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STRATEGIC GOVERNANCE

An external review of the University of Prince Edward Island (UPEI) Board Governance

REVIEW CONDUCTED BY:

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2024 BOARD GOVERNANCE REVIEW

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Part 1: Introduction

The University of Prince Edward Island (“UPEI”) is established by the *University Act*, c U-4 of the Statutes of Prince Edward Island (the “Act” or “UPEI Act”) as a bicameral institution. The governing bodies of the institution are the Board of Governors of the University and the Senate of the University. As the province’s only university, UPEI is highly valued as a provincial treasure. It is seen to be of critical importance to the province. Board members are keen to ensure that it is on the right path. UPEI’s communities love the University and are deeply committed to its success.

This Report (2024 Board Governance Review) is focused on board governance and is intended to support the Board in its bid to rebuild a foundation of sound and effective governance for UPEI. While the Governance Review is structured around the Review Areas requested by UPEI, there are broader goals upon which the Review rests - a number of these arise out of the Action Plan but also out of our observations of what the institution needs to restore its footing with its communities.

The observations and recommendations are made to advance the following overarching goals:

1. Rebuild and restore trust in the institution’s governance and governing bodies through improved governance practices and accountability mechanisms.
2. Increase the accessibility of the Board and the transparency of its processes.
3. Restore balance to UPEI’s system of shared governance.

Link to the Action Plan

The governance review arises out of the [University’s Action Plan](#) (“Action Plan”). The Action Plan sets out, “a strong commitment ... that [the University] will work with an enhanced level of governance, transparency, and accountability to make the changes needed”. Commitments made within the Action Plan include: “regain trust by committing to improving governance” and “mak[e] meetings more accessible and transparent so the campus community understands decisions and actions being made at the highest levels”. Goal 2 is to “[s]trengthen UPEI’s governance and leadership structure” and includes actions pertaining to refreshing the Board, creating an enhanced oversight and accountability structure, and improving onboarding and training of Board members.

As the successful proponent in a request for proposal process, Strategic Governance Consulting Services was engaged to conduct this review commencing in January 2024. However, pursuant to the Action Plan, the Board and senior leaders commenced meeting their commitments to effecting governance change prior to and during the review. This has meant that as the review was taking place, governance practices,

processes and documents were undergoing change. A number of changes have arisen out of advice sought and given by us as we were conducting this Review. The observations and recommendations in this Report take into account most of the changes, and implemented changes are described below under “Early Progress in Governance Improvements”. The Board is to be commended for its considerable achievements in improving governance in the past year. These achievements and the commitment they represent have been widely, if in some cases cautiously, acknowledged by interview and survey respondents involved in this Governance Review.

Report Framework

This Governance Review was to be comprehensive and called for focus on four areas (the “Review Areas”). The Review Areas represent the framework for this Report and are:

- Board and Standing Committee Mandates and Meetings
- Succession Planning and Existing Membership
- Board Evaluation and Ongoing Training
- Support Functions.

Process and Methodology

This review is anchored in governance best practices as they apply within the Canadian university context. While the field of corporate governance is more mature, the application of these principles within the Canadian university sector is developing. As a former general counsel and secretary to two universities, the author of *An Introduction to University Governance*, a significant contributor to the Council of Ontario Universities’ “Leading Practices in University Board Governance” publication, co-author of several recent governance reviews, speaker, writer, and advisor to over 30 Canadian universities and sector organizations, the lead consultant, Cheryl Foy is a recognized thought leader in the development and application of university governance best practices¹.

The review methodology included collection of data and information through interviews, surveys, research, and review of an extensive list of documents. Analysis and reflection on all the information gathered and reviewed led to the observations and recommendations in this Report. In formulating the recommendations, the reviewers are ever mindful of the importance and value to the institution and its communities of bringing an independent, expert and external perspective to the Report. In addition to

¹ See www.universitygovernance.ca for more about the lead consultant.

retaining an independent perspective, the goal is to fulfill the Review scope and to create a forward-looking Review that is anchored in, acknowledges and addresses the governance shortcomings of the past yet focuses on the future and on assisting the University to build a sound governance foundation that when implemented will ensure the governance system is robust. A robust governance system rests on positive tensions and checks and balances that ensure the system continues to work as it should.

The review background and methodology are described in more detail in Appendix 1.

Perspective of the Respondents - What We Heard

The Governance Review was designed to model, reflect, and reinforce collegial processes and practices that are central in a shared university governance context. As such, the Review process sought to ensure the inclusion of community perspectives, and in particular, the perspectives of faculty, staff and students. Input was sought from those community members who have knowledge of board governance at UPEI. Any community member was free to write to the consultants or seek interviews. All those who sought interviews were granted them.

We are grateful to those who took the time to participate and provide their thoughts and comments. Without exception, respondents were frank and open. All interviews were taken under assurances that, while interviewee names would be published, none of the comments would be attributable. Individual survey results are similarly confidential. We use the word “respondents” in this Review Report to include both interviewees and survey respondents.

Appendix 2 summarizes what we heard from interviewees and survey respondents.

Part 2 - Foundational Strengths

It is a time of optimism and “post-critical hope” (Riddell 26)² for UPEI. An institutional crisis has both forced and inspired a commitment to change for the better. UPEI has many foundational strengths on which to rebuild board governance.

A. Love for UPEI, Loyalty and Generosity of Spirit

Deep commitment to and love for the institution and a recognition of its importance to the province shines through lingering community hurt, uncertainty, disappointment, and fatigue. A number of interviewees said, “I love UPEI”! Employees are loyal to the institution and committed to its wellbeing. While the community will not soon forget, there is a general willingness to recognize that the current Board and leadership are committed to positive change and rectification of past mistakes and transgressions. Much of the UPEI community also demonstrates generosity of spirit to allow the time necessary to rebuild.

Recommendation:

There is a very high degree of support and good will from the institution. However, the Board must foster and not take this support for granted. The Board is rightly focused on the future, but the institution has been through a lot, and much is being demanded of the institution and the employees as change continues at a sustained pace. Being mindful of fatigue, stress, and resourcing issues and having compassion for those who continue to be affected and troubled will be important.

B. Institutional Courage - The Action Plan and the Governance Review

UPEI has demonstrated and continues to demonstrate institutional courage. “Institutional Courage is an institution’s commitment to seek the truth and engage in moral action, despite unpleasantness, risk, and short-term cost. It is a pledge to protect and care for those who depend on the institution. It is a compass oriented to the common good of individuals, institutions, and the world. It is a force that transforms institutions into more accountable, equitable, effective places for everyone”³.

² In describing post-critical hope at page 26, Riddell cites sociologist Eboo Patel who writes, “right now, we have rough critics. What we need are more builders, more people who know how to create concrete instantiations of a fair, just and inclusive social order”.

³ <https://www.institutionalcourage.org>

Psychologist and researcher, Dr. Jennifer Freyd describes institutional courage as the “antidote” to institutional betrayal⁴.

The engagement of Rubin Thomlinson to conduct the Independent Third-Party Review⁵ (also called the “UPEI Review” or “RT Report”) and the decision by the Board to publish the associated report represents a commitment to seeking and disclosing the truth. The Action Plan approved by the Board in 2024 represents the University’s commitment to creating a safe and inclusive culture at UPEI - it is the University’s pledge to its communities.

Undertaking this Governance Review and the Board’s early commitment to publishing the Review is yet another example of institutional courage and a commitment to transparency. The decision to publish this Review is a clear indication of the Board’s decision to be transparent, to acknowledge that poor governance practices played a role in the circumstances giving rise to the Independent Third-Party Review, and to be held accountable for addressing the role of the Board in those circumstances. Finally, the publication of this Review is an act of trust that the UPEI community will not weaponize it but will understand it as a commitment to change and an agreement to be held accountable for that change. The Board and the institution have been brave.

Recommendation:

Board Members individually and the Board are all encouraged to continue to be brave in their bid to do the right thing for the institution and its communities.

C. Changing Board - A Foundation for the Future

The UPEI Board has changed in tone and substance in the past year. Interview and survey results indicated strong recognition and appreciation for the values and approach of the current leadership of the Board. There were many comments specifically commending the Board Chair for her leadership skills, commitment to transparency and communication and dedication among other things. Strong board leadership is essential during this time of renewal and the current Board Chair’s values-based approach and leadership style are indicative of a changing approach to governance.

Furthermore, the Board composition has changed significantly and with a deliberate focus on increasing diversity and ensuring a broad base of skills. The University Board is composed of a few members with long service, meaning that the Board has

⁴ Dr. Freyd describes institutional betrayal as an institutional “failure to prevent or respond supportively to wrongdoings by individuals ... committed within the context of the institution”.

⁵<https://www.upei.ca/about-upei/independent-third-party-review#:~:text=In%20December%202021%2C%20Rubin%20Thomlinson,respect%20to%20harassment%20and%20discrimination.>

institutional memory, an understanding of the practices that may have led to the mistakes of the past, and a commitment to rectification. There has been demonstrable commitment to changing the culture of the Board. The Board's recruitment strategy and the engagement of new members with diverse skill sets and perspectives, and particularly its focus on recruiting female board members, has transformed the UPEI Board. New members come with knowledge of the Independent Third-Party Review and the Action Plan, and a focused desire to right the institution's governance foundation.

There is a focus on continuous improvement in skills assessment and recruiting board members from equity-seeking groups. We observe in this Board a genuine commitment to ensuring that the UPEI Board of the future will bring the skills, knowledge and diverse perspectives necessary for a university board providing strategic direction, and oversight to UPEI. We also observe in this Board a genuine commitment to building a strong governance framework, and to developing the skills and knowledge necessary to govern the University.

Recommendation:

Continuity of approach (values, commitment to transparency and communication) will be important, and the Board should be planning now for their next leadership transition. The selection of the next set of leaders should be made with great care as strong leadership will continue to be important through the implementation of the Action Plan and beyond.

Note: Observations with respect to fostering the remaining Foundational Strengths appear below.

D. Early Progress in Governance Improvement

In response to the Action Plan, the Board has made significant strides toward improved governance. A resource dedicated to board governance has been retained on an interim basis. As part of the review process, the administrators currently supporting the Board regularly consulted us, and we provided advice on aspects of the ongoing governance work plan. The Board has made great strides toward a culture of greater transparency and openness. We observe in the Board an encouraging commitment to increasing its accessibility to the University community.

Notable areas of governance improvement as at the time of drafting this Report include:

- Board and committee attendance monitoring, publication, and management.
- Governance website improvement and updating including more complete biographies of governors.

- The creation of board and committee work plans that assist the Board and committees to view their annual work holistically and form the basis for agendas.
- New committee Terms of Reference and the addition of a Campus Culture Oversight Committee with responsibility for overseeing the Action Plan.
- New templates including revised board agendas to include consent agendas, and a committee reporting template.
- Improved minuting practices including motion language that better articulates a more comprehensive decision-making process as well as the basis for decisions.
- Improved recruitment processes and the communication of skills requirements to those responsible for selecting new members.
- Most recent board members were recruited using the skills matrix.
- The achievement of a board composition with approximately half the board members identifying as women.
- A decision taken to create a university secretariat and hire a university secretary.
- Development of a register to track board motions and commitments.
- Implementation of a conflict of interest declaration process for all board members.
- Creation of a board portal (underway and access will be available to Board in September 2024).
- Publication of guest guidelines for board meeting attendees.
- Processes for timely communication of new board appointees and committee membership lists.
- A new and more comprehensive board orientation program was implemented in early 2024.

Many other initiatives are underway. The University has sought and been highly receptive to our advice as it moves ahead with governance reform. As noted above, we have made best efforts to reflect the ongoing changes in the observations and recommendations in this report.

E. Presidential Search Process and New President

The Board demonstrated its commitment to building trust, collegial⁶ practices, stakeholder engagement and transparency in its conduct of the recent presidential

⁶ Noting that there is debate and confusion about the term “collegial”, I adopt the definition of collegial proffered by Ian Austin and Glen Jones (Austin and Jones p. 125): “the bedrock of university governance practice for centuries and ... the vehicle of institutional effectiveness in the academy. It is a tradition that revolves around conferring, collaborating, and gaining consensus. It is also a collective process for decision-making in which academics play an integral role”. Collegial practices support shared governance.

search process. Interview and survey feedback indicated community support for the recruitment and search process. As the new president has been hired through a highly credible process supported by the community, the president comes into the University with the support of the community. President Rodgers is described as “dedicated to ... robust governance, and equity, diversity and inclusion, and Indigenization, combined with an authentic and strategic leadership style marked by integrity and openness”⁷. Dr. Rodgers is poised to be instrumental in supporting more effective board governance, and in leading the senior administration to greater accountability.

⁷ Ross, Shane. <https://www.cbc.ca/lite/story/1.7192517>

Part 3 - Moving Toward Increased Governance Effectiveness

Governance systems can be rendered dysfunctional and tested by unscrupulous individuals bent on using a system for power and personal gain. It is important that those within a governance system understand the basis for the system's design and ensure that attention is paid to maintaining the integrity and effectiveness of the system. This is particularly true for university governance systems that are complex but grounded in a vision of governance that brings the perspectives of university community members to the governing bodies' tables. UPEI has not in the past focused on the health of its governance system. Now, building on its many strengths, it must be committed to routing out the roots of practices which caused weakness in aspects of its governance system.

The observations in this section focused on increased governance effectiveness are organized into four parts grounded in the Terms of Reference for this Review: A. Board and Standing Committee Mandates and Meetings; B. Board Membership and Succession Planning; C. Board Evaluation and Ongoing Training; and D. Board Support Functions.

A. Board and Standing Committee Mandates and Meetings

A.1 Board Mandate and Meetings

A.1.1 Introduction

To address the Board Mandate, this Review considers the role of the Board pursuant to the *UPEI Act*, legal obligations, and governance obligations. The Board of Governors of UPEI are the stewards of the university, responsible for making sure that the university will continue to achieve its purpose for generations to come. Stewards assume a mantle of great responsibility and trust. Because they are charged with looking into the future, university boards must have an eye on the big picture and must ensure that the institution has a strategy to which it adheres, is financially sustainable, engages in assessment of risks, and complies with its legal obligations. Boards must avoid delving into operations.

A.1.2 Background

i) The Legislative Context

The governance model for each university is grounded in the legislation that creates the university. Like most Canadian universities, UPEI has a bicameral model of shared governance under which there is a university board and a

senate. Shared governance is further implemented by the appointment of faculty and students to the Board of Governors, and through cross-appointments between the Board and Senate.

The Board of Governors is created by s. 7 of the Act, and the Act sets out the Board's composition (see Part 3 (B) of this Review). The UPEI Board's obligations arise from its powers and duties under the *Act*. The *Act* delegates to the Board general powers over the "management, administration and control of the property, revenue, business and affairs of the University" (s.13(1)). The Board is required to "maintain close liaison with the Senate of the University" (s. 13(2)).

In addition to its general powers of management, administration and control, the Board has the following specified powers (see s. 14 of the *Act* for specific wording):

- (a) to make rules and regulations for Board meetings and transactions
- (b) to select the seal and coat of arms
- (c) to appoint the president on recommendation of a joint committee of Board and Senate
- (d) to determine the terms and conditions of president's employment and termination thereof
- (e) to appoint an acting president
- (f) to appoint, promote, dismiss or suspend a person on academic or administrative staff on recommendation of the president
- (g) to determine the conditions of employment and tenure of office of all academic appointments and administrative staff on recommendation of the president
- (h) to have full and exclusive power and authority to exercise the powers granted to the University (see s.4)
- (i) to exercise all financial powers of the University (subject to a restriction on mortgaging, selling, transferring, leasing or otherwise disposing of real property without the approval of the Lieutenant Governor in Council (LGIC))
- (j) to maintain and keep the real property in order
- (k) to appoint committees and confer upon them the power and authority to act for the Board
- (l) to hear appeals from "the decision of any organization, member of faculty, officer or employee of the University"
- (m) to fix, determine, and collect fees for services
- (n) to make regulations with respect to parking and vehicle management
- (o) "to do and perform all other matters and things which may seem good, fit, and useful to the well ordering and advancement of the University".

Supplemental to constraints on transferring and encumbering real property, the Board requires the approval of the LGIC to incur any liability (borrowing/debt,

etc.) or to buy land or build buildings, unless such amounts can “be provided for out of the annual income of the year or out of other money’s available for the purpose” (s.17(1)). The Board may borrow money to meet the expenses of the current year until other revenues are available, only with the approval of the LGIC.

In addition to its powers under s. 14, the Board may appoint vice-presidents on the advice of the president. Vice-presidents “hold office during the pleasure of the Board” (s. 29). The Board has a similar role with respect to the Registrar (s. 30), the Director of Finance and Administration (s. 31), and the responsibility to set the terms and conditions of employment for Deans and Department Chairs on the recommendation of the Senate (ss. 32 and 33).

With the consent of the Senate, the Board also has the power to (see s. 15 for specific wording):

- (a) provide for the establishment and maintenance of Faculties, schools, and departments, fellowships and courses of instruction or to discontinue same
- (b) establish or discontinue scholarships and prizes
- (c) waive tuition and fees
- (d) establish bodies, prescribe how they are constituted and confer such powers as Board and Senate deem appropriate.

By-laws are documents recording rules and procedures. As they call for a higher level of approval (typically a two-thirds majority) than policies, they are seen as more permanent and more foundational within the governance policy framework, sitting just below the legislation. By-laws are used to interpret and apply the university’s legislation. UPEI does not have by-laws but does have unpublished Regulations and Procedures (the “Procedures”) that in many ways look like by-laws (approved May 19, 2016), as well as Guidelines (last revised, March 2016) (the “Guidelines”). The Procedures in some measure repeat what is in the *Act* but also establish appointment and nominations procedures, Board member terms (appointed members 3 years ending May 31st, elected members 2 years), establish Board officers including a Board Secretary elected from amongst the members, and provide for an Administrative Assistant to the Board of Governors. The Procedures also deal with board meetings, permitting e-votes, role of the chair, agenda setting, minutes, confidentiality and *in camera* meetings, establish the committees of the Board and their Terms of Reference, *Ad Hoc* committees, Execution of Documents, Banking Resolutions and Indemnification. The Guidelines overlap with the Procedures in some respects, also speaking to the role of the chair, board agendas and information, committees and meetings, as well as board assessment, strategic planning, managing risk, communications, and internal controls.

ii) Other Legal Duties and Obligations

While the *Act* sets out the powers, duties, and obligations of the Board of Governors of UPEI, university boards and their members are, like other members of corporate boards, subject to significant legal duties to the university – specifically, fiduciary duty and a duty of care⁸. A fiduciary is one in whom the law places the highest level of trust to act without self-interest, and in the interests of the entity for whom they are responsible – the university. This duty involves preserving confidentiality, avoiding acting when in a conflict of interest, acting only with the best interests of the university in mind, and avoiding using either opportunities or information to further individual or group interests. The duty of care demands that each board member exercise care, diligence, and skill in the performance of their board work.

The application of legal duties is more challenging in the university governance context because, unlike most other boards in Canada (which typically have only one internal member - the CEO), university boards are composed of multiple internal members including faculty, staff, and students, as well as the president. There has been some suggestion (without legal foundation) that internal members owe lesser or modified fiduciary duties to the university. However, there should be no confusion - external and internal board members are all fiduciaries of the university. Applying the same standards of behaviour to internal and external board members is foundational to a university board's healthy functioning as it ensures that all board members are treated equally and avoids silos between internal and external members.

While internal members (along with members of other groups with an interest in university decisions such as alumni) may bring and share the perspective of the group from which they hail, they are not on the board to represent the interests of that group. This means that, for example, during a vote on a tuition increase, a student board member may underscore the effects of the increase on students and the hardships the increase may cause. However, when deciding how to vote, the student member (like all other members) is required to consider the interests of the university as a whole and the interests of all affected parties and vote accordingly. It is entirely consistent with fiduciary duty that a student board member will raise concerns about the effects of tuition on students but on balance conclude that the best interests of the university are served by a tuition increase, and thus vote in favour (subject, of course, to the university's conflict of interest guidelines). As a further example: in the context of a hypothetical university name change, an alumni board member may alert the board to the concerns of alumni respecting the effect of the university name change on those who received degrees under the former university name. When deciding how to vote on that issue, the alumni board member must consider the best interest of the university and all stakeholders.

⁸ For more on these duties see: Foy ch. 4.

iii) Boards and Governance

University boards have a responsibility to ensure that their universities are well-governed. As the ISO 37000 *Governance of Organizations - Guidance* points out, governance is “a human-based system by which an organization is directed, overseen and held accountable for achieving its defined purpose”⁹ and “[t]he governing body is accountable for establishing and maintaining an integrated organizational governance framework across the organization that coordinates ... governance activities such that the organization realizes effective performance, responsible stewardship and ethical behaviour”¹⁰. University boards are responsible for ensuring their own effective governance as well as ensuring effective university governance across the complex university governance system.

During the Review Period, the Board met as follows:

Body	Number of Meetings During the Review Period (September 2021 to May 2024)	Total Meeting Hours
Board of Governors	23 meetings (15 regular meetings and 8 special meetings)	32.75 hours

As a rule, the UPEI Board should be meeting 4 to 5 times per year for three hours. It is difficult for a board to fulfill its obligations in less time. It is to be expected that the Board would have met more than that during the recent period of challenge. It is noted that recent meetings have taken the time allotted whereas those early in the Review Period were often terminated much earlier than the allotted time. There is nothing else to note about the meeting frequency or hours. Attendance at board meetings is good and the Board is now tracking attendance to ensure no issues arise.

