.

3. Composition of the Governing Council

The GC has a maximum membership of 20 persons (Section 5(1) of the UCN Act: the (non-voting) Chancellor (who is elected by the BG, the LC and the Council of Elders in a joint meeting), the President, one representative each from the students' association, the Learning Council and the Council of Elders; up to three elected employees of UCN, one or two outsiders appointed by the GC and up to 10 persons appointed by the Lieutenant Governor in Council, of whom at least two must be students. The Lieutenant Governor in Council must give due regard to the Aboriginal composition of northern members when appointing members (Section 5(2)).

In November 2008, the GC had 14 women members and 11 Aboriginal members.

The Act provides, therefore for a representative Governing Council and is similar to the provision for Boards in Manitoba's other major universities. The only departure here is provision for Aboriginal and Elder representation, which this reviewer finds absolutely appropriate given the history and context of the UCN, a point elaborated upon in section 8 below.

4. Powers of the Governing Council

Under the UN Act, Section 10(1), the GC has very broad powers, both academic and administrative/fiduciary. It determines the mission, vision and values of UCN; it appoints the President, engages teaching and other staff and determines their

duties; determines the administrative and academic organization of the university college; determines which courses or programs are to be offered (subject to any directives issued by the Minister under Section 21) and, under criteria set by the LC, determines qualifications for admission and approves the granting of degrees etc. It also has powers over fees, discipline, property and agreements with other organizations etc. Some of these academic powers are unusual for a university governing body and are usually vested in the Senate, the equivalent of UCN's Learning Council. This issue will be dealt with later under powers of the LC.

In 2000, the KCC Board of Governors which preceded the Governing Council of UCN, adopted the Carver Model of Governance. This is a very specific approach to Board governance which deliberately limits boards to setting clear objectives to a single person, the CEO, to whom it delegates its authority. The board speaks with one voice and does not interfere, directly or through committees, in the work of the CEO in implementing the broad directives of the board which pertain to goals, mission and vision. Thus the board has one employee only, the CEO, who is then responsible for hiring everyone else and making management decisions to reach the goals set by the board. The CEO is judged on performance by the board. KCC apparently adopted this governance model after complaints of board interference in day to day activities of the college.

In July 2004, the Interim Governing Council of UCN was established (Section 30, UCN Act) to facilitate the transition from a college to a university college. The Interim Council essentially maintained the policy governance structure followed by the outgoing KCC Board of Governors. While not explicitly referring to the Carver model, the Governing Council has continued using a policy governance approach. Thus, the Governing Council's *Policy Manual* explicitly defines the UCN's ends in some detail and sets out a governance process to achieve those ends. On the questions of staffing and program/course approval, the Governing Council accepts the right to support, through the President, the hiring of staff and assignment of duties and conditions of employment; the determination of location of work; required staff transfers; changes and/or modifications to staff

assignments; and the determination of courses and programs to be offered, consistent with the Collective Agreements in place for UCN employees '(1.3). Thus, as it is empowered under Section 10(2) of the UCN Act, the GC has delegated these important powers to the President. The GC *Policy Manual* also makes it clear that neither the GC nor its committees⁴ is to undertake work delegated to staff through the President. The GC is to concentrate its efforts on establishing and strengthening links with the public (to whom it is accountable), setting policies with regard to ends, the governance process and the delegation of power to the President (including setting constraints on that authority and on the prudential and ethical behaviour of staff). The GC will also be responsible for assuring the President's performance. These features of board-President relationships are all basic to the Carver model.

Much of the Governing Council's *Policy Manual* lays out the details of the governance process to ensure that the GC concentrates on ends. It also lays out in some detail what is expected of the President in exercising the authority delegated from the GC and what the limitations are on that executive authority. Thus, on the treatment of staff, the President is required not to discriminate against anyone for ethical dissent; not to operate without human resource policies which lay out expectations of staff, provide for grievance procedures and a code of ethics. The President is required to put in place staff education and development processes and to acquaint staff with their protections under the policy. Similar detailed expectations of the President are laid down for fiscal planning and UCN's financial affairs, on the treatment of students, on communicating with the GC and on other issues, including the monitoring and evaluation of the President's performance. All of this is consistent with the Carver Model. The delineation of authority between the GC and the President is very

⁴ The Governing Council has two standing committees mandated through its governance policies, the Executive Committee and the Finance Committee. The Council also recently established a Policy & By-Law Committee to oversee the development and amendment of its governance policies and by-laws.

clear. The responsibilities of the President are also very clear: so too then is the basis on which the President's performance will be judged by the GC.

5. Powers of the Learning Council

The powers of the Learning Council have been controversial in so far as they concern the university dimension of UCN. The Act gives the LC only limited authority over academic matters and less authority than the Senates of the three large Manitoba universities. Section 14(3) of the UCN Act gives the LC power to set qualifications for admission, to set criteria for examinations and evaluating student performance, the requirements for graduation and for awards recognizing academic excellence. It also gives the LC power to discipline students, to set rules and procedures surrounding academic appeals by students and to determine curriculum content for courses leading to degrees, certificates and diplomas. In these respects, the LC has exactly the same powers as those of the Senates of the large universities. Under Section 14(2), however, it only advises the Governing Council on the courses or programs to be offered and the degrees, honorary degrees, certificates and diplomas to be granted by UCN. In the other universities, these powers are vested in the Senate.

It is not apparent that these limitations have had any significance in practical terms to date. The Governing Council of the UCN is required to seek advice on matters covered by Section 14(2), and under Section 10(1f) the criteria under which it approves the granting of degrees, etc. are established by the Learning Council. The Governing Council has representation from the Learning Council and, so far, there have been no disputes around the powers of the Board of Governors with respect to this Section. The advisory role of the LC with regard to courses or programs to be offered seems to be identical to that of the University Council of Thompson Rivers University (TRU) in BC, which served, to some extent, as a model for UCN. It could also be seen as a continuation of College

procedure. At the same time, however, the delegation of most of its powers to the President means that the GC also delegates its academic powers. The question then is how these powers are, in turn, delegated by the President to the Learning Council. In effect, the President appears to have vested academic authority in the LC, so that the restrictions of the Act seem not to apply in practice.

From the point of view of staff teaching on the College side of UCN, the creation of the Learning Council has given them a much greater input into decisions concerning their professional lives than they ever had while working for KCC.

As one might expect, it took some time for the LC to function properly and in the early days decisions tended to be concentrated in the hands of a couple of senior administrators. With the arrival of the current President, decision making has become more collegial. The Rules of Governance of the LC were drawn up in April 2007, and several committees of the LC have been established which, with their membership, are as follows:

1. Academic Planning Committee ... maximum of twelve members and shall include a representative of the student body and a representative of the Council of Elders.
 - 1.1. *Appeals Committee* ... maximum of fourteen members, and shall include three college faculty members; three university faculty members; three non-instructional staff members, including at least one Dean; three students; one Elder; and the Registrar
2. Academic Standards Committee ... maximum of twelve members and shall include a representative of the student body and a representative of the Council of Elders
3. Awards Committee ... maximum of twelve members and shall include a representative of the student body and a representative of the Council of Elders

4. Curriculum Committee ... maximum of twelve members and shall include a representative of the student body and a representative of the Council of Elders
5. Executive Committee ... Chair, Vice-Chair, Dean (1), Student (1), Faculty (3), Elder (1)
6. Library Committee ... Dean of Library & Instructional Services (1), IT Director (1), Librarian (1), Library support staff (1), faculty members (3), Dean (1), student representative (1), and Council of Elders (1)
7. Nomination Committee ... maximum of twelve members and shall include a representative of the student body and a representative of the Council of Elders
8. Research and Scholarship Committee ... maximum of fifteen members and shall include a representative of the student body and a representative of the Council of Elders.
9. Equity Committee ... the composition of this committee has not been finalized. The drafting of the Committee's terms of reference is currently in process.

Creation of these committees, each of which has representation of staff and of both students and elders, has broadened participation in decision making and faculty feel much more involved than previously. While this has been the outcome of the inclusive and progressive management style of the President, the creation of new institutional structures should ensure its continuity in future.

The consensus appears to be that the LC is now functioning well and that its purely advisory role on courses, programs and degrees etc, has not been an impediment in practice to its proper functioning. It is the view of this reviewer, however, that the LC should be given full powers in these areas. These are purely academic functions and should be vested definitively in the Learning

Council and the degree of autonomy of the LC in these matters should not be left to the particular management model adopted by the GC or to the discretion of the President. The non-academic implications of Learning Council decisions in these areas would still be subject to review, both by the Governing Council and by COPSE (under Section 14(2) of the COPSE Act), but there would then be a clear distinction between academic and non-academic factors in decisions to expand or contract programming. The Act should be changed accordingly, therefore, in order to avoid potential problems in future. In the interim, the Governing Council could use its powers under Section 10(2) to delegate these powers explicitly to the Learning Council, as opposed to the President, if this were to be determined acceptable legally.