A.1.3 Observations About the UPEI Board Mandate and Meetings

We observe opportunities for increased governance effectiveness in the areas of institutional strategy, clarifying the president’s role in board work, board work planning, board calendar and agenda-setting, managing presidential performance and renewal,

⁹ (International Standards Organization, p. 1, s. 3.1.1)

¹⁰ (International Standards Organization, p. 7, s. 4.2.1)

ensuring diverse and sound sources of information, decision-making processes, effective challenge, additional accountability mechanisms, improved conflict of interest processes and paying attention to getting the basics right. In this Part, we explain good practice and context and what we observe to be the situation at UPEI. We further provided recommendations to move the institution toward improved governance.

i) Oversight of Institutional Strategy

A primary role of the Board is oversight of institutional strategy - making sure there is a strategy and holding the president and senior team to account for execution against the strategy. Prior to commenting on oversight of institutional strategy, it is important to note that of necessity, the UPEI Board has been involved in crisis management since the former¹¹ president resigned his position in late 2021. The Independent Third-Party Review was published in June 2023. The activities leading to the response to the UPEI Review culminated in the Board's approval of the Action Plan¹² on March 27, 2024. The Board led a 12-month process to hire a new president resulting in the appointment of Dr. Wendy Rodgers effective June 1, 2024. The Board cannot be faulted that strategy has necessarily taken a back seat in recent years commencing with the COVID crisis and beyond. However, the Board's responsibility to ensure that the University maintains a coherent strategic direction remains an important one, and even in times of crisis, the University's strategy should guide significant decisions. We observe that historically oversight and application of strategy to key decisions has been less than effective.

The last UPEI Strategic Plan entitled "Reach Your Potential" covered the period 2018 to 2023 and rested on five very broad pillars: 1) Encourage and Support Innovation, Creativity, and Collaboration; 2) Inclusive Campus Culture; 3) Scholarship, Research and Discovery; 4) Community Partnerships; and 5) Responsible Growth and Resource Management. A connection can be made between some of the significant board decisions of the past few years and the Strategic Plan. For example, although the decision-making process itself was not strong, the approval of the Faculty of Indigenous Knowledge, Education, Research, and Applied Studies clearly connects to three pillars - Inclusive Campus Culture, Scholarship, Research and Discovery, and Community Partnerships. It's also clear that progress was made against key strategic plan commitments. For example, a Mental Health Strategy was implemented in 2019 further to the Inclusive Campus Culture pillar.

Generally, however, Board minutes for meetings in which the Board undertook significant decisions reflect little or no discussion or questions about how the decisions are strategic or consistent with the University's strategic direction.

¹¹ "former president" is used in this report to mean Dr. Abd-El-Aziz.

¹² <https://www.upei.ca/response-to-independent-review/upei-action-plan>

There was no meeting at which there was a strategic plan check in to ascertain how the University was progressing against the plan. As noted below, while now much improved, minuting practices have been weak at UPEI and these gaps may reflect weak minuting but our assessment based on all of the information is that the Board did not effectively oversee the University's strategic plan. It did not ensure that the decisions before it were explicitly considered against and tied to the strategy. It did not actively engage in questions to ensure that the president and senior administration made clear the strategic value of a proposed course of action.

Universities are not tied to their strategies and strategies can be adjusted when opportunities arise, are evaluated and are chosen. In those cases, it is important for the Board to acknowledge the amendment to the strategy and articulate the basis for the Board's approval of this adjusted direction. Interviews of current Board members indicate that the Board understands its responsibility to ensure that the institution has a strategy and that the Board is responsible for overseeing that strategy and ensuring that institutional planning and decision making aligns with the strategy. It is also clear that the Board understands that the development of a strategic plan along with the means to monitor that plan, are top priorities for the Board and senior leadership in the not-too-distant future.

Recommendations:

- a. The Board has rightly prioritized the hiring of a new president and now must turn its focus to supporting the president to develop a strategy as stewardship of the institution depends on having a strategy to guide its future progress.*
- b. It will be important that the Board approve both the process by which a strategic direction is developed, as well as engage critically in the substance of the strategy. While it is for the president to develop an approach, carry out the strategic planning process, and develop a proposed strategic direction for board approval, the Board must participate in all three aspects of the planning. For UPEI, in particular, the Board must ensure a collegial process with a focus on the engagement of the university community.*

A.1.4 Board Relationship with the President

One of the Board's primary roles is to recruit, hire and oversee the president. It is noted above that the recent process to recruit the new president was sound and credible. This aspect of the Review deals with what comes next. The president's role is a difficult and challenging one and board support is necessary. However, while supportive and encouraging, the Board must actively manage the president's performance and must hold the president to account. There are several ways in which UPEI's governance system has allowed the Board's relationship with the president to become imbalanced.

i) Clarity of Relationship - Board and the President

As the president is a fellow board member, the head of administration, and the chair of senate in most universities, the president is in a position of influence and knowledge and the requirement to hold the president accountable may feel uncomfortable. However, the president is the board's employee and boards must maintain independence and objectivity. There are indications that the lines were blurred in the relationship between the UPEI Board (primarily its Executive Committee) and the former president. There are practices, such as the regular use of *in camera* sessions without the president, that assist in reminding the board of its duties of oversight of presidential performance and creating a degree of separation between the Board and president. There is also some thought that term limits promote independence and avoid directors becoming too close to the president or CEO¹³. Having observed the unhealthy dynamics of an excessively close board and president relationship in other circumstances in which there were no term limits, our perspective is that there is validity to this observation. We support term limits.

Recommendations:

The Board must ensure that it fulfills its role to oversee and manage the performance of the president. As such, presidential performance review and renewal processes should be documented and should clearly state the Board's role. Performance check-ins should also form part of the Board's work plan. Check-ins should be conducted in closed session and must be based on objective criteria and metrics. There is more on the presidential performance process below in this Part.

A recommendation related to term limits is found in Part 3 B.

ii) Board Work Planning and Agenda-Setting

As oversight bodies, boards must determine their own work priorities and agendas. The UPEI Board has relied too heavily on the president's office to develop board agendas. It is notable that agenda-setting is the function of the Executive Committee of the UPEI Board according to its Terms of Reference. However, the Committee minutes reviewed show no evidence that the Committee discussed annual board priorities or reviewed and approved board agendas. In the past, this has allowed for a seemingly *ad hoc* and administration-driven approach to agenda setting. Boards must "[r]emember that presidents must navigate the tension between objectively and honestly reporting on the

¹³ Hansell McLaughlin Advisory Group discusses this topic in "Term Limits for Directors" - <https://www.hanselladvisory.com/publication/term-limits-for-directors/>.

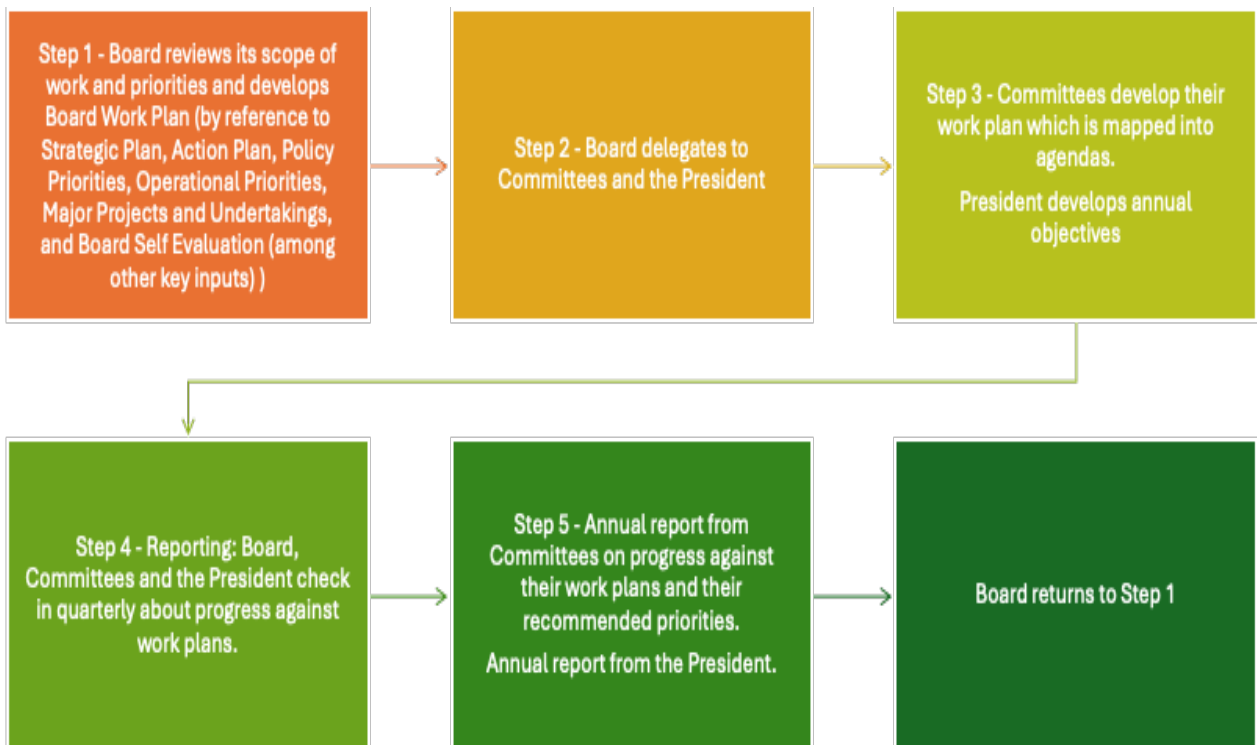
progress of the organization and ensuring that the board has a positive impression of the president’s performance”¹⁴. It is appropriate that the president’s office worked with the Board Chair to develop agendas but this should be a board-led process that is derived from the board’s own assessment of its priorities and areas of focus, as well as the institution’s operational demands. The board’s oversight role, fiduciary obligations, and the tensions a president must navigate necessitate being mindful of the role of the president in board work and agenda planning.

Recommendations:

Work Planning:

The Board should enhance its focus on its newly adopted work planning process. The process should take place annually. The work plans for the following year should be complete by June of the previous year. The key steps in the process are described in Table 1.

Table 1: Board Annual Work Planning - Key Steps



In developing its work plan and priorities the Board must consider multiple necessary inputs and identify its obligations arising from them. Some key inputs must be:

¹⁴ Foy, Cheryl A. "Governance Professionals Foster Board Independence and Effectiveness." www.universitygovernance.ca, 30 November 2022.

1. *UPEI Act.*
2. *Major university plans including the strategic plan, action plan, capital plan, fundraising plans, budget and financial plans.*
3. *Significant operational priorities.*
4. *Compliance and risk.*
5. *Policy projects.*
6. *Environmental scan results.*

Once the board work and priorities are identified, the Board delegates work to its committees and to the president. This delegation informs the committee annual work plans and the president's objectives. The work plans inform committee and board agendas which allow for advance planning and preparation on the part of the administration. There are regular check-ins in which the committees and the president report on the status of the work. At the end of the year, progress against the work is assessed. The committees and the president provide advice to inform next year's priorities and the cycle begins again. It is important to note that work plans are always in draft as the Board must be ready to deal with emerging priorities.

Board Calendar and Agenda Setting:

1. *Board and committee meeting schedules for the following academic year should be approved by no later than June for the next board year and published on the board website not later than August.*
2. *The board calendar should be regularized to include and hold 4 to 5 meetings per year for the board and its committees. Special meetings should be infrequent and called only in genuinely urgent circumstances.*
3. *Agendas should be established based on the work plan priorities and operational requirements¹⁵ meaning that by June each year, all involved have a good sense of the full year of agendas for the coming year (subject to emerging priorities). The work plans and draft agendas are work planning documents that are not for publication.*

¹⁵ For example, the annual process for approval of the budget and the financial statements is consistent from year to year. The schedule for the Finance and Audit Committee meetings should be such that it permits the finance team to close and report on their quarters.

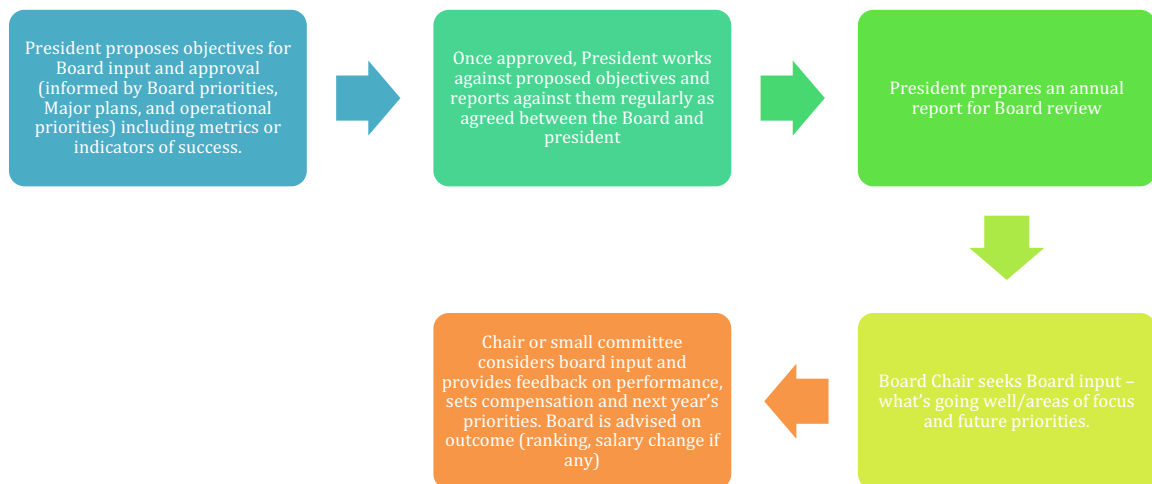
iii) Managing Presidential Performance and Renewal

UPEI does not have an established practice or set of processes for presidential performance management. UPEI does not have a published and collegial presidential renewal process. The Executive Committee minutes show that the renewal of the last president was recommended by that Committee to the Board without community consultation or a robust performance management process in place. Much as the process for hiring the president should be consultative and collegial, the renewal process (while less complex and shorter) should also be transparent, consultative, and collegial.

Recommendations:

- 1. The Board should develop, document, publish and implement an annual presidential performance management process. The frequency of reporting by the president is up to the Board in discussion with the president. However, the president should report to the full Board at least once annually, with some interim reporting to a designated committee. Table 2 below outlines the key steps in such a process.*
- 2. The Board Chair role should include the responsibility to meet regularly with the president, provide advice and monitor the president's wellbeing and performance providing updates to the Board on how things are going.*

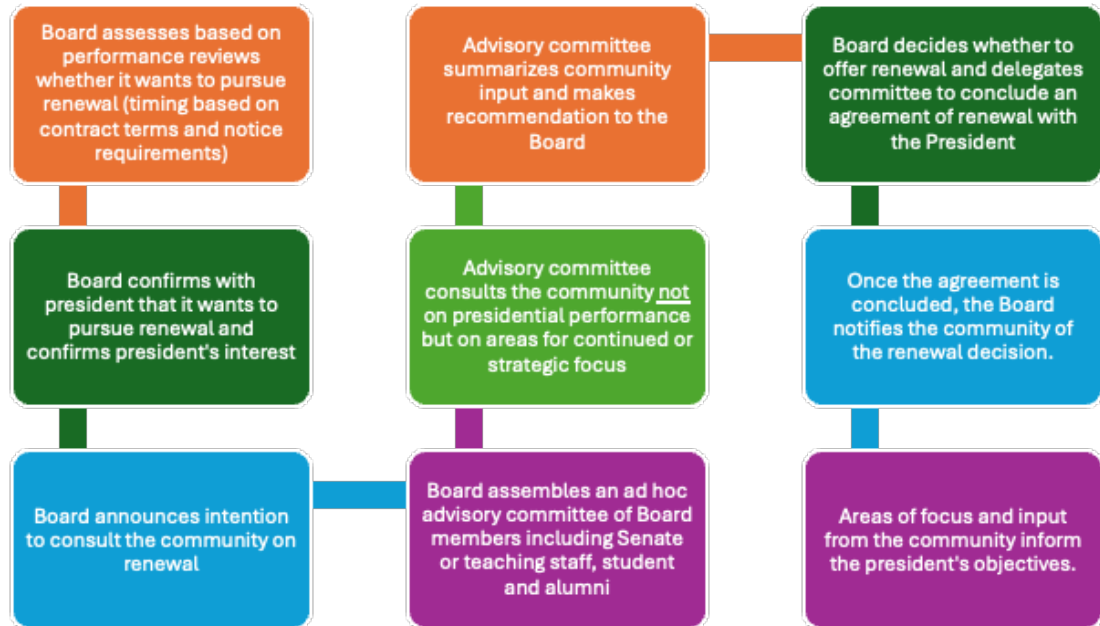
Table 2 – Key Steps in an Annual Presidential Performance Review Process



- 3. The Board should develop, document and publish a presidential renewal process that includes community input and engagement. This is an opportunity to engage the internal and external community in a discussion of*

the key achievements of the university under the president's leadership and future areas of focus. A sample renewal process is outlined at Table 3 below:

Table 3 - Sample Presidential Renewal Process



iv) Sources of Information

While the president and senior administration (who come to their roles as subject matter experts with a strong understanding of university operations) serve as expert advisors to the governing bodies and must be relied upon, boards must engage with senior administration both constructively and with a critical and analytical lens. Respondents expressed the view that in the past, the UPEI Board allowed the president and a very limited number of senior administrators to be its only sources of information and perspective. Some respondents stated that the Board was portrayed in a negative light and stakeholder engagement was discouraged. The 2021 minute review indicates that the Board made decisions based primarily on the advice and information of the former President and former Vice-President of Administration and Finance (VPAF).

Further, the minutes do not demonstrate critical engagement by the Board. Survey and interview respondents also confirmed that access to the Board prior to 2022 was highly restricted and the information flow coming from the Board was also highly restricted. Interview data indicates that in the past, administrators not attending board meetings would make recommendations or prepare board materials and then would not receive confirmation of what was

presented to the Board or what was decided, having to wait until the minutes were published to find out what the Board's decision had been. It is a board's job to ensure that it is satisfied that it is receiving the information it requires to make good decisions which serve the best interests of the university considering the interests and concerns of those affected by their decisions. Boards must also ensure effective communication of their decisions.

Recommendations:

1. *The Board should be actively engaged in defining what information it requires and in what format. This is an iterative process. In camera sessions should be normalized and be held routinely at the end of every board and committee meeting without the president and senior administration. The in camera session should be used as a governance tool and should be focused on matters of governance. For example, chairs should ask the members about the quality and sufficiency of the materials presented and provide that feedback to the Board Chair for feedback to the president.*
2. *Where the Board or a committee concludes that more information is required to make a decision, the decision should be deferred until such information is provided to the Board or committee's satisfaction.*
3. *The Board should continue to encourage attendance at the board meeting by the community, including those administrators responsible for the work that results in recommendations coming forward.*
4. *To encourage community engagement with the Board, the University Secretary should adopt a practice of inviting administrators to meetings. For example, when a decision comes forward to approve a policy, those who worked on the policy and those who are responsible for implementing the policy should be invited to observe the meeting.*
5. *To avoid blurring lines between the Board and administration, only Board members and the minute-taker should sit at the board or committee tables.*

A.1.5 Decision-Making Processes

As fiduciaries charged with the stewardship of the institution, boards must ensure that their decision-making processes are sound. Board members are legally liable for the decisions they make and must demonstrate that they have been duly diligent in reaching their decisions. Due diligence in decision-making specifically is demonstrated in several ways including clarity of responsibility, good processes, engagement by the board in effective challenge, and mechanisms for accountability. A review of the minutes indicates that board decision-making processes are an area of significant weakness at UPEI. This is an area for development for administration as well as the

Board. Administrators must develop board materials to address what is needed by the Board for it to fulfill its obligations of diligence and make good decisions.

i) Clarity of Board Responsibility

To ensure clarity of responsibility, the institution must have a framework for ensuring that the decisions that require board attention come to the Board. The framework includes clear policies relating to the exercise of authority within the university including signing authority limits, policy approval authority, contract approval and project approval processes. These policies ensure that the university knows what requires board approval and assure the Board that it is making the decisions it should be making.

While it is clear that expenditures over \$1M must come to the Board, there is a lack of clarity about the approval process and information requirements for capital and other large projects and significant contracts. There is a lack of clarity about the role of the Board in developing and approving major plans. UPEI has done some excellent work in respect of the development of its policies. However, having reviewed the policy framework, including the following policies: University Policies, Signing Authority Policy, and Spending Authority Policy, we observe that it does not appear to be clear to either the Board or the community what decisions must come to the Board. The Board should be responsible for approving university-wide policies and policies governing its own work. The Senate should be responsible for academic policies within its legal mandate. There should be clarity about when the Senate and Board will work together or consult one another and on which policies.

On the other hand, the Board should avoid getting involved in operations as that interferes with oversight and distracts the Board from its proper work. For example, while the Board (through its assigned committee) should approve collective bargaining mandates and collective agreements, the Board's role is one of oversight and direction whereas minutes suggest greater board involvement in bargaining in the past. With respect to policies, there are lower level administrative or operational policies, as well as lower-level policy instruments such as procedures and guidelines, that should not require board approval. With respect to projects like university risk management, the Board's role should be limited to oversight of the program, and direct involvement only in strategic risks and major operational risks. Ensuring the right board work focus requires sustained attention.

Recommendation:

The Board and senior administration must engage in a comprehensive exercise to clarify the decisions that must come to the Board, and then ensure that this work is captured in applicable policy and procedures. UPEI must specifically clarify:

- a. Which major plans require board approval?*
- b. Which contracts or agreements require board approval?*
- c. Which projects require board approval?*
- d. Which policies require board approval?*
- e. How is the Board involved in compliance and risk oversight?*
- f. How does the Board oversee accountability?*

ii) Board Processes

The Board must have processes in place to ensure that it is set up to make good decisions - matters are considered by the appropriate committee based on full information and good materials. Board materials must clearly set out the decision to be made (motion to be approved), provide the necessary information, and be provided to the Board in a timely manner. The Board must demand sufficient time, materials, information and independent expert advice, when necessary, from senior administration and must not be afraid to say no or send administration back to do more if that is what is needed. While past decisions may have been the right decisions for the institution and made in the best interests of UPEI, the processes followed with respect to significant decisions have been weak. We found examples of new agenda items hastily introduced without sufficient notice, a lack of materials or very weak supporting materials, poor minuting practices, unclear motion language, and discontinuity between committee and board workflow.

There is excessive reliance on special meetings and the use of e-votes, both of which diminish transparency, discourage good process, and, in the case of e-votes, limit the Board's ability to ask questions.

To fulfil its oversight responsibilities and to ensure financial sustainability, the Board must have the full financial picture of the university. In the wake of the Laurentian University financial crisis, the Ontario Auditor General conducted value for money audits of several Ontario universities. She wrote:

Typically, universities will have an operating, ancillary and capital budget. Operating budgets reflect the anticipated annual revenues and expenses from the universities' primary operations of providing academic programming to students. Ancillary budgets reflect the anticipated annual revenues and expenses from the universities' non-primary operations such as student residences, campus bookstores, print shops, food services, and parking services ... Capital budgets reflect the planned capital expenditures for the year and corresponding funds allocated to support capital expenditures.