6. Membership of the Learning Council

Section 13(2) of the Act provides that the membership of the Learning Council are the Chancellor and the President, a member of the Governing Council appointed by the GC, a member of the Council of Elders appointed by that Council and other members provided by by-law 'who may be teaching staff, students, educational administrators and support staff' of UCN. Section 13(3) requires the GC to pass a by-law to determine the size and composition of the LC and the terms of office of members (apart from those of the Chancellor and President), to provide for how elections would be held and eligibility of voters. Section 13(4) provides that a majority of the LC must be teaching staff.

The precise composition of the LC is laid down in the Rules of Governance, approved by the LC in April 2007. These provide for the LC not to exceed 29 voting members. In addition to those provided for in the Act, there will be 3 Deans appointed by the Deans, the VP Academic and Research and the VP Community Based Services. There will also be up to 3 students, one from each of the two campuses (selected by the Student Association Council on each

campus), one of which will be a university student, and one student selected by students from UCN's regional centres. There will be 8 university faculty members elected by the university faculty, with at least one located at a regional centre and 8 college faculty members elected by college faculty with at least one located at a regional centre. There will also be one academic advisor or counselor selected by that constituency. Non-voting ex-officio members would include other Deans, the Registrar, the Librarian and the Director of Academic Development. Student members are elected annually, faculty members for 2 to 3 years with provision for rotation after two terms. Efforts are to be made to maintain gender balance and balance between Aboriginal-Non-Aboriginal members.

The size and membership of the LC seem reasonable, with a couple of exceptions. It might be advisable to extend membership to all Deans, given the responsibilities of the LC. This would also bring UCN into line with Senate membership in the other large universities. It might also be reasonable for support staff to have a representative, though this is not the practice elsewhere. The logic of this is that changes in academic programs and procedures often have significant impact on the working lives of support staff and their voices should be heard and their viewpoint considered when academic decisions are being taken. If these changes are made, membership would rise to 32 from the current 27. Teaching faculty would then not be in a majority so their representation would have to be increased, perhaps to 9 each of university and college staff, bringing the total membership to 34.

The only other significant factor in terms of membership is provision for representation of Elders. This will be discussed in Section MM.

7. The Powers of Faculties and Departments

While the UCN Act and By-Laws are reasonably clear about the role of the Governing Council and Learning Council, there is still ambiguity as to roles,

functions and responsibilities of the faculties and departments. There is no explicit provision for them in the Act and responsibility for 'the administrative and academic organization of the university college' lies expressly with the Governing Council (Section 10(1d)). This is consistent with the powers of the Boards of the other main universities. The Learning Council, however, has no power under the Act to specify how faculties/schools and departments will be organized and with what powers and this stands in contrast to legislation governing the University of Manitoba. Thus, under Section 34(1)(d) of the University of Manitoba Act, the Senate shall 'establish faculty councils, school councils and other bodies within the university, prescribe how they shall be constituted, and, confer upon them such powers, and assign to them such duties as the Senate may deem expedient'. The U of M Senate has passed a general by-law governing the operations of faculty and school councils and separate by-laws for each individual faculty and school. Amendment of an individual faculty or school council by-law requires that both the relevant faculty or school and Senate vote on the matter. In addition, the Board of Governors has passed by-laws laying out the duties, responsibilities and powers of Deans and Directors.

Senate has provided for the establishment and regulation of councils within all departments of the University and delegated these powers to individual faculties and school councils. The Senate has also approved, and the Board of Governors has ratified, University policy with regard to the powers of various departments and the inter-relationships between the department council and its head, the Dean, and the faculty or school council, in the *General Statement of Policy Concerning Organization and Administration of Departments of the University*. Thus, as explained on the U of M's website, faculty/school and departmental governance draws on Board of Governor and Senate powers under the legislation, as elaborated upon in their respective by-laws, but also upon by-laws of those faculties/schools and departments as well as upon general university policy.

While the Acts of the U of W and Brandon are somewhat different, the governance of faculties/schools and departments is arrived at in a very similar manner.

From 2004 to 2008, the Faculty of Arts was the only formal academic unit in the UCN. In 2008, it was restructured and renamed the Faculty of Arts and Science by the Learning Council. The Faculty of Arts and Science has created a Faculty Council and Faculty Council Committees to conduct the affairs of the Faculty. On February 24, 2009 the Learning Council passed a motion which formally created the faculties of Business, Education, Health, Trades and Technology. It is anticipated that each of these new faculties will create governance structures similar to that of the Faculty of Arts and Science.

Presumably, the by-laws of the Learning Council will, eventually, be updated to provide for the uniform governance of faculties and departments. Faculty councils and departments will also need to develop their own by-laws consistent with those of the Learning Council, as they evolve.

8. The Role of Elders in the Governance of UCN

The Mission Statement of the UCN, which paraphrases the preamble to the Act, states that:

'The mission of the University College of the North is to ensure northern communities and people will have opportunities, knowledge and skills to contribute to an economically, environmentally, and culturally healthy society inclusive and respectful of diverse Northern and Aboriginal values and beliefs'.

The university college was established only after lengthy consultation with the Aboriginal and non-Aboriginal people of the north, who as a result, have a strong sense of ownership of the institution. The governance structure of UCN reflects the importance attached to the sentiments in the Mission Statement. In particular,

there is explicit provision made for an Aboriginal presence on the Governing Council and the Learning Council. The Act also provides for a Council of Elders (CE) whose prime functions are 'to promote an environment at the university college that respects and embraces Aboriginal and northern cultures and values...(and) to promote an understanding of the role of elders within the university college' (Section 16(2)). The CE appoints one of its members to each of the Governing Council and the Learning Council. Aboriginal Elders thus have a unique role in the governance structure of UCN compared with other Manitoba universities. This reflects the respect and status attached to Elders in the Aboriginal community as well as the important part they played in helping both conceptualize the university college and implement the idea in 2003.⁵

The role of the CE, as defined by the Governing Council, is 'to work in partnership with the Governing Council and to provide guidance within the UCN by sharing Elders' traditional knowledge of wisdom, beliefs, and values in a respectful and caring way. Within the UCN, Elders are role models, resources and advisors, providing guidance and support to students, staff, and administration. They are ambassadors for UCN in the larger community.' Members are drawn from 16 northern Aboriginal communities, representing both males and females and different language groups.

For the most part, the role of Elders is an advisory one, but it is one taken very seriously by both the Elders and the other two councils on which they sit. The collective agreement (Article 73.05e) also provides for one Elder with an academic appointment to be appointed by the EC to sit on Tenure and Promotions Committees. That article also states that each Tenure and Promotion Committee 'shall endeavour to achieve equitable representation of Aboriginal and non-Aboriginal members as well as equitable representation of male and female members' (Article 73.05f). On these committees Elders serve as full members with voting rights.

⁵ *Five Year Strategic Plan, 2004-2009: 2004-07 Status Report*, UCN, pp. 2-3.

As mentioned above, Elders also serve on the Executive Committee and all the other committees of the LC, including the Academic Planning Committee, the Curriculum Committee, the Appeals Committee, the Academic Standards Committee, and the Research and Scholarship Committee. They also sit on search committees as full voting members. It can safely be said that the role of Elders is an important one at UCN and they are fully integrated into both the administrative and the academic management of the university college.

The role of Elders has been controversial since the UCN's inception. The Executive Director of CAUT wrote of these in a letter to the Premier in 2005, stating, 'Section 16 creates a Council of Elders whose power is uncertain in that the Council's power is set by the Governing Council. The existence of the Council is not the problem; rather our concern is the absence of a bicameral structure that affords academic staff the decisive role in setting the educational policy of the institution' (personal communication with the reviewer, November, 10, 2008). Since that time, the functions of the CE have been clarified by the GC and, in this reviewer's opinion, are essentially advisory. Academic powers have been effectively delegated to the Learning Council. The CE meets four times a year and reports its deliberations to the GC and all people interviewed think the system is working well. Elder involvement in LC committees varies with the committee, the work load and volume of documentation of some being quite onerous for essentially volunteers, but generally it appears to be working well.