Each of these budgets impact each other and together provide a complete picture of the university's financial path and aid in decision-making¹⁶.

While efforts have been made to improve and make more transparent the operating budget process, there is no capital budgeting process or capital budget, and limited oversight of capital projects at UPEI. The UPEI Board must be able to understand and oversee the University's full financial picture.

Recommendations:

1. The Board should:

- a. Require that as part of a comprehensive budgeting process a capital budget be developed for annual review and approval by the Board (through the Finance and Audit Committee).*
- b. Ensure effective prioritization and oversight of major capital projects through the Property and Asset Management Committee.*
- c. Revisit the threshold for approval of expenditures as \$1M may be too low given the materiality threshold for the University.*
- d. Clarify its role of **oversight** of collective bargaining ensuring that the president and senior team formulate and recommend the approach to bargaining, lead the activity, and report to the pertinent board committee only as required to seek approval for changes in mandate or where risk of labour disruption increases. Collective agreements are material contracts and the Board's role is one of oversight and approval.*
- e. Carefully review its agenda format to ensure that what is included represents board work. While celebrations and recognition are important, board meetings should be more than just a "happy update" (in the words of one Board member). It should improve the content of reports from the president and committees. It should also revisit the practice of including a Student Union update at board meetings. These updates are largely operational in nature and thus not the purview of the Board. The relationship between the University and the Student Union is the purview of the president and team as is the relationship between employee groups and associations. The Senate report should continue in the context of the Board's obligation to work closely with the Senate as a governing body.*

¹⁶

https://www.auditor.on.ca/en/content/annualreports/arreports/en22/AR_FinancialMgmtUniversities_en22.pdf

2. *Senior administration should adopt a practice of “bringing things at least twice” to the Board. Rather than bringing major items once for approval, a better practice is to bring them at least twice. The first time an item is placed on a board agenda, the objectives should be to: provide a foundation for the approval discussion, obtain board direction on information requirements, and to allow the Board to raise concerns and risks that will need to be addressed to secure support for the decision when it is later brought to the Board.*
3. *The Board must establish and enforce deadlines for timely submission of documents to the Board and its committees. One week in advance is a recommended minimum.*
4. *The Board and senior administration should generally engage in an exercise to clarify the materials needed to support requests for board decisions.*
5. *The Board and its committees must insist on receiving clear and comprehensive motions clearly setting out the basis for their decisions in advance. When approving motions, the Board and its committees should include requirements for updates and reports back and the specific timing of the same. Sample motion language has been provided to the Board during this Review. Continuing to improve the clarity of motion language will significantly improve material preparation practices and assist the Board in accountability practices.*
6. *The administration, under the direction of the president, should develop and implement a project analysis template for new initiatives and projects for board consideration and approval.*

iii) Effective Challenge

Good decision-making processes include active engagement and appropriate challenge, as well as sufficient discussion of recommended decisions at board meetings. In addition to data gathering through document review and interviews, the Governance Review included attendance at two board meetings. Based on all this work, we conclude that the Board members do not demonstrate sufficient diligence as there is insufficient engagement and constructive challenge. In interviews, some Board members indicated that they did not feel they could ask questions (while others felt they were encouraged) and some felt pressure to “go along to get along”. The minute review and attendance at board meetings indicates that committee reports are perfunctory in nature and too brief. Committee recommendations are briefly introduced, the materials presented at the committee in support of the decision are either not provided to the Board or are not detailed. Presentations are presented and do not form part of the board and committee packages - meaning that they are not circulated in advance and are not available for the Board members to review. The culture seems to be one

of expecting the Board to approve committee decisions while not providing sufficient information to demonstrate that the committee has appropriately exercised diligence on behalf of the Board.

Recommendations:

Board culture and the relationship between the Board and senior administration should encourage active engagement and questioning on the part of Board members. This culture should be promoted through the following:

- a. Reminders by the Board Chair and Committee Chair of the role of the board to demonstrate diligence.*
- b. Training for Board members in asking good questions including the provision of tools and opportunities to practice.*
- c. Committees assigned to consider and recommend decisions to the board for approval must demonstrate due diligence. When recommending a decision to the board for approval, the Committee Chair should prepare comprehensive remarks describing to the Board the nature of the presentation received, the concerns and risks explored by the committee, and the basis for the committee's recommendation and should invite questions. The Board should assure itself that the committee's process was thorough before adopting a committee recommendation and it is appropriate that Board members ask the Committee Chairs questions.*
- d. Any material on which administration relies in support of a proposed decision, including presentations, should form part of board and committee packages. It is acceptable that a board presentation is shorter than a committee presentation on the basis that the committee has already done a deeper level of due diligence on behalf of the Board.*
- e. Where committee reports do not contain motions, they should still contain a full discussion of the work of the committee, explicitly tying it to their delegated role and Terms of Reference. It should be clear to the Board what the committee did and how it furthers or addresses the delegation of authority to the committee.*
- f. Committee Chairs and administrators presenting to the board should be encouraged to identify questions for the board to address - these may be areas of risk or uncertainty, of opportunity, or alignment with strategic priorities.*

iv) Additional Accountability Mechanisms

To ensure that those delegated with responsibilities are accountable, the Board must have mechanisms for overseeing the results of its decisions including requirements to assess the implementation of the decision and report back. UPEI has made great progress toward better accountability. It has implemented a register to track motions, decisions and actions. The UPEI Internal Audit function is robust, and the Internal Auditor has assured access to the Finance and Audit Committee under that Committee's Terms of Reference. Work and agenda planning practices are underway. The Board and its committees receive regular reports from the president and senior team. Numerous other recommendations in this Report will enhance accountability.

UPEI does not have a safe disclosure policy (more commonly known as a "whistleblower policy"). UPEI has a Fair Treatment Policy that is currently being converted into a new Harassment and Discrimination Policy. The University has also established an independent third-party process for confidential disclosures of incidents of harassment or discrimination caused by senior executive members. The contractor used is Resonance Inc.

Recommendations:

The Board should ensure follow up and accountability through:

- a. the continued use and regular review of its motion register and the register should feed into the work plan such that follow up is assured.*
- b. ensuring that when approving initiatives or projects, milestones or indicators of performance are identified and there is an agreement as to how and how often the Board will receive reports back on the initiative or project and against specific criteria tied to project risk - the obligation to report back must get folded into the board work plan.*
- c. ensuring that the presentations of the president and senior administration are structured to address specific areas of accountability.*
- d. overseeing the creation of a safe disclosure policy¹⁷.*

A.1.6 Conflict of Interest

The UPEI Board has weak historical practices relating to conflict of interest. Recently, the Board has made serious efforts to raise awareness of conflict of interest as it has

¹⁷ For a sample policy see: <https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/safe-disclosure-policy.php>

implemented a conflict of interest declaration form. However, Board members, past and current, and other respondents raised concerns with the poor level of awareness of conflict of interest, lack of conflict of interest training, and a lack of practices to reinforce good practices relating to conflict of interest on the Board. A number pointed out the challenges of avoiding conflicts of interest and nepotism in a small province. The respondents' concerns were focused on the perceptions of conflict of interest, the past failure to address real and perceived conflicts of interest, and the effects on the credibility of the Board and its decision-making processes.

Recommendations:

1. *Members should receive annual training in conflict of interest and must ensure that they do not operate in conflict of interest.*
2. *The Board should provide support and documentation to ensure that elected Board members understand their roles:*
 - a. *Board candidates from any constituency should understand that all Board members are fiduciaries with a legal obligation to make decisions in the best interests of the University. Anyone with conflicting interests should not seek a board role.*
 - b. *The Board should clarify through written role descriptions and expectations for all members, that their role is to bring the perspective of the constituency from which they hail, but not to represent the group. LGIC appointees bring the perspective of the public but do not represent the government. Alumni members bring the perspective of alumni but do not represent alumni. Teaching Staff members bring the perspective of teaching staff but do not represent them. Senate members bring the perspective of the Senate and teaching staff but do not represent either. Student members bring the perspective of the students but do not represent them. While the process of having the Student Union recommend and elect candidates may continue, the elected students should not occupy leadership roles within the Student Union, and should be sought from the broader student population. We have written elsewhere that the leadership of student associations and unions should not serve on boards because they face competing fiduciary duties to simultaneously act in the best interests of their association/union and in the best interests of the University. At UPEI, student Board members owe legal duties to the UPEISU Council as well as to UPEI. The situation is different for faculty as those who serve on the Board are excluded from the Faculty Association Bargaining Unit. We support this approach as it makes it easier for faculty/teaching staff to avoid actual and perceived conflicts of interest and enhances their perceived legitimacy as Board members. We think a similar approach should be adopted for student Board candidates.*

A.1.7 Getting the Basics Right

Effective governance rests upon getting a lot of basic things right. While UPEI has made great strides in recent months (as noted above), there is a lot more to do to get the basics right. Many of the current deficiencies impede the Board's ability to share with the community information about its role and the work it undertakes. Much progress has been made. However, attention must continue to be focused in the following areas:

- Strengthening board work planning and agendas
- Strengthening committee work planning and agendas.
- Ensuring board follow up on its work planning and register items.
- Improving the consistency and sufficiency of materials provided to the Board making it clear the basis for important decisions.
- Avoiding the excess use of special meetings and e-votes.
- Ensuring the timeliness of meeting notices and provision of board materials.
- While recent minutes show great improvement¹⁸, attention must be paid to ensuring minutes fulfill their purpose to effectively convey board decisions and the reasons for them and ensuring timely finalization of minutes (many minutes remain in draft even after approved), and timely publication of minutes.
- Ensuring that motion language continues to clarify decision parameters and the basis for the decision.
- Continuing to improve the website as a tool for communication.
- The Board recruitment link on the website indicates that UPEI is not currently accepting applicants.
- Types of meetings: board meetings fall into several categories: Open, Closed, *In Camera*, and Informal/Educational. The UPEI Board is unclear about the nature and appropriate use of each type of meeting. For example, the Board has not held a board retreat since 2018 or 2019. Board retreats are typically held as closed informal meetings that allow for education, brainstorming and relationship-building especially important for large, multi-stakeholder boards. There is confusion about closed vs. *in camera* meetings.
- Creating templates for board work - e.g., agenda template with suggested discussion times, minute template, and board memo template.
- Implementing and maintaining a governance portal to support confidential and effective access by Board members to board meeting agendas and materials.
- Following a methodical process to ensure continuity and consistency between governing documents. Attention must be paid to ensure consistency with the UPEI Act. Where changes are made to documents, attention must be paid to ensuring related documents are amended. For example, although the Procedures and the Guidelines assign duties to the committees, they were not amended or repealed in the context of the Board approval of new committee Terms of Reference thus potentially creating confusion about the clarity of the delegation of authority.

¹⁸ For example, the Board May meeting minutes are more comprehensive and have implemented much improved motion language.

- Publishing all policy documents governing the decision-making processes of the Board.

Recommendations:

There are strong recommendations in Part D below with respect to creating a University Secretariat and staffing it. The existence of an experienced and qualified university secretary would have mitigated the challenges in governance that UPEI has experienced. We state with confidence that having a university secretary in place would, among other benefits, have avoided the necessity for this set of recommendations relating to “getting the basics right”.

Recommendations above address board and committee work planning and agendas, board follow up, board materials, use of e-votes and special meetings, motion language, and timeliness of materials. At the time of writing this report, the governance document portal is under construction and the Board is moving toward the consistent use of templates. The following areas continue to require attention:

Minutes

Minutes are important and must be prepared with an understanding of how they may be used in the future. Minutes record the board’s decisions with clarity so that they can be implemented and tracked. In the event of a legal challenge, minutes become the board’s primary evidence of how it made decisions and as such they must be sufficiently robust to demonstrate due diligence. It is common to see minute taking as simply note taking and to assign the task without providing training or support. However, good minutes rest on an advanced understanding of the role of the board and its obligations. Minutes are not intended to be verbatim records of the discussion and, in the absence of a specific reason to record a person’s name (such as in the case of conflict of interest or an objection that a board member wants recorded) the discussion should be captured generally without attributing comments to individuals. Minutes should accurately capture attendance and meeting timing.

Recommendations:

UPEI’s Board minute taker should be experienced in or trained in good minuting practices.

The Board should view minutes as a key tool for communications and continue to develop and adhere to a disciplined practice regarding minutes ensuring:

- i. Consistent format*
- ii. Timely completion and presentation to the Board or committee for approval at the next meeting*
- iii. Timely finalization / execution of the minutes*

iv. *Timely posting of the Board minutes of open meetings on the Board website.*

Governance Website

The Board should also see its website as an important tool for communication with the UPEI community about the role and work of the Board. The Board should undertake a website refresh and update and ensure that there are resources in place to maintain the website. The refreshed website should be written in plain language and contain the following:

- a. A more comprehensive overview of governance at UPEI with a statement about the University's commitment to effective integrated governance.*
- b. A more comprehensive description of the role of the Board.*
- c. An overview of board composition.*
- d. The biographies of the Board members should state their board terms and sources of appointment (Alumni, Teaching Staff, Senate, LGIC or Student).*
- e. Full committee Terms of Reference.*
- f. Committee composition.*
- g. Board and committee schedules.*
- h. Effective September 2024, board meeting notices and agendas, and materials for open public meetings (regular meetings and special meetings).*
- i. Board By-laws, Procedures and Regulations.*
- j. All policy instruments governing or guiding decision-making.*
- k. Directions and/or link for accessing archived minutes to open sessions of the Board.*
- l. Guidance on accessing the Board, i.e. where to write, how agendas are established, who can attend board meetings and how to attend them and the rules for attendees.*
- m. Board Recruitment - the Board Recruitment page should be populated with information for potential board members describing the role, expectations, and a contact name. The link should always be active so that the Board can create a pool of interested candidates. Communication with candidates should be regular.*

Note: Senate governance is outside the scope of this review, but the website is also deficient with respect to the Senate and should be approached in much the same manner as the Board.

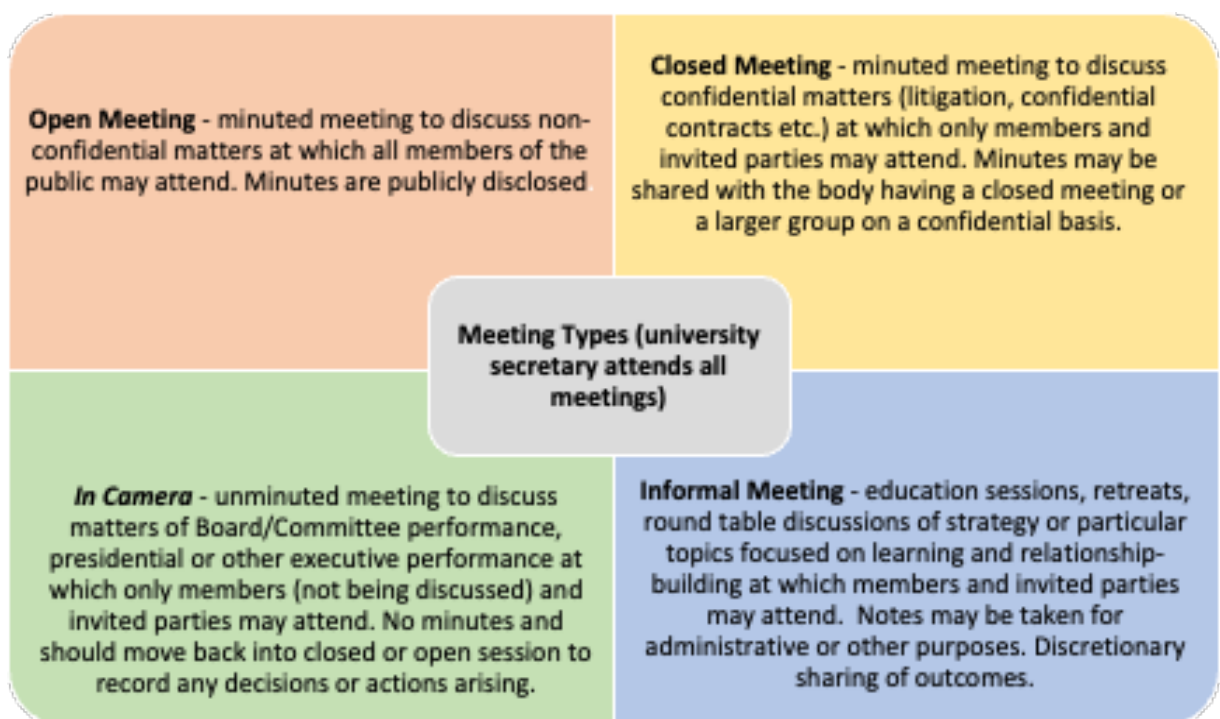
Types of Meetings

The UPEI Board should ensure that transparency to stakeholders is a primary consideration in the use of meeting types. The UPEI Act permits closed meetings and there is good justification for them, particularly in the case of committees, and

for keeping minutes confidential. It is likewise appropriate to hold non-public informal sessions for board development, planning, learning and relationship-building purposes. It is important that the categories of meetings be clearly understood and decisions relating to meetings be principled and transparent. The Board is encouraged to err on the side of transparency and conduct as much business as possible in open session.

It is first important to get the meeting types described properly. Below is Table 4¹⁹ describing meeting types. UPEI should adopt a set of definitions for its meeting types and use them consistently.

Table 4 - Meeting Types



Document Development Processes

The terms of our engagement include the development of a set of board by-laws after the Board has had an opportunity to consider the Review Report, and we confirm that this is an appropriate step. We recommend that:

The by-laws are drafted to reflect those recommendations in this Review Report appropriate for inclusion in the by-laws.

¹⁹ This table was first developed for Dalhousie University in the context of their governance review.

At the same time that the by-laws are passed, the Board should approve the rescission of the Procedures and Guidelines and the amendment of Terms of Reference and other policy instruments as appropriate to ensure consistency with the by-laws. The by-laws should be published.

A.2 Standing Committee Mandates and Meetings

A.2.1 Introduction

This part of the Report addresses overall committee observations and individual committee mandates in that order. The committees represent important contributors to effective board governance. Committees serve to enhance the capacity of the board by enabling a focused and more in-depth consideration of key issues facing the board. Committee structure should, therefore, reflect the priorities and work of the board. Committee Terms of Reference are a delegation of responsibility and authority from the board to the committees. Committees are obliged to act within their Terms of Reference and are accountable to the board for the exercise of their assigned responsibilities. Committees do not operate independently and are to operate as integrated parts of a board ensuring open flow of information and good communication.

In accordance with ISO 37000, “[t]he governing body can delegate but still remains accountable for what it has delegated and always remains responsible for the organization as a whole” (International Standards Organization, s. 4.2, p.7) and further that committees “should provide the governing body with additional capacity, skills, independence, diversity and/or stakeholder representation. If a governing body makes use of supporting committees, the governing body should ensure that it effectively delegates the necessary responsibilities and authority to such committees”. The Standard goes on to note that “[a]t all times, the governing body should act collectively ...”. (International Standards Organization s. 4.3.1, p.9).

A.2.2 Background

Section 14 (1) (k) of the *UPEI Act* authorizes the Board to “appoint such committees as it may consider necessary and to confer upon such committees power and authority to act for the Board”. The UPEI Board has created seven (7) Standing Committees:

1. Executive Committee
2. Finance and Audit Committee
3. Governance and Appeals Committee
4. Human Resources Committee
5. Development, Fundraising and External Relations Committee
6. Property and Asset Management Committee, and
7. Campus Culture Oversight Committee.

Please see Appendix 2 for a table setting out each committee's areas of responsibility and composition in accordance with the most recent Terms of Reference (all of which have been updated in 2024).

The Guidelines state: "the Board utilizes committees ... to address specific matters of importance to the University's governance and operations. ... Each standing committee shall operate according to a written mandate approved by the Board. ... The Board will assess, on a regular basis, its committee structure to ensure it is effective and appropriate" (p.2). The Procedures (s. 7.1) provide that:

- All Standing Committees are accountable to the Board, have the authorities and responsibilities delegated to them by the Board, and their decisions must be ratified by the Board
- The Board shall appoint Committee Chairs on recommendation of the Executive Committee
- The size, composition, quorum, duties and responsibilities of the committees shall be determined by resolution of the Board
- The Board Chair and the President are *ex officio* voting members of all committees.

Section 7.5 of the Procedures are General Regulations for the Committees and include the proviso that all committee meetings are held "*in camera*" and in confidence.

A.2.3 General Observations - All Committees

The overall UPEI Board committee structure is consistent with that of other universities, although 7 committees is more than the estimated average of 6 board committees for Canadian universities of comparable size. The current committee structure seems appropriate for the work and priorities of the UPEI Board at this time.

As can be seen from Table 5 below, there is an imbalance of work and time commitment among the committees. The Executive Committee was delegated with responsibility for overseeing the process giving rise to the Independent Third-Party Review, and the response thereto (Action Plan). As such, the Review period represents an exceptional rather than a normal time for the Committee (as reflected by the higher number of meetings). Although the Finance and Audit Committee hours exceed the hours of other committees during the Review Period, holding 12 meetings over 30 hours in a roughly two-and-a-half-year period is to be expected for a Finance and Audit Committee. To be fulfilling their mandates and providing the necessary support, one would expect to see each committee meeting at least 4 times per year for a couple of hours (three hours for Finance and Audit). Applying this to the Property, Governance and Human Resources Committees, we see that their meeting frequency is as expected but the hours are lower than one might expect to see. With respect to the Development, Fundraising and External Relations Committee both the meeting frequency and hours spent are lower than one would expect (and in fact is lower than required by the Terms of Reference due to meeting cancellations). After reviewing the committee work over

the past two plus years, we can surmise that there was an opportunity for several of them to better fulfill their Terms of Reference.

Table 5 - Committee Meetings and Hours During the Review Period

Committee	Number of Meetings During the Review Period (September 2021 to January 2024)	Total Meeting Hours
Executive Committee	38 meetings (13 regular meetings and 25 special meetings)	55.5 hours
Finance and Audit Committee	12 regular meetings	30 hours
Property and Asset Management Committee	14 meetings (12 regular meetings and 2 special meetings)	12 hours
Governance and Appeals Committee	11 meetings (10 regular meetings and 1 special meeting)	10 hours 40 minutes (excluding Appeals work)
Human Resources Committee	15 meetings (13 regular meetings and 2 special meetings)	9 hours
Development, Fundraising and External Relations Committee	8 meetings	8 hours 45 minutes
Campus Culture Oversight Committee	New in 2024	New in 2024

Attendance at committees is generally good and no significant issues were flagged when we tabulated attendance records. The Board now tracks attendance.

The work of the committees over the Review period was analyzed against their Terms of Reference (both prior Terms of Reference and new Terms of Reference). A general observation is that UPEI Board Committees have not historically planned their work, or agendas based on their Terms of Reference. A further observation is that there is a lack of understanding and clarity both within administration and at the Board about the role and function of committees and which decisions and matters should come to them. More than one respondent noted that the committee agendas seem to be driven by administrative and operational priorities rather than by the Board - we concur with this

observation. A consequence of administration-driven board and committee work is that if administrators are not doing the work or not doing it well, the work (or lack of it) is not brought to the board and committees. It is the Board's job to ensure that this situation does not arise. UPEI is moving toward better processes with the recent introduction of board and committee work plans.

Committee membership -- several committees include *ex officio* non-voting members composed of members of senior administration. For example, the Finance and Audit Committee includes amongst its members the Vice-President, Administration and Finance, Comptroller, University Auditor, and Chief Information Officer. While the committee Terms of Reference can stipulate that those members of senior administration who regularly provide support to the committee will be invited to attend committee meetings, it is blurring the lines of oversight to make those individuals committee members.

i) Oversight Areas for Attention

Oversight of the university's endowments is undertaken by the Endowment Oversight Committee (an internal university committee chaired by the VPAF and composed of administrators). This committee is created pursuant to the Endowment and Special Purpose Funds - Governance and Administration Policy. Minutes show that this Policy and the Endowment and Special Purpose Funds - Investment Policy Statement are policies within the purview of the Finance and Audit Committee and have been considered by the Development, Fundraising and External Relations Committee. These policies govern the activities of the Endowment Oversight Committee. The Committee is required to report to the Finance and Audit Committee. However, neither the former or current Finance and Audit Committee Terms of Reference give the Finance and Audit Committee direct oversight responsibility of the Committee and reports from this Committee are not part of the new Finance and Audit Committee work plan although the Committee continues to receive reports. A review of the Finance and Audit Committee minutes indicate that the Committee has received annual reports "for information only" from the Endowment Oversight Committee 3 times during the Review Period (annually in November). There is a plan for a presentation to the full Board regarding the work of this Committee for Fall, 2024.

UPEI has a jointly sponsored pension plan. Members of the Board sit on both the Sponsor Board and the Trustee Board of the Pension Plan and are appointed by the Executive Committee. No committee of the Board is explicitly assigned responsibility for oversight of the pension plan. The Finance and Audit Committee received an annual report from the Sponsor Board of the pension plan on November 14, 2023, "for information only".

No committee of the Board is assigned responsibility for the Board's relationship with the UPEI Senate. With the change in the Terms of Reference, the Finance

and Audit Committee has the responsibility for approval of capital budgets, but no committee has responsibility for overseeing the implementation of capital projects. Finally, there are areas of Board and Senate overlapping jurisdiction and/or interest such as academic quality, and research both of which are matters over which the Board should take an interest and none of which are assigned to committees.

Recommendations - All Committees

The workflow and accountability of Standing Committees requires focus. In addition, if Standing Committee meetings are to remain closed, as is appropriate to encourage and promote full diligence and discussion, the Board must ensure that the university community is informed of the work of the Standing Committees. We recommend that:

1. *The position description to be developed for Standing Committee Chairs will include direction to the Committee Chairs as follows:*
 - a. *The Standing Committees' Terms of Reference represent the Board's delegation of authority and responsibility to the committee. It is the role of the Committee Chair to ensure that the committee fulfills its obligations under the Terms of Reference including:*
 - i. *Ensuring that committee members understand the role of the committee.*
 - ii. *Ensuring that committee work plans address all aspects of the committee Terms of Reference.*
 - iii. *Ensuring that committee agendas reflect the work plan and actively managing requested changes and new priorities.*
 - iv. *Ensuring that the committee is actively engaged and demonstrates diligence in its activities and presenting recommendations to the Board outlining the committee's decision, process, and reasons for decision.*
 - v. *Reporting to the Board on the committee's activities for inclusion in the board package - Committee Chairs to provide two written reports and present them to the Board at each board meeting: 1) Report of activities that are non-confidential, and 2) Report of confidential activities in closed session.*
 - vi. *Reporting to the Board annually the progress of the committee against delegated priorities, the work plan, and the Terms of Reference.*

- vii. Recommending to the Board annually areas of focus for the committee for the following year.*
 - viii. Monitoring the attendance and engagement of the committee members and advising the Governance Committee Chair of any concerns.*
- 2. Members of the senior administration (other than the ex officio Board members) should be removed as members of the Standing Committees and identified as committee supporters with a standing invitation to attend the meetings to support the work of the committee.*
 - 3. Each Standing Committee Terms of Reference should, like Finance and Audit, state the preferred skills and experience of the committee members. For example, the Property and Asset Management Committee should require some members with expertise in project management, environmental sustainability, and construction. The Human Resources Committee should require some members with expertise in key human resources disciplines. This will assist in recruiting and assigning the appropriate members to the committees and will enhance the capacity of the committees to fulfill their mandates.*
 - 4. All committee meeting schedules should be based on the board calendar (September to August), and not the fiscal calendar.*

ii) Comments About Specific Committees

a) Executive Committee

To the extent that, for emergency or other purposes, a board delegates authority to a body to act on its behalf, the delegation must be clear, limited and infrequently used. To the extent that a body exercises such delegated power, reporting to the board must be full and frequent. A committee entrusted with such authority must use it carefully and with full accountability.

This Review is not making observations about the activities of the Executive Committee relating to the circumstances giving rise to the Independent Third-Party Review and thereafter. The focus is on the role of the Committee more generally. Based on interview and survey responses, and a review of the minutes a few observations arise. We observe that the Executive Committee practices of accountability to the Board improved in late 2022, and again in the last year. Prior to 2022, we observe that the UPEI Executive Committee acted in some ways as a sub-board, making certain important decisions on

behalf of the Board and with access to more information than the rest of the Board. Respondents noted the formerly exclusive nature of the Executive Committee. The past practices of the Executive Committee have contributed to the creation of silos within the Board and have been damaging to the board culture. Some respondents appear to accept a special role for the Executive Committee because at 26 members, they see the Board as too large. We also surmise that the multi-stakeholder nature of the UPEI Board has given rise to divisions within the Board. Effective management of multi-stakeholder boards is a common challenge for universities.

The minute review indicates that the Executive Committee focused only on certain aspects of its Terms of Reference to the exclusion of others. A notable example is that although the Executive Committee Terms of Reference give it responsibility for board agenda development, there are no records during the Review Period to support that the Executive Committee reviewed or approved the board agendas. Furthermore, reports from the other Standing Committees of the Board were regular items on the Executive Committee agenda - this item is not the responsibility of the Committee under its Terms of Reference. This practice resulted in committee reports unnecessarily being given twice - both at the Executive Committee and again to the full Board.

A review of the new Terms of Reference of the Executive Committee indicates that there are several areas of responsibility which would more appropriately be delegated to other committees:

- Strategic oversight and strategic planning are fundamental responsibilities of a board and should not be delegated to a committee but be retained by the board as a whole.
- The recruitment and nomination of new board members, board and committee leadership and membership appointments, and succession planning, and the review of committee structure and Standing Committee Terms of Reference are more appropriately delegated to the Governance Committee.
- The Board's role with respect to labour relations and collective agreements is one of oversight that is more appropriately delegated to the Human Resources Committee.

While it may be appropriate for an Executive Committee to oversee presidential performance and compensation, it is equally appropriate for the Human Resources Committee to do this work. Similarly, review and approval of the board agendas and monitoring compliance with the Code of Conduct, development of board role descriptions, and board member attendance and engagement monitoring all fit well into the Governance Committee's role.

Recommendations:

1. *We recommend that the Executive Committee Terms of Reference be amended as follows:*
 - a. *The Committee retains responsibility for the development and coordination of the board work plans, committee work plans, and board agenda setting by explicitly approving by motion the board agendas and overseeing and improving the quality of board and committee materials.*
 - b. *The Committee retains responsibility for supporting the Board Chair to facilitate the performance management process for the president, and for deciding on the president's performance rating and compensation adjustments, if any.*
 - c. *The Committee retains responsibility for the performance management and compensation of the University Secretary.*
 - d. *The Committee will assume responsibility for overseeing the relationship with the Senate and recommending ways in which to fulfill the Board's statutory obligation to "maintain close liaison with the Senate" (s. 13(2)).*
 - e. *The Committee will work with the President to consider and make recommendations regarding board involvement in important strategic and reputational matters such as academic quality and research.*
 - f. *The Committee's delegation to act on behalf of the Board be retained on the understanding that it is to be used only in emergency situations. The current language should convey that intention adequately, but the intention should be fully respected in practice.*
 - g. *Responsibility for all matters of strategy oversight, objective setting and development of the strategic plan should be removed and this responsibility assumed by the Board as a whole.*
 - h. *Responsibility for the Standing Committees' Terms of Reference, and recruitment and nominations of new board members, attendance monitoring, role descriptions, and Code of Conduct compliance, as well as board member appointment and assignment processes be assigned to the Governance Committee.*
 - i. *Oversight of bargaining, approval of mandates, and recommendations for collective agreement approval be assigned to the Human Resources Committee.*

2. The Committee will discontinue the practice of receiving Standing Committee reports as they properly go to the full Board.

b) Finance and Audit Committee

At any university, the Finance and Audit Committee is a key committee with a heavy workload. Core responsibilities of audit and finance committees include oversight of financial planning and financial reporting, internal controls and internal audit, external audit, risk management and compliance. In addition to these items, the UPEI Finance and Audit Committee has responsibility for Information systems, and expenditure approval under the University Spending Authority Policy (which provides that the Board should approve expenditures valued at \$1M or more). This Committee is required to report to both the Executive Committee and the Board on the proceedings of each meeting. Consistent with good governance practices, the voting members of the Committee are to be independent and financially literate. As senior staff are not independent, including them as members (even non-voting) is inconsistent with the requirement for independence.

A review of the minutes against both the previous and new committee Terms of Reference indicate that this Committee addressed all areas of its Terms of Reference over the Review Period. The Committee has adopted a practice of receiving capital projects reports most of which duplicate the reports given to the Property and Asset Management Committee. In some cases, but not all, this report supported a request for an increased project budget. This Committee has a role to play in ensuring that the information provided both to the committee itself and to the Board in support of major financial decisions is comprehensive and sufficient. A review of materials submitted to the Audit and Finance Committee to support financial decisions indicate that there is work to be done in this area.

The “Purpose” clause of the Finance and Audit Terms of Reference state that it has responsibility for oversight over the University’s governance processes. This overlaps with the responsibility of the Governance and Appeals Committee.

Recommendations:

The Finance and Audit Committee Terms of Reference and practices are generally sound. The following amendments to the Terms of Reference are recommended:

- 1. The inclusion of “governance” in the Committee’s Purpose overlaps with the work of the Governance and Appeals Committee and should be removed.*

2. *Composition - the Committee should require a composition that includes more than one “financial expert” - a minimum of 3 is suggested with the remaining members being financially literate. Financially literate should be defined within the Terms of Reference as “the skills, knowledge, and capacity to read, understand, and analyze financial statements of comparable complexity to those of the University”.*
3. *Executive sessions with the internal and external auditors must be held at least annually as a matter of course. These sessions are more properly described as in camera sessions within the meeting nomenclature.*
4. *The Terms of Reference should be amended to add explicit responsibility for oversight of the Endowment Oversight Committee and for pension plan compliance and liability. The Board would do well to seek expert advice to confirm the sufficiency of its appointment and oversight practices on behalf of the Board, in these two important areas.*

c) Property and Asset Management Committee

The role of this Committee is to assist the Board with oversight of the University’s property and equipment. This includes overseeing the Campus Master Plan, accessibility, environmental sustainability, space requirements, land planning and development, property maintenance and renewal, and compliance related to its mandate. Prior to the new Terms of Reference (effective February 2024) the Committee had responsibility for approving capital projects of greater than \$1M, ensuring the affordability of capital projects and their impact on the financial sustainability of the University, and approval of the annual capital budget.

The new work planning process is bringing more rigour to the work of this Committee and aligning its work with its Terms of Reference. However, for most of the review period, the Committee focused on capital projects without addressing other aspects of its Terms of Reference. As noted above, capital projects presentations have been duplicated at this Committee and Finance and Audit, and most recommendations for expenditures have gone to the Board via the Finance and Audit Committee.

Recommendations:

There is much responsibility in the Property and Asset Management Committee Terms of Reference and the Committee must be sure to fulfill them. Universities across the country and elsewhere recognize the importance of addressing environmental sustainability²⁰ as it affects not just

²⁰ I recommend that Property and Asset Management Committee Members read Universities on Fire - Higher Education in the Climate Crisis by Bryan Alexander.

the future and safety of the campus, but practices, research and academic programming and should inform campus infrastructure and capital planning. Deferred maintenance represents a significant liability for many universities and UPEI needs a plan for ensuring its buildings remain safe and in good repair. It is essential that this Committee focus on fulfilling its Terms of Reference.

In addition, the following amendments to the Terms of Reference are recommended:

- 1. While Finance and Audit may recommend the approval of the annual capital budget, and also a budget for capital projects, this Committee should have responsibility for oversight of capital projects implementation.*
- 2. The Committee should ensure the development of a process for approval of capital projects and other significant projects, including the use of a project analysis tool built upon a structured approach to project analysis that involves exploring alignment with University strategy and priorities, options, costs, and risks.*
- 3. The Board may consider renaming this Committee as the “Property and Environmental Sustainability Committee” to better reflect its mandate.*

d) Governance and Appeals Committee

The Governance and Appeals Committee is responsible for oversight of the University’s governance practices and hearing appeals under the jurisdiction of the UPEI Act.

The Committee has responsibilities for Board Standing Committees and their structure, University policies, governance effectiveness, Board member Code of Conduct, conflict of interest and confidentiality, oversight of risk management, board evaluation, board competencies matrix, and orientation. These responsibilities overlap those of the Executive Committee (Board Standing Committees, committee structure, Code of Conduct) and Finance and Audit (governance and risk management). Later in 2023, the Committee agreed to cede primary responsibility for risk management to Finance and Audit, retaining the right to review risk twice per year. However, the new Terms of Reference still indicate committee responsibility for oversight of risk management.

Upon reviewing the Committee minutes prior to the implementation of the work planning process in 2024, the Committee was heavily focused on general policy work and risk management planning. Issues relating to committee structure, governance policies and principles, Code of Conduct, governance system issues, the skills matrix, and orientation and training

were not a focus. Again, a new work plan is in place to assist in ensuring focus on the Committee's Terms of Reference.

Recommendations:

The Governance and Appeals Committee mandate is significant, and it is anticipated that this committee will play a significant role in overseeing the implementation of accepted recommendations arising out of this Governance Review. Recommended amendments to the Terms of Reference are as follows:

- 1. To ensure clarity of accountability to the Board for supporting the governance effectiveness of the University, add those items removed from Executive Committee including: responsibility for the Standing Committee Terms of Reference, and recruitment and nominations of new board members, attendance monitoring, role descriptions, and Code of Conduct compliance, as well as board member appointment and assignment processes.*
- 2. Remove oversight of risk management as that duplicates the work of the Finance and Audit Committee.*
- 3. Given the change in scope of the mandate of this Committee, the Board may consider renaming it to "Governance, Nominating, and Appeals Committee".*

e) Human Resources Committee

The role of the Human Resources Committee is to provide oversight of human resource matters for the Board. The Committee is composed of independent members consistent with its duties and involvement in sensitive and confidential matters. The Committee is responsible to oversee employee relations, employee recruitment, receive reports on key aspects of human resources, and to oversee succession planning, collective bargaining, compensation philosophies, and human resources policies. As noted above, the Committee has powers respecting appointment and terms and conditions of employment for academic and other staff.

Several respondents raised concerns about the challenges posed by having to take tenure and promotion, hiring and other similar decisions to the Board. Questions were raised about the value of the role of the Board in this exercise given the robust processes in place within the University. The introduction of two layers of board decision-making (at the committee and then the board level) complicates and lengthens the hiring process and potentially compromises the University's competitiveness. While it is not atypical for university boards to have legislative authority respecting hiring,

promotion and terms and conditions of faculty and other staff, the way in which the UPEI Board has carried out its exercise of this authority has been excessively operationally focused. We observe that this has been the Committee's focus to the detriment of other work. We were asked to consider how the situation can be mitigated and that is addressed in the recommendations. Although the Board is required by the UPEI Act to approve appointments, promotions, dismissals, suspensions as well as the terms and conditions of employment and tenure of academic and administrative staff, there is no requirement for board approval of sabbaticals.

Recommendations:

Depending on how the Campus Culture Oversight Committee implements its Terms of Reference, there may be overlap and confusion in the two Committee's mandates and care should be taken to avoid this²¹.

Recommendations with respect to this Committee are as follows:

- 1. The HR Committee should focus on specific human resources issues such as recruitment, retention, compensation, succession planning processes and oversight of succession plans for the senior team, employee communications, human resources compliance matters (health and safety, human rights, etc.) and labour relations philosophy and approach. The output of their work, for example observations about turnover rates or trends in complaints/grievances, should be relayed to the Campus Culture Oversight Committee as its focus should remain at the high level monitoring the trends and indicators of culture that form its framework for cultural oversight.*
- 2. At the end of each board year, the Chairs of the Human Resources Committee and the Campus Culture Oversight Committee should meet to ensure that their work is not duplicated.*

The primary issue identified by many respondents and of concern to us as reviewers is the Committee's role in reviewing and recommending for approval the hiring of academic and other staff, as well as the tenure, promotion and sabbaticals of academic and other staff. We observe that as currently implemented the Board's approach is unnecessarily operational in nature, takes up too much committee and board time, and causes delays with implications for hiring.

²¹ The HR Committee Terms of Reference acknowledges this potential overlap and calls for the two Committees to liaise with each other.

3. *We recommend:*

- a. *the removal of the approval of sabbaticals as that is not required by the UPEI Act. This approval should normally be the purview of the Vice-President Academic.*
- b. *clarifying how the Committee will work with the president to ensure appropriate oversight of matters affecting the senior team organization structure, hiring, performance management, and succession.*
- c. *and the following changes:*
 - i. *The Terms of Reference will be amended to delegate to the Committee the responsibility and authority for approval of the hiring of academic and other staff, as well as the tenure and promotion of faculty members.*
 - ii. *The Committee will report in writing on its work to the Board (in the closed session report) but not seek board approval.*
 - iii. *The Committee's meeting schedule will be different from other committees as it will be required to meet monthly (suggest 8 monthly meetings of 30 minutes in which the focus is on hiring and promotion decisions and 4 quarterly meetings of 2 hours in which hiring and promotion decisions will be made along with the other business of the Committee).*
 - iv. *The Committee will conduct a review of the policies and practices related to hiring, tenure and promotion such that they understand the level of diligence the University undertakes prior to making a recommendation for hiring, tenure or promotion. They should identify any concerns they have about gaps and ensure the gaps are addressed. The processes should be reviewed every 3 to 5 years.*
 - v. *Once the Committee has confidence in the processes in place, and in recognition of the robust collegial processes that give rise to academic hiring, tenure and promotion decisions, and the fact that all recommendations come through the president, the Committee will take an approach to approvals that focuses on process rather than getting involved in decisions themselves. Rather than conducting detailed reviews of files to ensure compliance (which has been the practice), the Committee will require the president to confirm compliance with the University's processes as part of the president's recommendations, ensure that any concerns they see*

are raised, and then approve the recommendations as appropriate.

f) Development, Fundraising and External Relations Committee

This Committee held the fewest meetings and spent 8 hours in meetings over a two-plus year period. The Committee's purpose is to oversee fundraising, ensure meaningful engagement with external stakeholders and proper management of risks and opportunities. Specifically, the Committee is to oversee the University's fundraising plans, external communications plans, external relations and community engagement plans, and the plans to maintain and enhance institutional reputation and image. The Committee meetings focused on receiving reports in the areas of development and alumni engagement, communications and university relations, and marketing and production.

Given the number of meetings and hours spent, it is not surprising that the Committee did not address several other areas of the Terms of Reference including fundraising targets, monitoring budgetary allocations for fundraising resources, fundraising policy work, monitoring institutional reputation and initiatives to enhance the reputation. As with many universities, the Senate is responsible under the UPEI Act "to deal with all matters arising in connection with the awarding of scholarships, bursaries, medals, prizes and other awards" (s. 24 (d)). As part of its responsibility for advancement and fundraising, the Board is responsible for overseeing the creation of awards and scholarships and their terms and conditions. As such, this Committee's mandate appropriately would include oversight of the creation of awards, but it does not. This Committee also undertook work to approve awards (most of which were nominal in nature) and report the same to the Board - this is not a delegated responsibility for the Committee under either the current or former Terms of Reference.

Recommendations:

Like those above, this Committee has an important mandate and in addition to fulfilling the general recommendations, we recommend that:

- 1. As frameworks to ensure effective oversight of fundraising plans, external communications plans, external relations and community engagement plans, and the plans to maintain and enhance institutional reputation and image don't appear to exist, this Committee must make it a priority to ensure that administration undertakes to create or renew them. These frameworks should align with the new strategic plan priorities.*
- 2. The approval of the creation of awards, but not the awarding of awards, is appropriately a committee task and the Committee should be delegated*

with responsibility to approve the creation of awards and scholarships, with an obligation to report the same to the Board. The Committee should receive reports from the Senate annually respecting the granting of awards.

g) Campus Culture Oversight Committee

The Campus Culture Oversight Committee is newly created effective February 2024. It is charged with ensuring “oversight and accountability for the Action Plan and a framework to improve the health of the UPEI workplace and study environment and student wellbeing”. While committee meetings at UPEI are closed, the Terms of Reference for this committee also provide for “Executive Sessions” in which the Committee may meet privately with any senior management team member and the Director of Equity, Diversity and Inclusion is permitted to attend these Executive Sessions. Like the Finance and Audit Committee, this committee is required to report to both the Executive Committee and the Board on the proceedings of each meeting. This committee will play an important role in addressing the UPEI Review and more generally in making UPEI a good place to work and study.