The other concern with Elders is that of their voting rights on search committees, tenure and promotions committees and on other academic bodies, such as the Learning Council. The collective agreement addresses this concern with regard to membership of tenure and promotions committees by stipulating that the Elder must have an academic appointment. In time, as Aboriginal faculty are hired to teach university courses, and as they age, this requirement should not be difficult to meet. At the moment, however, no members of the CE for whom biographical information was available appear to have academic positions as such. They do, however, have impressive credentials of accomplishments and life experience,

some have university degrees and some have extensive teaching, management and board experience. They are all recognized as being knowledgeable in Aboriginal history and in cultural, economic or social affairs. There have, therefore, been suggestions that these accomplishments might be recognized as constituting sufficient grounds for some Elders to be granted academic appointments at UCN. This suggestion, which has not yet been formalized in any way, has been met with concern both within and outside the UCN, with fears that Elders would then be expected to teach university level courses and advise students, for which they do not have the necessary academic qualifications. Those deliberating the possibility are appalled at this reaction, arguing that there are different types of knowledge and experience other than the narrowly academic that would be invaluable for students. Further, they argue, traditional academics draw on the knowledge and experience of Elders in their own research, building their own academic careers on it, but would deny the relevance of that knowledge and experience in considering Elders for academic positions.

This debate is not a new one. Other universities have engaged it and found a way to recognize non-traditional expertise for purposes of tenure. The Department of Native Studies at Trent University has a tenure process that explicitly provides for three types of tenured positions: 1. for candidates with traditional academic backgrounds 2. for candidates with traditional aboriginal knowledge backgrounds, and 3. for Dual Tradition Scholars.⁶ In providing for these alternative tenure streams,

'The University has recognized that the discipline of Native Studies requires the active presence and involvement of those who possess what has come to be known as traditional or indigenous knowledge. This knowledge is not usually gained through university study and is therefore not evidenced through the presence of advanced university degrees or extensive written publications. The

⁶ **Error! Main Document Only.** Department of Native Studies, Trent University, *Tenure Process and Criteria*. Undated

questions then become how do we recognize this form of knowledge, how do we assess the level of knowledge which these individuals possess and how do we recognize knowledge generation and transmission in this cultural community.

The tenure document for this department then goes on to explain that evaluation of candidates in each stream will be consistent with the requirements of the collective agreement and the evaluation of teaching will be carried out in an identical manner for all candidates, regardless of stream. It is the evaluation of research and scholarly activities that differs. For those in streams 2 and 3, candidates would be required to provide evidence, in particular reports or presentations and any evaluations of these, demonstrating their traditional knowledge. Submissions would then be invited from their peers that evaluate that evidence. The Department investigates the culture to determine the appropriate groups and individuals to approach for knowledge assessment.

Where it is not possible to obtain written assessments, the individuals would be visited personally or invited to attend a meeting of the tenure review committee. Where English is not spoken, an independent interpreter would be arranged for. In both cases, a written text of the oral testimony would be prepared.⁷

UCN has studied the Trent model and has decided not to adopt it. Neither does it intend to follow practice elsewhere where Elders are assigned a purely advisory role.⁸ Instead, UCN is considering selecting those Elders who have teaching and education backgrounds and giving them the designation of Adjunct Faculty, and these will be the Elders participating in tenure and promotions committees. This seems to be a reasonable approach which is consistent with the wording of the collective agreement and which avoids potential controversy around tenured appointments. It is consistent with precedents in other universities as regards the appointment of external adjunct professors. Thus, the University of Manitoba provides for their appointment in the Faculty of Graduate Studies, with the

⁷ Ibid.

⁸ Apparently this is the practice in Waterloo University.

requirement that ‘the appointee has a Ph.D. or equivalent relevant degree or experience and demonstrated commitment to research and scholarship. Academic and scholarly qualification and expertise must be relevant to the sponsoring department/unit's activities’.⁹ Elders who have university degrees and/or extensive experience teaching and are knowledgeable about their history, language and traditional culture could certainly be said to be qualified for adjunct appointments at what is effectively a liberal arts undergraduate teaching university, with relevant experience and commitment compensating for any lack of post-graduate qualifications.

The issue of Elders voting in the Learning Council and its committees seems to be much less controversial. The Elders have only one vote in 28 on the LC but more to the point, their participation is viewed very favourably by all those interviewed.

9. Financial Year

UCN operates on the same financial year as other colleges, July to June, while COPSE and other universities operate on the government financial year, April to March. UCN feels that this effectively requires them to undertake two financial exercises each year and, given their limited resources, feel that this places an unnecessary burden on them. This reviewer agrees and feels that consideration should be given by the government to changing Section 23 of the UCN Act so that the fiscal year of UCN ends on 31 March each year. There would be some minimal up-front costs in doing this, to be found from within the budget, but these would be offset by annual savings.