Other than the general recommendations and those recommendations relating to clarity of role and work in the Human Resources Committee section above, there are no further recommendations for the Campus Culture Oversight Committee. It is crucial that this committee is effective in ensuring the fulfillment of the Action Plan commitments.

B. Board Membership and Succession Planning

B.1 Background

University Act - Section 7 of the UPEI Act creates the Board. Section 8 of the UPEI Act defines the composition to include 26 members as follows:

- 9 appointees of the Lieutenant Governor in Council (who cannot be officers, members, employees, or students)
- the Chancellor
- the president
- the president of Holland College
- 2 members elected by and from the Senate
- 2 members elected by and from the teaching staff (teaching staff includes department chairs but excludes other officers)
- 2 members elected by and from the student body
- 2 members elected by and from the Alumni Association, and
- 6 members elected by the Board.

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The Board Chair is elected, as is the Vice-Chair and Secretary, from amongst the members (external members only may serve) (s. 12). Term limits for Lieutenant Governor in Council (“LGIC”) / provincial government appointments to the Board and elected members are governed by s. 10 (expiring on May 31st in the third year following the year the member is appointed). The term of elected board members is determined by the authority electing them. Members may be reappointed (s.10 (1.1)). Unlike most university legislation (which provides for 3-year terms for most governors, 1-year terms for student governors, and which typically caps total service at 6 years), the UPEI Act provides no term limits and members continue in office until successors are elected or appointed.

UPEI Board of Governors Regulations and Procedures (2016) - The Procedures provide that terms of appointed members are 3 years subject to extension as recommended by the Executive Committee and approved by the Board (s. 3.4.1) and that terms of elected members are 2 years. The Procedures provide that normally Board members will serve no more than 2 terms but this can be amended for the Chair and for LGIC appointees with Board approval.

The Procedures provide that student Board members are appointed to the Board pursuant to the process of the UPEISU. One student Board role is filled by the then-current Student Union president for a 1-year term. The other student is elected during the annual spring elections for a 2-year term. Current student Board members are the President and CEO of the UPEISU and the immediate past President and CEO of the UPEISU (who will now serve for a total of 3 years having just served a 1-year term). Both student Board members are deemed to be part of the UPEISU Council, must sign a Declaration of Office confirming that they will abide by the rules of Council, and thus must act at all times “honestly and in good faith with regards to the best interests of the UPEISU [and] Use reasonable efforts to advance the interests of the constituency that the Councillor represents (s. 1.03.35). The UPEISU By-law later incorrectly states that the “UPEISU maintains membership positions on the UPEI Board of Governors”. The UPEI Board Procedures don’t make the UPEISU a member but rather give the UPEISU responsibility for recommending and electing student Board members (s.3.1.1).

With respect to the members elected from and by the Senate, the Policy for the Processes and Procedures of the Senate (last updated 2022) provides that Senators serve on the Board for a 3-year term or until their term on Senate ends, whichever is shorter (s. 6.1). Elections for Senate Board members occur at the first Senate meeting of the academic year (September).

The Collective Agreement between the University of PEI and the University of PEI Faculty Association, Bargaining Unit 1²² excludes members of the Board of Governors meaning that those teaching staff and Senators who would normally be part of the bargaining unit are excluded during their service on the Board.

²² <https://www.upeifa.ca/wp-content/uploads/2023/04/2022-2026-BU1-Collective-Agreement-FINAL-1.pdf>

The Procedures identify the Executive Committee as responsible for providing recommendations for Board membership (s. 3.1.1 c)). This is consistent with the current Executive Committee Terms of Reference in which the Committee is responsible for the recruitment and nomination of new Board members, Board and Committee leadership and membership appointments, and succession planning. A review of the Executive Committee minutes indicate that board membership is consistently a focus of the Executive Committee.

B.2 Board Membership at UPEI

Having a board with the right mix of skills, perspectives and experience is essential. Leading governance practices ground the selection of board members in a skills matrix developed by the organization based on the organization's mission, vision, values, and strategic direction. In other words, the University would ideally be free to define its needs and recruit to fill those needs. Like other universities, UPEI faces several challenges to building such a board:

- Board membership is prescribed by legislation
- The Board itself is limited to selecting 6 of 26 members, and
- Parties such as the provincial government, the Senate, the teaching staff, the students, and the Alumni Association elect members to the Board - who gets elected depends on who seeks election and who the members choose.

University boards are set up in this way because university governance is grounded in principles of shared governance. At UPEI, shared governance is implemented not only through bicameralism (having two governing bodies), but also through ensuring that the perspectives of certain university communities (Senate, teaching staff, students, alumni, and the perspective of the public through LGIC appointees) are present at the Board table.

Although university boards themselves have limited scope when it comes to selecting board members, they must still be guided by good governance practices. Universities must still engage in the best practices of needs assessment and must work with the university communities who select or elect members to fill board seats in accordance with UPEI's needs. We observe that in the past, UPEI's recruitment and selection practices have been *ad hoc* and have relied excessively on the networks of the current board members. These sorts of practices lead to homogenous boards with weak diversity and group think and foster a culture in which the members may struggle to identify or call out conflicts of interest. The UPEI Board has not, in the recent past, sought to work with the other parties who are responsible to select board members to secure candidates with the skills needed by the Board. We understand the University will be seeking to work with its communities to apply skills-based criteria to all elected and appointed members and we encourage the Senate, teaching staff, students, alumni and the provincial government to cooperate.

In the Fall of 2023, the Board undertook a demographic and skills survey of its Board members. The survey was repeated as new Board members were added throughout the Fall. Board members are provided with the survey and asked to self-identify with respect to the demographic and skills categories. The demographic survey looked at gender mix, community mix (by PEI county and other) and other identities: Indigenous, LGBTQIA+, Live with a disability, and Member of a Racially Marginalized Community. The Skills Matrix asks members to rate themselves as having No, Fair, Good or Advanced skills in the competency areas identified. The list of 19 competency areas is comprehensive and includes:

- Not for profit and shared governance system
- Public Sector/Working with Stakeholders
- Strategic leadership
- Strategic planning
- Risk Management
- Board Member/Chair
- Finance and Internal Controls
- Legal/Corporate law
- Human Resources
- Business/Entrepreneurship/Innovation
- Policy
- Higher education/student success
- Academic and Research
- Capital Project and Infrastructure Development
- Fundraising
- Technology (IT Governance and Strategy, Information Security)
- Community engagement and service
- Diversity, accessibility and inclusion
- Executive recruitment and compensation.

There was full participation from all current Board members in the survey. Earlier survey results were used to identify priorities for the recruitment of three additional members in the Fall such that the Board increased board diversity through this recruitment. In addition to improvements in recruiting and appointing members of Indigenous Communities and Racially Marginalized Communities, the results indicate that half of the Board identifies as women.

With respect to skills, the methodology used by the Board is such that a potential skills gap is identified when less than half of the Board members identify themselves as Good or Advanced in a competency area. This is a high threshold that results in potential skills gaps in 6 areas: Legal, Technology, Human Resources, Capital Projects/Infrastructure, Academic and Research, and Diversity, Accessibility, Inclusion. Applying a different standard (at least one quarter of the Board identifies as being Good or Advanced in a competency), then the only potential skills gap is in Legal.

Recommendations:

The UPEI Act dictates the size and composition of the Board of Governors. Although large by corporate standards, UPEI's Board size is average when compared with other universities. As the University has no discretion regarding board size or composition, the Board's focus must be on the skills and competencies of the Board members. The Board is commended for initiating a skills matrix process and applying it in the recruitment of Board members. This activity should continue, and specifically:

- 1. The Board should continue to focus on increased board diversity targeting those demographic groups currently absent from the Board.*
- 2. The Board should review the skills matrix regularly and after the committees have identified their skills needs, ensure that the Board skills matrix reflects those skills required by the committees.*
- 3. While relying on self-identification and self-assessment for the skills matrix is a good way to initiate the skills-gap assessment process, the goal should be to move to more objective measures. We recommend that the application process involve self-identification of skills and that the Board member interview process involves assessing the extent of those skills. The assessment by the interviewers should serve as input to the skills spreadsheet.*
- 4. While the skills matrix includes "Not for profit and shared governance system" it should be expanded to include all governance experience and skills. It is also unlikely that many applicants will know what shared governance is unless they are familiar with universities. ICD.D and similar designations impart knowledge about the important governance principles and particularly fiduciary duty – although not sector specific, these are helpful foundations.*
- 5. UPEI should ensure that its application portal is always open and should focus on creating a pool of qualified candidates from which to draw for future appointments.*
- 6. We recommend that the Board continue with 3-year term limits for all Board members other than student members which should remain as they are at 1 and 2 years (noting that a 1-year term for students is consistent with many, if not most, other universities) and impose a cap on renewal terms such that total service does not exceed 9 years.*

B.3 Succession Planning - Leadership and Membership

The new Terms of Reference provide that the Executive Committee of the Board is responsible for ensuring that Board Committees are populated with qualified individuals,

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for recommending to the Board, chairs and members of Standing Committees, and for developing a succession plan for board and committee membership (s. 12.1). The Committee is also responsible to annually review and approve the role descriptions of board leaders (s.12.2.1).

Succession planning for board membership involves assessing and planning for future skills gaps. Succession planning should also involve the creation of a pool of qualified individuals from which to draw for future board roles under which the Board is constantly identifying qualified candidates for the pool. The Board has not yet turned its focus to succession planning for board membership.

Succession planning for board leadership involves several tasks: 1) a board policy confirming its commitment to succession planning, identifying the positions for which succession plans will be developed, and identifying its process for choosing and developing successors; 2) development of role descriptions; 3) identification of potential candidates 4) assessment of potential candidates for skills and experience; 5) taking steps to train and develop candidates. UPEI has identified the need to engage in succession planning and has identified the development of role descriptions as a governance priority. However, UPEI does not yet have a consistent approach to succession planning.

Recommendations:

Succession planning is important. We recommend that the UPEI Board focuses on leadership succession planning and that it should:

- a. establish a board policy confirming its commitment to succession planning, identifying the positions for which succession plans will be developed, and identifying its process for identifying, choosing and developing successors.*
- b. develop role descriptions.*
- c. identify potential Board members.*
- d. assess potential members for skills and experience.*
- e. take steps to train and develop candidates.*
- f. adopt a practice of appointing Vice-Chairs to the Board and committees with the expectation that those in the Vice-Chair role will shadow and support the Chair and step into the Chair's role at the end of the current Chair's term. It can be a good practice to have two Board Vice-Chairs to ensure that there is a candidate available to step in when needed.*

C. Board Evaluation and Ongoing Training

C.1 Board Evaluation

The practice of board self-evaluation is foundational to a university board's ongoing commitment to governance improvement. It gives the board the opportunity to identify the behaviours and outcomes it values, capture them in a self-evaluation document, and then reflect on how the board is fulfilling its own expectations. The UPEI Board has adopted a practice of self-evaluation overseen by the Governance and Appeals Committee. The self-evaluation practice was initiated in 2022 with a first draft of a board self-evaluation questionnaire. The questionnaire was refined in 2024 and has been distributed for completion in June 2024.

The rating scale of the questionnaire is based on a 1 to 5 numbered scale where 1 is "strongly disagree / needs significant improvement" and 5 is "strongly agree / outstanding". Three (3) represents "needs improvement". The questionnaire is broken into Board Leadership and Functions, Composition, Independence and Succession Planning, Duties and Responsibilities, The Chair, Audit, Risk and Internal Control, Board Committees, and The President. There are three boxes with open-ended questions seeking advice on improving the Board's performance, the relationship with the president, and any other matter. Finally, the questionnaire asks Board members to comment on priority areas for education and training.

At the time of writing this Report, the Board self-evaluation process is underway. Good Board participation (70%) was reported but the results have not yet been tabulated.

Recommendations:

The Board is to be commended for undertaking a self-evaluation process. We recommend that:

- a. The evaluation form be reviewed and updated to reflect the Board's assessment of all aspects of its practices to improve governance. The current form is a good start but the form itself should be a statement of the Board's aspirations and objectives and the Board should evaluate itself against those aspirations.*
- b. The form should seek self-reflection on board practices, committee practices, and individual board member practices.*
- c. The evaluation should be conducted annually.*
- d. Board members should be required to complete the form and the goal should be 100% participation.*

- e. *The output from the survey should be summarized and presented by the Governance Committee to the Board along with recommendations for future focus. The recommendations should be folded into the Governance Committee's work plan for the following year.*

C.2 Orientation and Training/Education

University governance is complex and unique, but university board members must have a reasonable understanding of the system to be effective. Gaining this understanding is not easy. While understanding corporate governance principles is very helpful, corporate governance principles cannot be applied in a university context without modification. Similarly, understanding the not-for-profit governance environment is helpful but not directly applicable. University governance is also politicized and there are differing opinions about the meaning of key concepts such as shared governance, academic freedom, collegiality, and even fiduciary duty, resulting in more ambiguity and confusion. The task for those involved in a university's governance is made that much more difficult because, while there are commonalities, similarities and themes, each university's governance model is unique (this is true whether they operate under their own unique legislation--as UPEI does--or under provincial legislation such as that which exists in Alberta and BC).

In addition to understanding the governance system more broadly, it is essential that boards and those supporting them are very clear about the role of the board in the system. Understanding the board's role ensures that the right decisions are brought to the board and that the information provided to support requests for board decisions is comprehensive and sufficient.

Universities themselves are complex. To govern well, boards must understand universities and not just on an operational level. Boards must ground their governance in a broader understanding of the roles it is essential universities continue to play in Canadian society. While the focus of governments and the public is foremost on the education universities provide to their students (with much importance placed on ensuring that the education results in jobs), and secondarily on research, the importance of universities to the healthy functioning of democracy is paid scant attention. There is weak understanding and appreciation of the importance of institutional autonomy and the role that academic freedom plays in ensuring that universities can support healthy democracies. There is insufficient discussion of sector trends and risks.

The training needs of UPEI's Board must be set against this backdrop of governance and the role of UPEI - ensuring that UPEI Board members have a reasonable understanding of university governance and their role in ensuring that the governance system works, but also an understanding of the issues facing the higher education sector, the issues facing their university, as well as a big picture perspective on their

university’s vision and mission, structure and operations. The survey results of past Board members as set out below at Table 6 support this assertion:

Table 6 - Past Board Members Responses on Additional Training Needs

Description	Percent Agreeing
Enhanced Orientation	67%
Ongoing information on university governance and my role	67%
Ongoing information to learn more about what the university does	44%
Ongoing information to learn more about issues facing the university and the sector	56%
Nothing – we received sufficient information	22%

Current Board members who were interviewed appreciated the new 2024 orientation offerings. Like their Board predecessors, they are looking for more education about their roles and duties, and the role of the university board in a shared governance system. Their proposed areas of focus for education are below:

Table 7 - Current Board Members - Areas of Education Focus

1. University governance – governance structure, relationship to Senate, bicameral governance and concepts unique to university governance
2. Role of Board and Board Members in governance
3. Financial responsibility and liabilities
4. How to ask good questions – how to be effective at ‘appropriate challenge’?
5. Conflict of interest

6. Role of governance professional in supporting effective governance

7. Communication planning and execution

UPEI has recently developed an orientation program to assist Board members. This training was offered in January and February 2024 with the Committees receiving presentations relevant to their mandates (audit and risk controls, appeals processes, overview of university finances, internal audit and risk management, policy, and marketing communications) and the Board receiving presentations in the areas of IT governance and risk, Academic and Research functions at the university, property and assets, human resources, development and alumni.

The training program was operationally focused and did not sufficiently address governance and governance skills. Most of the presentations described what the university does but overall were lacking in clarifying for the Board members their role in oversight in the area or answering questions such as “what are the key questions or issues in this area the Board or its committees will be asked to consider?”. UPEI is not alone in this approach. This gap between what administrators deliver and what the Board needs is one about which university boards commonly express concern.

Recommendations:

The challenge with board training and education is that there is much for university board members to learn to be effective in their roles. The biggest mistake most universities make is inundating board members in early intensive multi-day sessions. We recommend that:

- 1. Orientation training focuses on foundational knowledge requirements relating to university governance, bicameral governance, UPEI’s specific form of bicameral governance including the roles and responsibilities of the Board and Senate and Administration.*
- 2. Training materials on the work and operations of the university are recorded for Board members to watch on their own time and that the focus be on the role of the board and the types of decisions the Board is responsible to make in key areas. For example, a Finance presentation might focus on two questions: 1) How are university finances structured? What is the role of the Board in university finances/ what decisions is the Board called upon to make? For the other committees, the questions might be: What issues is the university facing? What is the Board’s role in respect of these issues?*
- 3. All members, but at least those serving on Finance and Audit and Property and Asset Management should be provided with financial literacy training. Several of the large accounting firms offer it now.*

4. *Training should be ongoing and regular. The Governance Committee should develop a series of dinner talks to be delivered over dinner immediately prior to board meetings on specific topics: early priorities would focus on conflict of interest and asking good questions. Other priorities will flow from the observations of the governance professional and the results of the board self-evaluation process.*
5. *Members of senior administration should receive training on the role of the board and what information the board requires to fulfill its obligations of due diligence.*
6. *UPEI should reinstate board retreats and use them to educate the Board as well as to have informal discussions about important strategic topics to assist the Board in its formal work.*

D. Board Support Functions

D.1 Background - The University Secretariat

The office that supports university governance is typically called the University Secretariat and the senior university governance professional is called the University Secretary. The senior university governance professional is the primary resource for the university's governance bodies, and the only person typically charged with focusing on the effectiveness of the university's governance model and fostering board independence. Like those involved in legal, and internal audit, university secretariats strive for neutrality. They seek to serve as a resource to the whole university to support the work of the governing bodies, effective governance, decision-making and accountability. The existence of a secretariat and a governance professional charged with supporting the board's work planning and agenda-setting processes, assists the board in retaining control of its work.

Based on surveys we have conducted and work we have done with many Canadian universities, we observe that the secretariat provides support to both the Board and Senate for a significant majority of institutions (more than seventy (70) percent). In addition to board and senate/academic governing body governance, a majority of secretariats also have responsibility for the policy function. It makes sense that policy sits within the secretariat, as policies sit below the legislation and by-laws as important instruments in delegation of authority and responsibility. At UPEI, the University Policies policy provides that the Board is the official repository for university policies and charges the Board's assistant with maintenance of the records of delegations of authority by the Policy Approval Authorities. Approximately a third of secretariats also oversee institutional privacy and access to information. Other areas of responsibility held within the secretariat but by a small minority of institutions (less than 10%) include strategic planning, risk management, compliance, curriculum services and calendar, and legal. The University Secretary most often does (and should) report to both the President and the Board Chair.

D.2 Lack of Board Support and Governance Expertise

Although UPEI does not currently have a University Secretary and did not have dedicated administrative support for the Board between August of 2020 and the Fall of 2023, the 2016 Procedures describe a role for an Administrative Assistant to the Board describing the role as “that staff member responsible for assisting the Board and Board Committees”. The role reports to both the President and the Board Chair (s. 2). Section 4.7.1 of the Procedures provided that the Assistant performs the following: organizing board and board committee meeting logistics, distributing meeting notices, recording minutes and resolutions, distributing materials, posting information to the website, and maintaining proper records. Given the complexity of university governance, both the Board and the Senate require much more than administrative support. In UPEI’s situation, there is much work to do to rebuild and to improve and this will require a dedicated and professional governance leader.

In the absence of a dedicated Board governance resource since 2020, the work was performed by the President’s office under both the former president and the former interim president. Recognizing the need for additional support, the Board engaged interim support in 2023 to advance governance initiatives. Having this dedicated resource has enabled the Board to make great strides in governance renewal. The University’s Internal Auditor also plays a significant role in supporting board governance in various matters, including policy and risk. The President’s office remains involved in supporting board logistics. The University has expressed an intention to hire a University Secretary.

The absence of a dedicated board governance resource for much of the past four years has contributed to the decline of good governance at UPEI.

Recommendations:

We have already made it clear that we recommend the creation of a University Secretariat, and specifically recommend as follows:

- 1. UPEI seek a governance professional with university governance experience or comparable experience.*
- 2. UPEI should support the new University Secretary with mentoring and training.*
- 3. The University Secretariat responsibilities will include:*
 - a. supporting effective integrated university governance at UPEI including implementing the governance plan arising from the Governance Review recommendations adopted by the Board.*
 - b. supporting the Board and its committees in effective governance.*
 - c. supporting the Senate and its committees in effective governance.*
 - d. responsibility for the Policy framework at UPEI.*

4. *The University Secretary will have at least part-time administrative support.*
5. *Within the next year or as soon as possible given resource constraints, the University Secretariat will include an additional person responsible for supporting the Board, Senate and the university with its policy framework, policy library and the development of policies.*

Part 4 - Conclusions and Next Steps

UPEI has made much progress toward improved governance and it has done so quickly in the wake of the UPEI Review. While there are a lot of recommendations in this report, two things should be remembered:

1. The Report contains recommendations, and the Board may choose to adopt them or not. The Governance Committee should now be charged with reviewing this Report, soliciting input, considering which recommendations to accept, and formulating a proposed governance plan for the consideration and approval of the Board.
2. Those recommendations accepted are not required to be implemented all at once and rather should be implemented over several years. We anticipate that an outcome will be a governance plan spanning 3 years and commencing with the creation and staffing of a university secretariat.

As noted above, we are committed to the preparation of a draft by-law based on this Report once the Board has had the opportunity to fully consider the recommendations.

We are grateful to UPEI for retaining us to assist as it rebuilds and reinvigorates its governance. Like most of the respondents, we are optimistic and that optimism is grounded in the work of the current Board and its dedication to ensuring sound governance.

Part 5 - Appendices

Appendix 1

GOVERNANCE REVIEW BACKGROUND AND METHODOLOGY

The governance review is conducted in four discrete but overlapping stages:

1. Planning and Preparation
2. Initial Information Gathering
3. Further Exploration and Analysis of Issues Identified
4. Preparation and Presentation of Report and Recommendations

Stage 1: Planning and Preparation

Designed to maximize independence and mirror collegial practice

Universities seek external reviews in order to obtain an external and objective opinion. ISO 37000 recognizes that governance is a “human-based system” (International Standards Organization p.1, s. 3.1.1). This recognition is important as it encourages us to remember that achievement of an institution’s social purpose is at the root of governance systems. At the same time, we recognize human frailties and limitations that must be accounted for and addressed within our systems. Designing systems with checks and balances creates tensions that allows institutions to manage the human-based aspects of the system. Those responsible for governance are charged with a duty to the sustainability of the university, and that duty to the institution demands that we bring our best selves to the governance roles we occupy. The governance system relies on its participants rising above self or group interests to serve institutional interest whilst seeking to understand and best serve the university community and those affected by the decisions of those within authority. Collegial practices seek to enshrine the voices of those affected into decision-making.

When conducting a governance review we bring our highest selves to the project focusing on the long-term best interests of the university. We take our commitment to independence seriously. We also seek to model collegial practice and to ensure information is gathered through broad community consultation amongst those with experience and knowledge of the system.

Project Guidance through an Advisory Group:

The project authority for this board governance review is the Board Chair.

As is our company’s practice, we engaged a small advisory group composed of the Board Chair, the Governance Committee Chair, the Interim President, and the

University Auditor and Risk Management Officer. The role of the advisory group is to meet at a few critical points in the process to provide strategic guidance on the process, receive information and provide feedback. The group is advisory in nature, consistent with the independence of the consultant.

Stage 1 of the review includes:

1. Clarification and confirmation of scope
2. Identification of interviewees and survey recipients
3. Finalization of a list of documents
4. Communication plan.

Stage 2 represents an information gathering stage which included:

1. A detailed documentary review and summary
2. Observation or watching recordings of selected Board and Committee meetings.
3. Interviews of 40+ individuals with knowledge and/or experience of university governance (see separate interview list). An invitation was sent to the community to contact the consultants and anyone who requested an interview was granted one.
4. A survey of past Board members and current Senate members.
5. Summarization, categorization, and analysis of data obtained.

Note: With respect to the Review Period, the minutes for Board meetings from September 2021 to May 2024 are available on the UPEI website. The Board minutes have been kept relatively up to date so a full three-year period, that is academic years 2021-22, 2022-23 and 2023-24, were reviewed with respect to the Board. On the other hand, Committee minutes and agendas had to be requested from a variety of UPEI staff members. In addition, the minutes have not been consistently kept up to date or been available for review across all committees. As a result, and in order to compare the Committees' activities across the same time frame, the Review Period for the Committees is from September 2021 up to and including January 31, 2024.

Stage 3 represents further exploration and analysis of issues identified including additional document review and external scanning/benchmarking relative to comparator institutions in Canada.

Stage 4 involves the preparation and presentation of the deliverables: Report and Recommendations, Summary Presentation and after Board Consideration of the Report, a set of Draft By-Laws

Appendix 2

COMMUNITY CONSULTATION AND WHAT WE HEARD

Interviews – We sought to interview approximately 30 community members with knowledge of UPEI board governance. We identified the following categories of interviewees:

- All current Board members
- Members of the current senior leadership team
- Senior equity leaders
- Senior indigenous engagement leaders
- Senate Steering and Nominating Committee
- Board support
- Chancellor

In addition to those identified by the consultants, any member of the UPEI community was free to request an interview. All interviews requested were granted. The breakdown was as follows:

Description	Number
Total individuals interviewed	42
Individual Interviews	29
Group Interviews	4 (13 people)
Requested Interviews	3 (4 people – 1 group, 2 individual)

Demographics: The demographics of those interviewed were as follows: 24 Board members (including 2 students, 2 senior administrators and 4 faculty), 6 administrators, 2 Indigenous leaders, 1 EDI leader, 1 member of the Action Advisory Group, Senate and Steering Nominating Committee members, 2 faculty, 2 Faculty Association representatives, and 1 representative of government. The names of the interviewees are appended with their consent at Appendix 5.

Surveys: Surveys were sent to current Senators and recent-past Board members. There was a total of 54 recipients and 31 respondents (57% response rate).

Description	Number	Percentage
Recipients	54	100%
Respondents	31	57%
Past Board Participants	11	35%
Senate Participants	20	65%

The Survey respondents occupied a variety of positions:

Position (note Respondents may occupy more than one position)	Number
Past Chair / Committee Chair	3
Past Board member (gov't)	5
Past Board (elected internal)	3
Past Board (alumni)	3
Elected Senator	17
Ex officio Senator	4
Student Senator	3
Other/Prefer not to disclose	2

What We Heard:

The information and perspectives shared by those who participated in interviews and surveys has been organized into themes falling under two broad categories of 1) Areas of Positive Direction and Momentum, and 2) Areas of Focus. Past Board members were surveyed to provide context and understanding of past practices which both help in understanding current practices and in measuring progress. Senators were surveyed to understand the current perceptions of Senators. Summarized below are the general observations of the past Board members on past board performance and those of current Senators on past and current board performance.

Areas of Positive Direction and Momentum

There were five themes arising under the category of Positive Direction and Momentum:

1. **Board Leadership** - current Board leadership (most often indicated as the current Board Chair) demonstrates strong, principled, and compassionate leadership. Community members appreciated the tone and approach of Interim senior leadership. The interviewees see the Board leadership as changing the perception of excessive closeness between the President and the Board Chair, “taking things seriously and trying to do the right thing”, “changing board culture” demonstrating “energy [and] compassion”, and “pushing the envelope from protectionism to doing what’s right”. There was an appreciation of the work of the Interim President to evolve toward greater transparency.
2. **Positive Direction** - The current Board of Governors is perceived to be going in the right direction. Community members see the Board as “wanting to play a role in making UPEI a success” and having “a commitment to improvement and looking forward”. There is a recognition of a move to greater accessibility and transparency along with a commitment to addressing past wrongs through the Action Plan. The Board is perceived to be serious about change. Respondents made comments such as, “the Board is absolutely changing. I can see excellent forward motion on governance principles. The Board is in the middle of a positive shift, and I believe there is an earnest effort ... to have a genuine oversight role ... very encouraged by how it has been unfolding ... the RT review is being taken very seriously”, and “I am feeling very optimistic. RT Report is being tackled head on with the Action Plan. The Board is being seen as more open and visible”.
3. **Commitment and Dedication of Board Members** - There is strong appreciation for the commitment and dedication of the Board, along with the Board’s strong ties to UPEI. Respondents commented on the deep passion, commitment, energy, diligence, and enthusiasm of the current Board.
4. **Board Skills and Backgrounds:** There is appreciation for the recent work of the Board to change its approach to recruitment and selection to increase the

diversity of the Board to ensure diverse skills and backgrounds of the current Board.

5. **Optimism:** Among Board members, there is optimism for the future as well as a commitment to realizing that positive future for the University.

Areas of Focus:

There were nine themes arising under the category of Areas of Future Focus:

1. **Improving processes, access to information and policy framework –** Respondents are looking to the Board to continue to build out its processes and ensure transparency of the same. Respondents are looking for better workflow and calendar management, and supply of necessary information and documents in a timely way. Respondents are looking for better communication, use of consent agendas, *in camera* sessions, transparency of board selection processes (Chair and Committee Chair roles) and better document management. The Board needs to ensure that its decisions are founded on full and tested information and needs to be willing to appropriately challenge information and recommendations brought to it. The Board's focus on a robust policy framework should continue.
2. **Robust board culture (accessible, no internal silos, appropriate use of committees) –** The Board should continue to work toward ensuring that its processes and decision-making are accessible to the community. The Board should advance its culture to ensure that the culture is healthy, promotes engagement, perspectives and discussion, and is one in which all members have access to information. The Board should ensure that it does not operate in silos, that the perspectives of all Board members are welcomed and valued equally. The work of committees must be transparent. Committees are bodies of the Board and should play the role they are assigned by the Board and be accountable to the Board. There was particular focus of concern regarding the role of the Executive Committee of the Board.
3. **Communicating and understanding stakeholders and university and capacity for change.** The Board's recent focus on communication is appreciated and the Board is encouraged to continue to communicate with the community. The Board is encouraged to improve its understanding of university stakeholders, their perspectives and interests and the resulting effect of board decisions on stakeholders. The Board's forward momentum is appreciated and at the same time, the Board is encouraged to continue to pay attention to the capacity of the University community to support and keep up with changes. The Board's continued focus on governance improvement is critical.
4. **Building Trust with community and increasing transparency, avoiding conflicts of interest –** The Board has demonstrated an awareness that it needs to build

trust with the community through an increased commitment to transparency and is encouraged to continue this momentum. Respondents see trust-building as critical for the Board. The Board needs to be transparent and accountable. The Board needs to revisit conflicts of interest and ensure that it avoids conflicts of interest that undermine the credibility of its decisions.

5. **Accountability and Decision making** – The Board must develop and articulate the principles and priorities that ground its decision-making. The Board needs to be actively engaged at board meetings to demonstrate its oversight role – clarifying, asking good questions, and engaging in appropriate challenge. Board decisions need to be grounded explicitly in an approved vision and strategic plan or set of priorities, as well as the values of the University. The Board as a whole must be provided with sufficient information to make good decisions and demonstrate diligence.
6. **Role Clarity** – The respondents see a lack of role clarity within and among the governance bodies. Board needs to develop clarity about its role and the role of other players within the governance system. The Board needs to foster relationships within the system, including with the Senate. Board committees must ensure they understand their role within the system and adhere to their Terms of Reference. Those in leadership roles need to understand their roles, as do those in senior leadership roles.
7. **Diversity of board members and their skill sets** – while there is appreciation for the positive momentum toward increased diversity on the Board, more needs to be done to increase diversity and to ensure that the Board brings “that lens of diversity and inclusion” to all its work.
8. **Board Education** – The Board needs more education in the areas of governance, their roles and duties both at the outset and on an ongoing basis. Suggested areas of focus for education include University governance, Financial responsibilities and liabilities, Roles of Board and Board Members, Communication planning and execution, Conflict of Interest and how to ask good questions, among others.
9. **Board relationship with President and Senior Team** – The Board should demonstrate that it understands that it is the governing body responsible for overseeing and directing the performance of the President and the senior team. Respondents see a need for clear processes around presidential performance management, and renewal. They are looking to the Board to demonstrate an understanding of its role and the need for distance and objectivity between the Board and the President to ensure that the Board can exercise effective oversight, and to ensure that the Board can ensure the integrity and completeness of the information provided to the Board. Respondents are looking for greater clarity on what information comes to the Board, in what format and at

what level to support the Board's exercise of its fiduciary duty. Respondents are looking to the Board to ensure oversight of the senior leadership team structure.

Reflections on Board Performance

Past Board Members were surveyed about the role and performance of the Board during their tenure. These results necessarily reflect past performance and do not account for the recent work of the Board to develop and address governance aspects of the Action Plan.

Past Board Members on Past Board Performance: The majority of past Board members indicate their view that the UPEI Board of Governors has in the past been less than effective in key areas including: stewarding the mission, assets and reputation, appointing, overseeing and supporting university leadership, contributing to strategy and overseeing the strategic planning process and implementation, overseeing HR planning and management, overseeing financial planning and management, overseeing student affairs, ensuring effective relations with stakeholders, communicating with the internal community, serving as external ambassador, and practicing and promoting sound university governance. Areas of weakness of the Board were identified as diverse membership, shared sense of purpose, decision-making practices, practices of equity and inclusion, constructive relationships with the President, Senior Administration and Senate, asking good questions/demonstrating diligence, access to reliable information, and effective communications.

Current Senators Survey Themes: Current Senators were surveyed about their perceptions of Board performance. As these Senators continue to serve, their responses are reflective of not just the past performance of the Board but also the recent work of the Board under the Action Plan. Senate survey results indicated a self-professed lack of knowledge about the Board with an average of 40% of Senate respondents answering "I don't know" when asked to rate Board strengths and weaknesses. The remaining Senate respondents identified good board leadership and a constructive relationship with the President as two current strengths of the Board. The two areas of weaknesses identified by Senators were effective communications and constructive relationship with the Senate. Other areas of weakness indicated by Senators (though with less than a majority expressing the view) were Board access to reliable information and asking good questions/ demonstrating diligence.

Appendix 3

STANDING COMMITTEE AREAS OF RESPONSIBILITY AND COMPOSITION

Committee Name	Mandate and Areas of Responsibility	Composition
Executive Committee	<p>Mandate - To assist the Board of Governors in fulfilling their oversight responsibilities regarding: Recruitment and nomination of Board members; Strategic objective setting; Development of the strategic plan; Review of standing committee Terms of Reference, presidential remuneration, evaluation of presidential performance and that of University Secretary.</p> <p>Responsibilities - Board and committee membership and succession planning; Board position descriptions, monitoring of strategic plan, direction on collective agreements, and agenda setting.</p>	Chair, Vice-Chair, Secretary, Chairs of Standing Committees, President
Finance and Audit Committee	<p>Mandate - To assist the Board in fulfilling its responsibilities for: Monitoring financial accounting and reporting process; Reviewing changes in accounting policies; Overseeing operating and capital budgets; Recommending the appointment of the external auditor; Assessing the performance of the external auditor; Overseeing the University's internal audit</p>	<p>Three or more Governors, at least one member shall be a financial expert, in their capacity as an accountant or financial advisor and an active member of a recognized professional body.</p> <p>Ex-officio, non-voting members:</p> <ul style="list-style-type: none"> • Chair of the Board • President • Vice-President, Administration and Finance • Comptroller

Committee Name	Mandate and Areas of Responsibility	Composition
	<p>function; Overseeing the University's internal controls, risk management and information systems.</p> <p>Responsibilities - Overseeing the work of the external auditor; Pre-approve all significant non-audit services to be provided to the University by the external auditor; Review the University's financial statements; Review and approve changes in accounting policies; Reviewing management's process for managing the principal risks of the University; Reviewing regular reports from management on areas of significant risk; Reviewing insurance coverage; Consider the effectiveness of the University's internal control framework, including its information technology security and control System; Assess the adequacy and effectiveness of the University's IT resources in meeting the University's strategic objectives; Review IT strategy; Monitor progress of major IT projects; Assess the adequacy of the IT risk management process; Review the accounting and disclosure for significant transactions; To review and recommend for approval to the Board any expenditure that requires Board approval as per the University Spending Authority Policy.</p>	<ul style="list-style-type: none"> • University Auditor • Chief Information Officer

Committee Name	Mandate and Areas of Responsibility	Composition
Governance Committee	<p>Mandate - To assist the Board in fulfilling its governance responsibilities and in hearing and disposing of appeals.</p> <p>Responsibilities - Make recommendations on the establishment of Board Standing Committees and their structure, University policies, University's governance systems; Annual review of any amendments to the Board of Governors Code of Conduct, Conflict of Interest and Confidentiality policies or agreements; Oversight of risk management processes; Evaluating the effectiveness of the Board and its committees; development and maintenance of the desired Board Competencies Matrix; orientation program for new members and a continuous education program for all members; The Appeals Panel of the Committee shall consider, hear, and make decisions on behalf of the Board on any matter under appeal falling within Section 14 (1) (l) of the University Act.</p>	<p>Four or more Board Governors.</p> <p>Ex-officio, voting members :</p> <ul style="list-style-type: none"> • Chair of the Board • President
Human Resources Committee	<p>Mandate - To assist the Board in its oversight role with respect to University human resources and compensation matters and in the execution of its duties prescribed in the Act.</p> <p>Responsibilities - Review the</p>	<p>A minimum of two (2) and a maximum of eight (8) Board members,</p> <p>Ex-officio, voting members :</p> <ul style="list-style-type: none"> • Chair of the Board • President

Committee Name	Mandate and Areas of Responsibility	Composition
	<p>status of staff relations; Support and foster the development of a University recruitment strategy; Receive regular reports on human resource-related matters, such as retirements, terminations and resignations and any related information, etc; Oversight for the succession planning; Receive ongoing information on collective bargaining processes; Monitor the appropriateness of compensation philosophies including market differentials compensation and employee benefits; Advise on policies governing human resources: Review and recommend for approval to the Board, the hiring of tenured-track faculty Members and senior executives; Review and recommend tenure, promotion and sabbatical of faculty members on an annual basis; liaise with the Campus Culture Oversight Committee to ensure matters of collective interest area are shared between committees.</p>	<p>Ex-officio, non-voting members:</p> <ul style="list-style-type: none"> • Vice-President, People and Culture • Vice-President, Academic and Research
<p>Development, Fundraising and External Relations Committee</p>	<p>Mandate - To assist the Board in providing oversight regarding fundraising plans, external communications plan, external relations and community engagement plans, the University's plans for maintaining and enhancing its institutional reputation and</p>	<p>One or more Board member (s) elected by the Board; one or more Board member (s) appointed by the Lieutenant Governor in Council; One or more Board member (s) elected by and from the Alumni Association of the University; One Board member who is a</p>

Committee Name	Mandate and Areas of Responsibility	Composition
	<p>image.</p> <p>Responsibilities - Review the development of the University's fundraising plans and monitor its progress; Review the adequacy of resources allocated to the fundraising plans; Monitor the use of budgetary resources allocated to support fundraising activities; Review and assess gift acceptance and donor recognition decisions; Review external communications plans; Oversight of external communications plans; Monitor initiatives to enhance University's reputation and image; Monitor the performance of the University's brand; Assess risks that may impact the University's reputation and image.</p>	<p>faculty member; One Board Member who is a UPEI student.</p> <p>Ex-officio, voting members :</p> <ul style="list-style-type: none"> • Chair of the Board • President
Property and Assets Committee	<p>Mandate - To assist the Board in providing oversight regarding acquisition, maintenance and disposal of University property and equipment; University environmental sustainability, and accessibility practices; University compliance with applicable legislation; The University Campus Master Plan.</p> <p>Responsibilities - Review updates made to the University's Campus Master Plan; Review property and physical infrastructure with</p>	<p>Three or more Governors.</p> <p>Ex-officio, voting members :</p> <ul style="list-style-type: none"> • Chair of the Board • President <p>Ex-officio, non-voting members:</p> <ul style="list-style-type: none"> • Vice-President, Administration and Finance

Committee Name	Mandate and Areas of Responsibility	Composition
	<p>respect to physical space requirements, land planning and development, sustainable acquisition, maintenance and disposal of property; Review and approve the University's property maintenance and renewal plan; Support the development of environmental sustainability and accessibility plans; Review annual compliance reports to ensure compliance with applicable laws on buildings and premises.</p>	
<p>Campus Culture Committee</p>	<p>Mandate - To assist the Board in fulfilling its responsibilities for monitoring implementation of the recommendations resulting from the UPEI Review; Monitoring the health of the workplace for faculty and staff; Monitoring student wellbeing and the study environment.</p> <p>Responsibilities - Immediate with respect to UPEI Review : Review initial draft of UPEI Review; Monitor progress; Oversee development of risk matrix; Identify challenges and risks; Oversee annual plan on progress; Receive the results of any audits. Long Term with respect to University Culture : Oversee development of framework to monitor student experience and workplace culture; consider developments in workplace</p>	<p>Four or more Governors. Governors appointed must include at least one student and one faculty member. The Committee will also include one graduate student and may include expert members, external to UPEI, identified by the Board.</p> <p>Ex-officio, voting members :</p> <ul style="list-style-type: none"> • Chair of the Board <p>Ex-officio, non-voting members:</p> <ul style="list-style-type: none"> • President • Vice-President, People and Culture • Vice-President, Academic and Research

Committee Name	Mandate and Areas of Responsibility	Composition
	<p>culture and ways to improve; Assess the workplace culture framework; Oversight of plans to ensure alignment with University values and strategic priorities.</p>	

APPENDIX 4

OVERVIEW OF DOCUMENTS REVIEWED

The following is not a comprehensive list of every document reviewed but is intended to give the reader a sense of the scope of documentary review.

Legislative Documents

University Act, consolidated version, current to June 28, 2019.

An Act to Establish the University of Prince Edward Island, assented to April 15, 1969.

Amendments, including:

- c. 54, June 25, 1970.
- R.S.P.E.I. 1974, c.U-4.
- S.P.E.I. 1976, c.31.
- S.P.E.I. 1981, c.39.
- S.P.E.I. 1982, c.34.
- S.P.E.I. 1983, c.45.
- S.P.E.I. 1985, c.44.
- S.P.E.I. 1986, c.20.
- S.P.E.I. 1988, c.66.
- R.S.P.E.I. 1988, c.U-4.
- S.P.E.I. 1992, c.69.
- S.P.E.I. 1994, c.63.
- *Education Reorganization Act*, S.P.E.I. 1995, c.8.
- S.P.E.I. 1998, c.10.
- *Maritime Provinces Higher Education Commission Act*, S.P.E.I. 2002, c.34.
- S.P.E.I. 2004, c.22.
- *Government Reorganization Act*, S.P.E.I. 2009, c.73.
- *Government Reorganization Act*, S.P.E.I. 2010, c.31.
- *Government Reorganization Act*, S.P.E.I. 2012, c.17.
- *Miscellaneous Statutes Amendment Act*, S.P.E.I. 2015, c.36.
- *Government Reorganization Act*, S.P.E.I. 2015, c.28.
- *Government Reorganization Act*, S.P.E.I. 2019, c.1.
- *Government Reorganization Act*, S.P.E.I. 2023, c.20.

Board of Governors and Board Committees

Minutes, agendas, meeting packages for the Board of Governors for academic years

CONFIDENTIAL TO THE UPEI BOARD OF GOVERNORS UNTIL PUBLISHED

2021-22, 2022-23 and 2023-24 (up to the latest material available as of May 31, 2024).

Guidelines of the Board of Governors, March 2016.

UPEI Board of Governors Regulations and Procedures, approved by UPEI Board of Governors May 19, 2016.

Minutes, agendas, meeting packages for Board Committees for academic years 2021-22, 2022-23 and 2023-24 (up to the latest material available as of May 31, 2024).

- Executive Committee
- Finance and Audit Committee
- Governance and Appeals Committee
- Human Resources Committee
- Development, Fundraising and External Development Committee
- Property and Assets Committee
- Campus Culture Committee

Board and Committee meeting schedules for academic years 2021-22, 2022-23 and 2023-24.