⁹ Guidelines for the Recommendation for Appointment of External Adjunct Professors, http://umanitoba.ca/admin/governance/governing_documents/staff/299.htm

10. Powers of the Minister

Under Section 21(1) of the UCN Act, the Minister has the power to issue directives respecting a) the programs to be offered by the university college and b) guidelines respecting the UCN's annual academic report and the review of its operations and organization. Exercise of these powers must not interfere with the UCN's right to formulate academic policies and standards and, under Section 21(2) the Minister may delegate these powers to COPSE.

These are unusual powers for a Minister to have with regard to university governance and no equivalent exists in the legislation governing the three larger universities. The fear of CAUT and other representatives of university faculty in Manitoba has been that some Minister might choose to exercise these powers at some point in the future to intervene in matters that should be determined by university bodies only. In a letter to the Executive Director of CAUT, dated January 23, 2006, the Minister made it very clear that these powers were not meant to relate to the university side of UCN, only the college side, and would be used 'only in those situations that require specific programs to be offered in response to emerging labour market training requirements'. She emphasized that 'Academic autonomy is a critically important issue to university education and the Province recognizes that this must be respected'. As a further safeguard, she delegated these powers to COPSE and reiterated that the government committed to COPSE not using these powers in regard to the university side of UCN programming.

Thus, for the lifetime of the current government, these provisions of the Act should not be a concern to university faculty. Given that the government has acknowledged, however, that there is a potential for problems and misunderstandings in Section 21(1), and given that future governments might take a less enlightened position than the current one, this section should either be redrafted to clarify that it applies only to college programming or, ideally, sections 21(1) and 21(2) should be removed altogether as COPSE has sufficient

advisory, consultative and financial powers in its Act (Sections 11 and 12) to shape college programming if it deems it necessary.

Appendix 1

UNIVERSITY COLLEGE OF THE NORTH ORGANIZATIONAL AND OPERATIONAL REVIEW GUIDELINES

Background

Section 12 (d) of *The University College of the North Act* states: that

Duties of the Governing Council

12 The Governing Council must

(d) conduct an operational and organizational review at least every five years, in accordance with guidelines provided by the minister.

In August 2005, the powers of the minister were delegated to the Council on Post-Secondary Education. In accordance with *The University College of the North Act* and the minister's delegation, Council is providing UCN with guidelines for an organizational and operational review for the three academic years 2004/05, 2005/06 and 2006/07.

Note that the Minister of Advanced Education and Literacy committed to CAUT in 2006 that the review of the University College of the North would take place earlier than the five-year limit established in *The University College of the North Act*. This decision was taken in order to assess in the governance framework of the university college.

Objective

To undertake an organizational and operational review of University College of the North for the academic years 2004/05 – 2006/07 in accordance with the guidelines provided below.

Directions for the Review

It is noted that UCN has only been in operation since July 2004, and its full governance structure has only been in operation since July 2006. Accordingly, this review is limited in its scope to those issues relating to the transition to UCN from Keewatin Community college, and the operation of UCN's governance structure.

Specific guidelines and directives relating to the substance of the review are attached.

Timelines and Reporting

The review must be completed and a report forwarded to the Council on Post-Secondary Education by 31 March 2008 for its review and approval.

The final report shall be a public document.

ATTACHMENT:

Specific Guidelines for the Review

The report shall examine and assess the experience over the three years in question, and recommendations shall be made as required. Guidelines are presented in the form of questions in various different topics.

1) Transitional Experiences

The advent of a “university college” in Manitoba is historic. While modeled on the university college experience in other provinces (primarily BC), the concept adopted in Manitoba varied from the BC template. How UCN is developing is of interest to students, faculty, professional organizations such as AUCC and CAUT, as well as to Manitobans in general.

It is therefore important that the organizational and operational review capture information as to how the university college concept has evolved to fit the Manitoba situation and in particular the unique geographical and demographical realities of northern Manitoba.

a) Historical Review of Organizational Transition

- What key issues arose in the transition from Keewatin Community College to University College of the North?
- Do any of these issues remain unresolved?
- Did the implementation plan provide clear direction? What arose that was not addressed in the implementation plan?
- How is UCN different from a community college? How has the idea of a “university college” evolved from concept to reality?
- What have been the major accomplishments of UCN since July 2004?

b) Faculty and Human Resources

- What challenges has UCN faced in its first three years of operations in terms of human resources, and how have these been overcome? What are the future plans for faculty and staff recruitment?
- How are the requirements for faculty qualifications changing?
- Are there divisions between university-level and college-level instructors? If so, how are those challenges being addressed? If not, what steps are being taken to ensure that such divisions do not develop into the future?