Board and Committee membership for academic years 2021-22, 2022-23 and 2023-24.

Committee mandates for academic years 2021-22 and 2022-23.
Committee Terms of Reference for academic year 2023-2024.
Committee work plans for academic year 2023-2024.

Board Orientation Materials, including:

- Development and Alumni Engagement: An Overview, Myrtle Jenkins-Smith, Executive Director, Development and Alumni Engagement, February 2024.
- Board of Governors Orientation Human Resources, Susan Connolly, VP People and Culture and Dr. Greg Naterer, VP Academic and Research.
- UPEI Property & Assets Orientation, January 2024.
- Board of Governors IT Orientation, Dana Sanderson, CIO, February 2024.
- UPEI's Academic and Research Portfolio, Greg Naterer, VP Academic and Research, January 2024.
- Audit, Risks and Controls.
- Board of Governors Appeals, Murray L. Murphy, 30 January 2024.
- University Finances, UPEI Finance and Audit Committee, January 30, 2024.
- Board of Governors Campus Culture Orientation, Susan Connolly, VP People and Culture, Patty Wheatley, Equity, Diversity and Inclusions Officer.
- Governance and Board Policies.
- Internal Audit.
- Marketing and Communications.

Board Skills Matrix, including:

- Board of Governors Demographic Survey Summary, March 2024.
- Skills Matrix Results.
- University of Prince Edward Island Board of Governors' Skills Matrix and Demographic Survey.

Organization Charts, including:

- Board Support Functions.
- Governance, Leadership and those Reporting to the Board.

Governance Work plan: Pam Trainor, updated June 2024.

Other UPEI

UPEI Strategic Plan (2018-2023).

UPEI Action Plan: Building a Culture of Trust, Safety and Inclusion, March 27, 2024.
 UPEI Action on Cultural Renewal: Building Trust, Safety and Inclusion on our Campus, Preliminary Draft, January 2024.

Rubin Thomlinson Report, Re: University of Prince Edward Island Review, Janice Rubin, Heather Shields and Katherine Montpetit, June 6, 2023.

University of Prince Edward Island Equity, Diversity and Inclusion (EDI) Strategy, February 2021.

UPEI Equity, Diversity and Inclusion Strategy: Progress Report January 2021 - June 2022, February 2023.

UPEI by the Numbers

- 2021.
- 2022.
- 2023.

Policy Framework documents, including:

- Policy title: University Policies, Policy approval authority: Board of Governors, Version date: October 6, 2021.
- Instructions on Developing a University Policy Using the Policy Template.
- Policy Tracking Form, October 2023.
- Policy Summary Sheet.
- Policy Template.
- Senate Academic Policy Summary Sheet.
- Senate Academic Policy Tracking Form, October 2023.

University Policies, including:

- Policy title: Conflict of Interest, Authority: Board of Governors, Version date:

April 4, 2018.

- Policy title: Fair Treatment Policy, Authority: Board of Governors, Version date: November 21, 2005.
- Policy title: Presidential Search Committee and Procedure, Authority: Board of Governors and Senate, Version date: February 16, 2023.
- Policy title: Policy for the Processes and Procedures of Senate, Authority: Senate, Version date: November 25, 2022.
- Policy title: Selection of Vice-President, Administration and Finance, Authority: HR Committee of the Board of Governors, Version date: November 16, 2011.
- Policy title: Senior Administrative Appointments, Authority: Board of Governors, Version date: undated but likely April 27, 1996
- Policy title: Sexual Violence Policy, Authority: Board of Governors, Version date: October 4, 2018.

UPEI website - webpages (and subpages) on upei.ca, including:

- <https://www.upei.ca/about-upei/governance>
- <https://www.upei.ca/about-upei/policy>
- <https://www.upei.ca/svpro>
- <https://www.upei.ca/equity-diversity-and-inclusion>
- <https://www.upei.ca/about-upei/independent-third-party-review>
- <https://www.upei.ca/presidentialsearch>
- <https://www.upei.ca/communications/news>

Senate Minutes from September 2021 to March 2024.

Internal Audit Reports.

- AVC Sales and Services, 18 March 2016.
- Athletics and Recreational Sales Revenue, 10 June 2016.
- Campus Security, 7 March 2017.
- Bookstore, 16 March 2017.
- Research Funding, 13 April 2018.
- Hiring of Tenure Track Faculty Members, 23 October 2018.
- Campus Accessibility, 7 February 2019.
- Student Recruitment and Admissions, 17 March 2021.
- IT Governance and Information Security, 10 November 2021.
- University Budgetary Process, 6 July 2023.

Building UPEI RISK REGISTER 2019-2021, Alaa Abd-El-Aziz (President), Ouma Cuniah (University Auditor & Risk Management Officer).

Building UPEI Risk Management Framework: Interim Report to the Finance and Audit Committee, Greg Keefe, President, Ouma Cuniah University Auditor & Risk Management Officer), 20 September 2022.

UPEI Campus Wide Risk Report 2022, Office of the President, 4/26/2022.

ERM Framework : Progress Report, Office of the President, 31 January 2023.

Internal Audit Charter, approved by the Finance and Audit Committee 13 September 2023.

UPEI ERM Framework - Progress Report, Issued by the Office of the President.

- 21 March 2023
- 09 May 2023
- 13 September 2023
- 14 November 2023
- 30 January 2024

Senior Leadership Role Descriptions, including:

- Candidate Brief for the Position of Vice-President, Administration and Finance.
- Executive Brief in the Recruitment of the Vice-President, Academic and Research.
- Appointment of the President and Vice-Chancellor, Information for Candidates.

Other

Government, including:

- UPEI Operations Funding Agreement, 14 August 2023 and Amendment, 21 November 2023.
- Hansard, Prince Edward Island Legislative Assembly, 15 June 2023; 16 June 2023; 19 March 2024; 21 March 2024.
- Transcript, Standing Committee on Public Accounts, 3 October 2023; 17 October 2023; 16 February 2024.
- Transcript, Standing Committee on Education and Economic Growth, 17 October 2023.
- Standing Committee on Education and Economic Growth, First Report of the First Session, Sixty-Seventh General Assembly, Committee Activities, 28 November 2023.
- Standing Committee on Public Accounts, First Report of the First Session, Sixty-Seventh General Assembly, Committee Activities, 29 November 2023.
- Presentation to the Standing Committee on Public Accounts, Dr. Greg Keefe, February 16, 2024.

UPEI Faculty Association website - <https://www.upeifa.ca/> and relevant collective agreements

UPEI Student Union website - <https://upeisu.ca/> and relevant constating documents

CBC and other media reports from 2011 to 2024.

“Utopian U: The Founding of the University of Prince Edward Island 1968-1970”, by Alan MacEachern, published by UPEI 2005.

Spindle Report

https://files.upei.ca/medicine/upei_hpei_report_health_system_capacity_assessment_and_analysis.pdf

APPENDIX 5

LIST OF INTERVIEWEES

Name	Category	Employer or Organization
Agrawal, Shreesh	Former Board Member Student Member	UPEI Student, Economics
Arfken, Dr. Michael	Former President of UPEI Faculty Association	UPEI Faculty Member, Psychology
Bellamy, Steve	Board Member Chair of Property and Assets Committee	CEO, Confederation Centre for the Arts
Carroll, Tim	Former Board Member	UPEI Faculty Member, Business
Chappel, Corrine	Indigenous Leader Advisor on Indigenous Affairs	UPEI, Office of Vice-President Academic and Research
Clark, Judy	Indigenous Leader Elder in Residence	UPEI
Connolly, Susan	Administration	Interim Vice-President, People and Culture
Creighan, Karen	Board Member	Owner of Main Street Pharmasave, Souris, PEI
Cuniah, Ouma	Administration	University Auditor and Risk Management Officer
Ellsworth, Lynn	Board Member	Retired, formerly Government of PEI
Etkin, Dr. Nola	Administration Dean, Faculty of Science Action Plan Advisory Group	UPEI

Name	Category	Employer or Organization
Evans, Dr. Gary	Board Member	UPEI Faculty Member, Faculty of Business
Gottschall-Pass, Dr. Kathy	Former Vice-President, Academic and Research	UPEI Faculty Member, Health Science
Griffin, Diane	Board Member Chancellor Former Senator	Retired, formerly of the Senate of Canada
Hayes, Peter	Former Board Member	Retired, formerly Principal in the Halifax office of Eckler Ltd.
James, Dr. Melissa	Associate Dean, Business	UPEI Faculty Member, Business
Johnston, Dr. Geraldine	Board Member	Family Physician
Judson, Tara Leigh	Administration	Interim Vice-President, Administration and Finance
Keefe, Dr. Greg	Former Board Member Senior Administration Former Interim President	UPEI Faculty Member, Veterinary Medicine
Kelli, Kristi	Board Member	National Relationships Office at Deloitte Canada
Lacroix, Dr. Christian	Board Member	UPEI Faculty Member, Biology
MacDonald, Dr. Alexander (Sandy)	Board Member	President and CEO of Holland College
MacDonald, Shannon	Chair of the Board	Partner with Ernst and Young

Name	Category	Employer or Organization
MacKenzie, Don	Board Member	Legal Counsel for L'nuey (the PEI Mi'kmaq Rights Initiative)
Mady, Camille	Board Member Student Member Former President, UPEI Student Union	UPEI Student, Business
McBeath, Alex	Board Member Vice-Chair of Board Chair of Finance and Audit Committee	Retired, previously Partner with Grant Thornton LLP
McMahon, Mary Anne	Board Member	Retired, formerly general counsel to Canada Revenue Agency
Mears, Kim	UPEI Senate Steering and Nominating Committee	UPEI, Health Sciences and Scholarly Communications Librarian
Mitton, Natalie	Representative of Provincial Government	Deputy Minister, Workforce, Advance Learning and Population
Montgomery, Pam	Board Member Chair of Development, Fundraising and External Relations	CEO of Habitat for Humanity
Montelpare, Dr. Bill	Board Member	UPEI Faculty Member, Applied Human Sciences
Morrison, Perlene	Former Board Member	Partner with Stewart McElvey
Naterer, Dr. Greg	Administration	UPEI Vice-President, Academic and Research
Rejskind, Dr. Margot	Executive Director	UPEI Faculty Association
Ryan, Dr. Catherine	UPEI Senate Steering and Nominating Committee	UPEI Faculty Member, Psychology

Name	Category	Employer or Organization
Sahajpal, Dr. Ajay	Board Member	Multiorgan Transplant and Hepatobiliary Surgeon
Simpson, Carolyn	Board Member Chair of Campus Culture Committee	Retired, previously Department of Education and Early Years
Thompson, Brian	Board Member Board Secretary Chair of Governance and Appeals Committee	Retired, previously executive with Vector Aerospace / StandardAero
Trainor, Pam	Administration Board Advisor	UPEI
Trowbridge, Andrea	UPEI Senate Steering and Nominating Committee	UPEI Interim Registrar
Waterman, Bill	Board Member	UPEI Faculty Member, School of Business
Wheatley, Patti	EDI Leader Human Rights Counsel	UPEI

Contacted but unable to attend a meeting

Name	Title	Employer or Organization
Coade, Kateri	Board Member	Executive Director of the Mi'kmaq Confederacy of PEI
Robinson, Hon. Mary	Board Member	Senator in the Senate of Canada

APPENDIX 6

LIST OF REPORT RECOMMENDATIONS

Part 2 - Foundational Strengths

A. Love for UPEI, Loyalty and a Generosity of Spirit

Recommendation:

There is a very high degree of support and good will from the institution. However, the Board must foster and not take this support for granted. The Board is rightly focused on the future, but the institution has been through a lot, and much is being demanded of the institution and the employees as change continues at a sustained pace. Being mindful of fatigue, stress, and resourcing issues and having compassion for those who continue to be affected and troubled will be important.

B. Institutional Courage – The Action Plan and the UPEI Governance Review

Recommendation:

Board Members individually and the Board are all encouraged to continue to be brave in their bid to do the right thing for the institution and its communities.

C. A Changing Board - A Foundation for the Future

Recommendation:

Continuity of approach (values, commitment to transparency and communication) will be important, and the Board should be planning now for their next leadership transition. The selection of the next set of leaders should be made with great care as strong leadership will continue to be important through the implementation of the Action Plan and beyond.

Part 3 - Moving Toward Increased Governance Effectiveness

A. Board and Standing Committee Mandates and Meetings

A.1 Board Mandate and Meetings

A.1.3 Observations About the UPEI Board Mandate and Meetings

i) Oversight of Institutional Strategy Recommendations:

- a. The Board has rightly prioritized the hiring of a new president and now must turn its focus to supporting the president to develop a strategy as stewardship of the institution depends on having a strategy to guide its future progress.
- b. It will be important that the Board approve both the process by which a strategic direction is developed, as well as engage critically in the substance of the strategy. While it is for the president to develop an approach, carry out the strategic planning process, and develop a proposed strategic direction for board approval, the Board must participate in all three aspects of the planning. For UPEI, in particular, the Board must ensure a collegial process with a focus on the engagement of the university community.

A1.4 Board Relationship with the President

i) Clarity of Relationship – Board and the President

Recommendations:

The Board must ensure that it fulfills its role to oversee and manage the performance of the president. As such, presidential performance review and renewal processes should be documented and should clearly state the Board's role. Performance check-ins should also form part of the Board's work plan. Check-ins should be conducted in closed session and must be based on objective criteria and metrics. There is more on the presidential performance process below in this Part.

A recommendation related to term limits is found in Part 3 B.

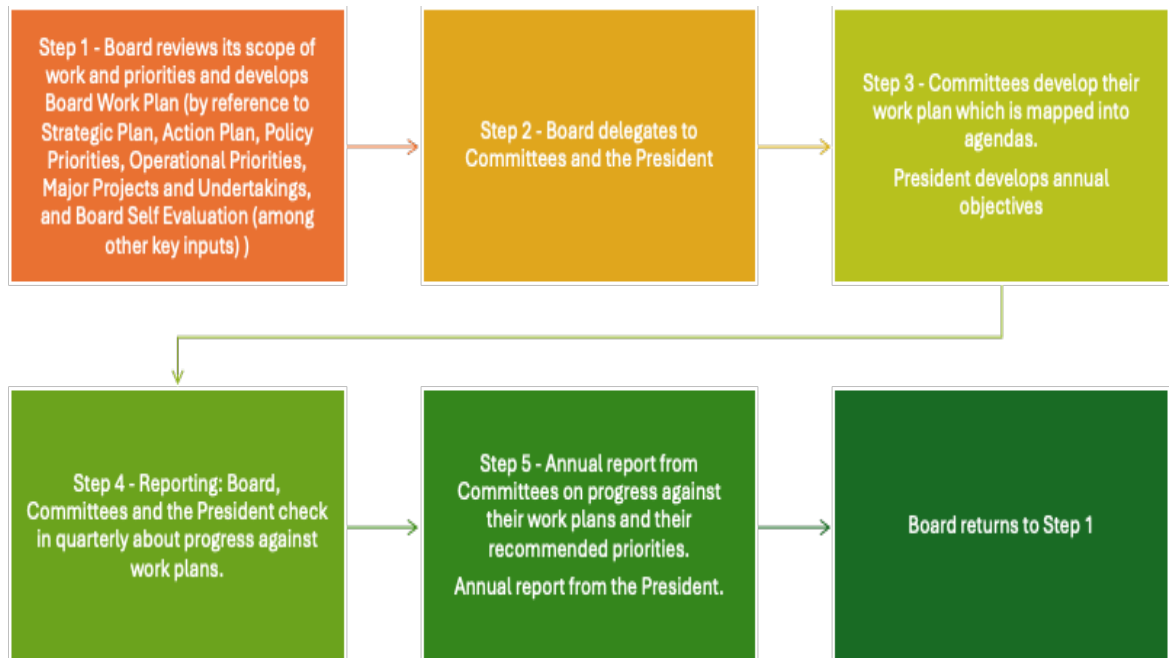
ii) Board Work Planning and Agenda-Setting

Recommendations:

Work Planning:

The Board should enhance its focus on its newly adopted work planning process. The process should take place annually. The work plans for the following year should be complete by June of the previous year. The key steps in the process are described in Table 1.

Table 1- Board Annual Work Planning - Key Steps



In developing its work plan and priorities the Board must consider multiple necessary inputs and identify its obligations arising from them. Some key inputs must be:

1. UPEI Act.
2. Major university plans including the strategic plan, action plan, capital plan, fundraising plans, budget and financial plans.
3. Significant operational priorities.
4. Compliance and risk.
5. Policy projects.
6. Environmental scan results.

Once the board work and priorities are identified, the Board delegates work to its committees and to the president. This delegation informs the committee annual work plans and the president’s objectives. The work plans inform committee and board agendas which allow for advance planning and preparation on the part of the administration. There are regular check-ins in which the committees and the president report on the status of the work. At the end of the year, progress against the work is assessed. The committees and the president provide advice to inform next year’s priorities and the cycle begins again. It is important to note that work plans are always in draft as the Board must be ready to deal with emerging priorities.

Board Calendar and Agenda Setting:

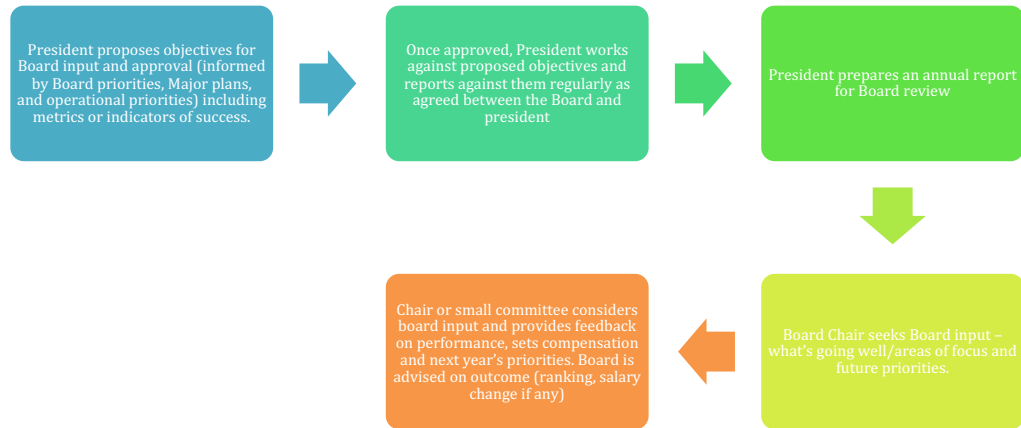
1. Board and committee meeting schedules for the following academic year should be approved by no later than June for the next board year and published on the board website not later than August.
2. The board calendar should be regularized to include and hold 4 to 5 meetings per year for the board and its committees. Special meetings should be infrequent and called only in genuinely urgent circumstances.
3. Agendas should be established based on the work plan priorities and operational requirements²³ meaning that by June each year, all involved have a good sense of the full year of agendas for the coming year (subject to emerging priorities). The work plans and draft agendas are work planning documents that are not for publication.

iii) Managing Presidential Performance and Renewal Recommendations:

1. The Board should develop, document, publish and implement an annual presidential performance management process. The frequency of reporting by the president is up to the Board in discussion with the president. However, the president should report to the full Board at least once annually, with some interim reporting to a designated committee. Table 2 below outlines the key steps in such a process.
2. The Board Chair role should include the responsibility to meet regularly with the president, provide advice and monitor the president's wellbeing and performance providing updates to the Board on how things are going.

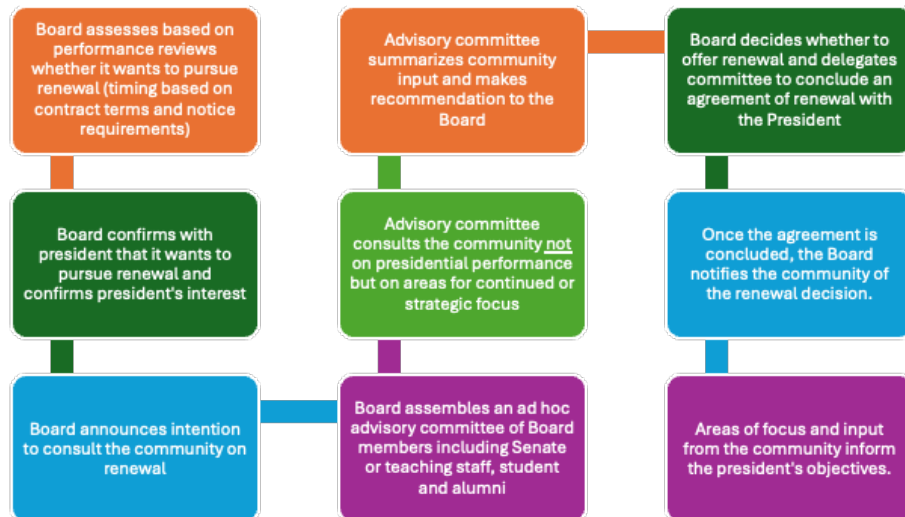
²³ For example, the annual process for approval of the budget and the financial statements is consistent from year to year. The schedule for the Finance and Audit Committee meetings should be such that it permits the finance team to close and report on their quarters.

Table 2 – Key Steps in an Annual presidential Performance Review Process



3. The Board should develop, document and publish a presidential renewal process that includes community input and engagement. This is an opportunity to engage the internal and external community in a discussion of the key achievements of the university under the president’s leadership and future areas of focus. A sample renewal process is outlined at Table 3 below:

Table 3 - Sample Presidential Renewal Process



iv) Sources of Information

Recommendations:

1. The Board should be actively engaged in defining what information it requires and in what format. This is an iterative process. In camera

sessions should be normalized and be held routinely at the end of every board and committee meeting without the president and senior administration. The in camera session should be used as a governance tool and should be focused on matters of governance. For example, chairs should ask the members about the quality and sufficiency of the materials presented and provide that feedback to the Board Chair for feedback to the president.

2. Where the Board or a committee concludes that more information is required to make a decision, the decision should be deferred until such information is provided to the Board or committee's satisfaction.
3. The Board should continue to encourage attendance at the board meeting by the community, including those administrators responsible for the work that results in recommendations coming forward.
4. To encourage community engagement with the Board, the University Secretary should adopt a practice of inviting administrators to meetings. For example, when a decision comes forward to approve a policy, those who worked on the policy and those who are responsible for implementing the policy should be invited to observe the meeting.
5. To avoid blurring lines between the Board and administration, only Board members and the minute-taker should sit at the board or committee tables.