- Do the provisions in the collective agreement adequately protect faculty's academic freedom?
- What concessions have been made for the transfer of faculty from BUNTEP to UCN?

2) Governance

A great deal of care and concern was invested in the governance model of the University College of the North. As indicated above, the university college model was modified to meet the anticipated needs and history of Manitoba's post-secondary system and of northern Manitoba in particular. This has not been without controversy. Accordingly, the governance model at UCN must be assessed as part of the review.

a) General

- Does the current governance structure allow for academic independence, and independence of faculty members?

b) Role of the Council of Elders

- What impact has the Council of Elders had on operations (programming, administration, enrolment, recruiting of faculty and students) at UCN?

c) Powers of the Governing Council

- How are the powers of the Governing Council appropriate for a university college?
- Should the authority to grant degrees, honorary degrees, certificates and diplomas rest with the Governing Council? Why/why not?

d) Powers of the Learning Council

- Does the Learning Council have sufficient powers and independence from the Governing Council and/or the Council of Elders to guarantee the independence of faculties to set curriculum, standards of student assessment, of graduation and of admission?
- Is the membership of the Learning Council appropriate?
- Should the Learning Council have powers equivalent to those of a university senate?

e) Powers of the Minister

- Is it appropriate for the minister to have authority relating to programming at a university college?
- Should the minister's powers be equivalent to those at a community college or to those at a university?

3) Conduct of the Review

The Governing Council shall be responsible for the review. The review shall be conducted by an external consultant in accordance with direction provided by Council on Post-Secondary Education.

Appendix 2

People Interviewed or Invited to Give Input

1. Denise K. Henning, President and Vice-Chancellor, University College of the North.
2. Lorne Keeper, Chairperson, Governing Council, UCN.
3. Stella Neff, Chairperson, Council of Elders, UCN.
4. Emma Gossfeld, Member, Council of Elders, UCN.
5. Doris Young, Assistant to the President, Aboriginal Affairs, UCN
6. Kathryn McNaughton, Vice-President, Academic and Research, UCN.
7. Carol Girling, Registrar, UCN.
8. Konrad Jonasson, Vice-President, Community-Based Services, UCN.
9. Monica Cook, Director, Human Resources, UCN.
10. Judith R. Elaschuk, Tri-Council Executive Officer, UCN.
11. Sue Matheson, Chair of Humanities, Faculty of Arts and Science, UCN.
12. Vicky Zeran, Co-ordinator of Nursing, UCN.
13. Coralee Bolton, Dental Assisting Instructor, UCN.
14. John Minnis, Sociology, Faculty of Arts, UCN.
15. Wanda McCorrister, Student, B.Ed, UCN.
16. Lionel Lavallee, Student, Law Enforcement, UCN.
17. Ingrid Crowther, Co-ordinator, Early Childhood Program, UCN
18. Sandra Muilenburg, Chief Financial Officer, UCN.
19. Sid Rogers, Secretary, Council on Post-Secondary Education.
20. Kitty Leong, Statistical Analyst, COPSE.
21. Dan Smith, Manager, Policy Development and Analysis, COPSE.
22. Margaret McDonald, Financial Officer, COPSE.

23. James L. Turk, Executive Director, Canadian Association of University Teachers.
24. Jim Clark, President, Manitoba Organization of Faculty Associations.
25. Brenda Austin-Smith, President, University of Manitoba Faculty Association.
26. Kristine Hansen, President, University of Winnipeg Faculty Association.
27. Rolland Gaudet, Association des professeurs du Collège universitaire de Saint-Boniface.
28. David Larocque, Association des professeurs du Collège universitaire de Saint-Boniface
29. Bruce Forrest, President, Brandon University Faculty Association.
30. Richard Henley, Professor, BUNTEP, Brandon University and BUFA.
31. Bob Dewar, Manitoba Government Employees Union (MGEU).
32. Jerry Storie, Dean, Faculty of Education, Brandon University.

The assistance of Jacqueline Zetterstrom and Lynn Telfer of UCN and of Patricia Ferris of COPSE is also gratefully acknowledged.