A1.5 Decision-Making Processes

i) Clarity of Board Responsibility

Recommendations:

The Board and senior administration must engage in a comprehensive exercise to clarify the decisions that must come to the Board, and then ensure that this work is captured in applicable policy and procedures. UPEI must specifically clarify:

- a. Which major plans require board approval?
- b. Which contracts or agreements require board approval?
- c. Which projects require board approval?
- d. Which policies require board approval?
- e. How is the Board involved in compliance and risk oversight?
- f. How does the Board oversee accountability?

ii) Board Processes

Recommendations:

1. The Board should:
 - a. Require that as part of a comprehensive budgeting process a capital budget be developed for annual review and approval by the Board (through the Finance and Audit Committee).
 - b. Ensure effective prioritization and oversight of major capital projects through the Property and Asset Management Committee.
 - c. Revisit the threshold for approval of expenditures as \$1M may be too low given the materiality threshold for the University.
 - d. Clarify its role of **oversight** of collective bargaining ensuring that the president and senior team formulate and recommend the approach to bargaining, lead the activity, and report to the pertinent board committee only as required to seek approval for changes in mandate or where risk of labour disruption increases. Collective agreements are material contracts and the Board's role is one of oversight and approval.
 - e. Carefully review its agenda format to ensure that what is included represents board work. While celebrations and recognition are important, board meetings should be more than just a "happy update" (in the words of one Board member). It should improve the content of reports from the president and committees. It should also revisit the practice of including a Student Union update at board meetings. These updates are largely operational in nature and thus not the purview of the Board. The relationship between the University and the Student Union is the purview of the president and team as is the relationship between employee groups and associations. The Senate report should continue in the context of the Board's obligation to work closely with the Senate as a governing body.
2. Senior administration should adopt a practice of "bringing things at least twice" to the Board. Rather than bringing major items once for approval, a better practice is to bring them at least twice. The first time an item is placed on a board agenda, the objectives should be to: provide a foundation for the approval discussion, obtain board direction on information requirements, and to allow the Board to raise concerns and risks that will need to be addressed to secure support for the decision when it is later brought to the Board.

3. The Board must establish and enforce deadlines for timely submission of documents to the Board and its committees. One week in advance is a recommended minimum.
4. The Board and senior administration should generally engage in an exercise to clarify the materials needed to support requests for board decisions.
5. The Board and its committees must insist on receiving clear and comprehensive motions clearly setting out the basis for their decisions in advance. When approving motions, the Board and its committees should include requirements for updates and reports back and the specific timing of the same. Sample motion language has been provided to the Board during this Review. Continuing to improve the clarity of motion language will significantly improve material preparation practices and assist the Board in accountability practices.
6. The administration, under the direction of the president, should develop and implement a project analysis template for new initiatives and projects for board consideration and approval.

iii) Effective Challenge

Recommendations:

Board culture and the relationship between the Board and senior administration should encourage active engagement and questioning on the part of Board members. This culture should be promoted through the following:

- a. Reminders by the Board Chair and Committee Chair of the role of the Board to demonstrate diligence.
- b. Training for Board members in asking good questions including the provision of tools and opportunities to practice.
- c. Committees assigned to consider and recommend decisions to the board for approval must demonstrate due diligence. When recommending a decision to the board for approval, the Committee Chair should prepare comprehensive remarks describing to the Board the nature of the presentation received, the concerns and risks explored by the committee, and the basis for the committee's recommendation and should invite questions. The Board should assure itself that the committee's process was thorough before adopting a committee recommendation and it is appropriate that Board members ask the Committee Chairs questions.

- d. Any material on which administration relies in support of a proposed decision, including presentations, should form part of board and committee packages. It is acceptable that a board presentation is shorter than a committee presentation on the basis that the committee has already done a deeper level of due diligence on behalf of the Board.
- e. Where committee reports do not contain motions, they should still contain a full discussion of the work of the committee, explicitly tying it to their delegated role and Terms of Reference. It should be clear to the Board what the committee did and how it furthers or addresses the delegation of authority to the committee.
- f. Committee Chairs and administrators presenting to the board should be encouraged to identify questions for the board to address - these may be areas of risk or uncertainty, of opportunity, or alignment with strategic priorities.

iv) Additional Accountability Mechanisms

Recommendations:

The Board should ensure follow up and accountability through:

- a. the continued use and regular review of its motion register and the register should feed into the work plan such that follow up is assured.
- b. ensuring that when approving initiatives or projects, milestones or indicators of performance are identified and there is an agreement as to how and how often the Board will receive reports back on the initiative or project and against specific criteria tied to project risk - the obligation to report back must get folded into the board work plan.
- c. ensuring that the presentations of the president and senior administration are structured to address specific areas of accountability.
- d. overseeing the creation of a safe disclosure policy²⁴.

A.1.6 Conflict of Interest

Recommendations:

1. Members should receive annual training in conflict of interest and must ensure that they do not operate in conflict of interest.

²⁴ For a sample policy see: <https://usgc.ontariotechu.ca/policy/policy-library/policies/legal,-compliance-and-governance/safe-disclosure-policy.php>

2. The Board should provide support and documentation to ensure that elected Board members understand their roles:
 - a. Board candidates from any constituency should understand that all Board members are fiduciaries with a legal obligation to make decisions in the best interests of the University. Anyone with conflicting interests should not seek a board role.
 - b. The Board should clarify through written role descriptions and expectations for all members, that their role is to bring the perspective of the constituency from which they hail, but not to represent the group. LGIC appointees bring the perspective of the public but do not represent the government. Alumni members bring the perspective of alumni but do not represent alumni. Teaching Staff members bring the perspective of teaching staff but do not represent them. Senate members bring the perspective of the Senate and teaching staff but do not represent either. Student members bring the perspective of the students but do not represent them. While the process of having the Student Union recommend and elect candidates may continue, the elected students should not occupy leadership roles within the Student Union, and should be sought from the broader student population. We have written elsewhere that the leadership of student associations and unions should not serve on boards because they face competing fiduciary duties to simultaneously act in the best interests of their association/union and in the best interests of the University. At UPEI, student Board members owe legal duties to the UPEISU Council as well as to UPEI. The situation is different for faculty as those who serve on the Board are excluded from the Faculty Association Bargaining Unit. We support this approach as it makes it easier for faculty/teaching staff to avoid actual and perceived conflicts of interest and enhances their perceived legitimacy as Board members. We think a similar approach should be adopted for student Board candidates.

A.1.7 Getting the Basics Right

Recommendations:

There are strong recommendations in Part D below with respect to creating a University Secretariat and staffing it. The existence of an experienced and qualified university secretary would have mitigated the challenges in governance that UPEI has experienced. We state with confidence that having a university secretary in place would, among other benefits, have avoided the necessity for this set of recommendations relating to “getting the basics right”.

Recommendations above address board and committee work planning and agendas, board follow up, board materials, use of e-votes and special meetings, motion language, and timeliness of materials. At the time of writing this report, the governance document portal is under construction and the Board is moving toward the consistent use of templates. The following areas continue to require attention:

Minutes

Minutes are important and must be prepared with an understanding of how they may be used in the future. Minutes record the board's decisions with clarity so that they can be implemented and tracked. In the event of a legal challenge, minutes become the board's primary evidence of how it made decisions and as such they must be sufficiently robust to demonstrate due diligence. It is common to see minute taking as simply note taking and to assign the task without providing training or support. However, good minutes rest on an advanced understanding of the role of the board and its obligations. Minutes are not intended to be verbatim records of the discussion and, in the absence of a specific reason to record a person's name (such as in the case of conflict of interest or an objection that a board member wants recorded) the discussion should be captured generally without attributing comments to individuals. Minutes should accurately capture attendance and meeting timing

Recommendations:

UPEI's Board minute taker should be experienced in or trained in good minuting practices.

The Board should view minutes as a key tool for communications and continue to develop and adhere to a disciplined practice regarding minutes ensuring:

- i. Consistent format
- ii. Timely completion and presentation to the Board or committee for approval at the next meeting
- iii. Timely finalization / execution of the minutes
- iv. Timely posting of the Board minutes of open meetings on the Board website.

Governance Website

The Board should also see its website as an important tool for communication with the UPEI community about the role and work of the Board. The Board should undertake a website refresh and update and ensure that there are resources in place to maintain the website. The

refreshed website should be written in plain language and contain the following:

- a. A more comprehensive overview of governance at UPEI with a statement about the University's commitment to effective integrated governance.
- b. A more comprehensive description of the role of the Board.
- c. An overview of board composition.
- d. The biographies of the Board members should state their board terms and sources of appointment (Alumni, Teaching Staff, Senate, LGIC or Student).
- e. Full committee Terms of Reference.
- f. Committee composition.
- g. Board and committee schedules.
- h. Effective September 2024, board meeting notices and agendas, and materials for open public meetings (regular meetings and special meetings).
- i. Board By-laws, Procedures and Regulations.
- j. All policy instruments governing or guiding decision-making.
- k. Directions and/or link for accessing archived minutes to open sessions of the Board.
- l. Guidance on accessing the Board, i.e. where to write, how agendas are established, who can attend board meetings and how to attend them and the rules for attendees.
- m. Board Recruitment - the Board Recruitment page should be populated with information for potential board members describing the role, expectations, and a contact name. The link should always be active so that the Board can create a pool of interested candidates. Communication with candidates should be regular.

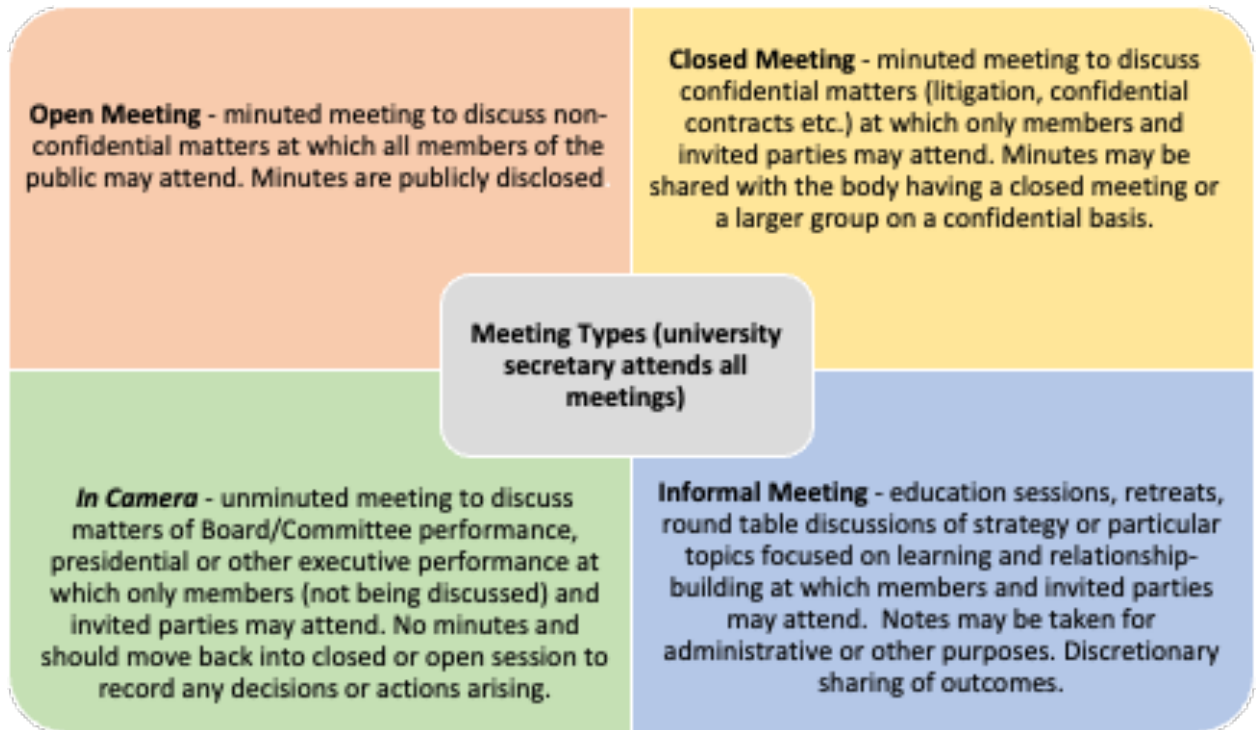
Note: Senate governance is outside the scope of this review, but the website is also deficient with respect to the Senate and should be approached in much the same manner as the Board.

Types of Meetings

The UPEI Board should ensure that transparency to stakeholders is a primary consideration in the use of meeting types. The UPEI Act permits closed meetings and there is good justification for them, particularly in the case of committees, and for keeping minutes confidential. It is likewise appropriate to hold non-public informal sessions for board development, planning, learning and relationship-building purposes. It is important that the categories of meetings be clearly understood and decisions relating to meetings be principled and transparent. The Board is encouraged to err on the side of transparency and conduct as much business as possible in open session.

It is first important to get the meeting types described properly. Below is Table 4²⁵ describing meeting types. UPEI should adopt a set of definitions for its meeting types and use them consistently.

Table 4 - Meeting Types



Document Development Processes

The terms of our engagement include the development of a set of board by-laws after the Board has had an opportunity to consider the Review Report, and we confirm that this is an appropriate step. We recommend that:

The by-laws are drafted to reflect those recommendations in this Review Report appropriate for inclusion in the by-laws.

At the same time that the by-laws are passed, the Board should approve the rescission of the Procedures and Guidelines and the amendment of Terms of Reference and other policy instruments as appropriate to ensure consistency with the by-laws. The by-laws should be published.

A.2 Standing Committee Mandates and Meetings

A.2.3 General Observations – All Committees

²⁵ This table was first developed for Dalhousie University in the context of their governance review.

i) **Oversight Areas for Attention**

Recommendations: All Committees

The workflow and accountability of Standing Committees requires focus. In addition, if Standing Committee meetings are to remain closed, as is appropriate to encourage and promote full diligence and discussion, the Board must ensure that the university community is informed of the work of the Standing Committees. We recommend that:

1. The position description to be developed for Standing Committee Chairs will include direction to the Committee Chairs as follows:
 - a. The Standing Committee Terms of Reference represent the Board's delegation of authority and responsibility to the committee. It is the role of the Committee Chair to ensure that the committee fulfills its obligations under the Terms of Reference including:
 - i. Ensuring that committee members understand the role of the committee.
 - ii. Ensuring that committee work plans address all aspects of the committee Terms of Reference.
 - iii. Ensuring that committee agendas reflect the work plan and actively managing requested changes and new priorities.
 - iv. Ensuring that the committee is actively engaged and demonstrates diligence in its activities and presenting recommendations to the Board outlining the committee's decision, process, and reasons for decision.
 - v. Reporting to the Board on the committee's activities for inclusion in the board package - Committee Chairs to provide two written reports and present them to the Board at each board meeting: 1) Report of activities that are non-confidential, and 2) Report of confidential activities in closed session.
 - vi. Reporting to the Board annually the progress of the committee against delegated priorities, the work plan, and the Terms of Reference.
 - vii. Recommending to the Board annually areas of focus for the committee for the following year.

- viii. Monitoring the attendance and engagement of the committee members and advising the Governance Committee Chair of any concerns.
2. Members of the senior administration (other than the ex officio Board members) should be removed as members of the Standing Committees and identified as committee supporters with a standing invitation to attend the meetings to support the work of the committee.
3. Each Standing Committee Terms of Reference should, like Finance and Audit, state the preferred skills and experience of the committee members. For example, the Property and Asset Management Committee should require some members with expertise in project management, environmental sustainability, and construction. The Human Resources Committee should require some members with expertise in key human resources disciplines. This will assist in recruiting and assigning the appropriate members to the committees and will enhance the capacity of the committees to fulfill their mandates.
4. All committee meeting schedules should be based on the board calendar (September to August), and not the fiscal calendar.

ii) Comments About Specific Committees:

a) Executive Committee – Recommendations

1. We recommend that the Executive Committee Terms of Reference be amended as follows:
 - a. The Committee retains responsibility for the development and coordination of the board work plans, committee work plans, and board agenda setting by explicitly approving by motion the board agendas, and overseeing and improving the quality of board and committee materials.
 - b. The Committee retains responsibility for supporting the Board Chair to facilitate the performance management process for the president, and for deciding on the president's performance rating and compensation adjustments, if any.
 - c. The Committee retains responsibility for the performance management and compensation of the University Secretary.

- d. The Committee will assume responsibility for overseeing the relationship with the Senate and recommending ways in which to fulfill the Board’s statutory obligation to “maintain close liaison with the Senate” (s. 13(2)).
 - e. The Committee will work with the President to consider and make recommendations regarding board involvement in important strategic and reputational matters such as academic quality and research.
 - f. The Committee’s delegation to act on behalf of the Board be retained on the understanding that it is to be used only in emergency situations. The current language should convey that intention adequately, but the intention should be fully respected in practice.
 - g. Responsibility for all matters of strategy oversight, objective setting and development of the strategic plan should be removed and this responsibility assumed by the Board as a whole.
 - h. Responsibility for the Standing Committee Terms of Reference, and recruitment and nominations of new board members, attendance monitoring, role descriptions, and Code of Conduct compliance, as well as board member appointment and assignment processes be assigned to the Governance Committee.
 - i. Oversight of bargaining, approval of mandates, and recommendations for collective agreement approval be assigned to the Human Resources Committee.
2. The Committee will discontinue the practice of receiving Standing Committee reports as they properly go to the full Board.

b) Finance and Audit Committee – Recommendations

The Finance and Audit Committee Terms of Reference and practices are generally sound. The following amendments to the Terms of Reference are recommended:

- 1. The inclusion of “governance” in the Committee’s Purpose overlaps with the work of the Governance and Appeals Committee and should be removed.
- 2. Composition - the Committee should require a composition that includes more than one “financial expert” - a minimum of 3 is

suggested with the remaining members being financially literate. Financially literate should be defined within the Terms of Reference as "the skills, knowledge, and capacity to read, understand, and analyze financial statements of comparable complexity to those of the University".

3. Executive sessions with the internal and external auditors must be held at least annually as a matter of course. These sessions are more properly described as in camera sessions within the meeting nomenclature.
4. The Terms of Reference should be amended to add explicit responsibility for oversight of the Endowment Oversight Committee and for pension plan compliance and liability. The Board would do well to seek expert advice to confirm the sufficiency of its appointment and oversight practices on behalf of the Board, in these two important areas.

c) Property and Asset Management Committee - Recommendations

There is much responsibility in the Property and Asset Management Committee Terms of Reference and the Committee must be sure to fulfill them. Universities across the country and elsewhere recognize the importance of addressing environmental sustainability²⁶ as it affects not just the future and safety of the campus, but practices, research and academic programming and should inform campus infrastructure and capital planning. Deferred maintenance represents a significant liability for many universities and UPEI needs a plan for ensuring its buildings remain safe and in good repair. It is essential that this Committee focus on fulfilling its Terms of Reference.

In addition, the following amendments to the Terms of Reference are recommended:

1. While Finance and Audit may recommend the approval of the annual capital budget, and also a budget for capital projects, this Committee should have responsibility for oversight of capital projects implementation.
2. The Committee should ensure the development of a process for approval of capital projects and other significant projects, including the use of a project analysis tool built upon a structured approach to project analysis that involves exploring alignment with university strategy and priorities, options, costs, and risks.

²⁶ I recommend that Property and Asset Committee Members read Universities on Fire - Higher Education in the Climate Crisis by Bryan Alexander.

3. The Board may consider renaming this Committee as the “Property and Environmental Sustainability Committee” to better reflect its mandate.

d) Governance and Appeals Committee – Recommendations

The Governance and Appeals Committee mandate is significant, and it is anticipated that this committee will play a significant role in overseeing the implementation of accepted recommendations arising out of this Governance Review. Recommended amendments to the Terms of Reference are as follows:

1. To ensure clarity of accountability to the Board for supporting the governance effectiveness of the University, add those items removed from Executive Committee including: responsibility for the Standing Committee Terms of Reference, and recruitment and nominations of new board members, attendance monitoring, role descriptions, and Code of Conduct compliance, as well as board member appointment and assignment processes.
2. Remove oversight of risk management as that duplicates the work of the Finance and Audit Committee.
3. Given the change in scope of the mandate of this Committee, the Board may consider renaming it to “Governance, Nominating, and Appeals Committee”.

e) Human Resources Committee - Recommendations

Depending on how the Campus Culture Oversight Committee implements its Terms of Reference, there may be overlap and confusion in the two Committee’s mandates and care should be taken to avoid this²⁷.

Recommendations with respect to this Committee are as follows:

1. The HR Committee should focus on specific human resources issues such as recruitment, retention, compensation, succession planning processes and oversight of succession plans for the senior team, employee communications, human resources compliance matters (health and safety, human rights, etc.) and labour relations philosophy and approach. The output of their work, for example observations about turnover rates or trends in complaints/grievances, should be relayed to the Campus Culture Oversight Committee as its focus should remain at the high level

²⁷ The HR Committee Terms of Reference acknowledges this potential overlap and calls for the two Committees to liaise with each other.

monitoring the trends and indicators of culture that form its framework for cultural oversight.

2. At the end of each board year, the Chairs of the Human Resources Committee and the Campus Culture Oversight Committee should meet to ensure that their work is not duplicated.

The primary issue identified by many respondents and of concern to us as reviewers is the Committee's role in reviewing and recommending for approval the hiring of academic and other staff, as well as the tenure, promotion and sabbaticals of academic and other staff. We observe that as currently implemented the Board's approach is unnecessarily operational in nature, takes up too much committee and board time, and causes delays with implications for hiring.

3. We recommend:

- a. the removal of the approval of sabbaticals as that is not required by the UPEI Act. This approval should normally be the purview of the Vice-President Academic.
- b. clarifying how the Committee will work with the president to ensure appropriate oversight of matters affecting the senior team organization structure, hiring, performance management, and succession.
- c. and the following changes:
 - i. The Terms of Reference will be amended to delegate to the Committee the responsibility and authority for approval of the hiring of academic and other staff, as well as the tenure and promotion of faculty members.
 - ii. The Committee will report in writing on its work to the Board (in the closed session report) but not seek board approval.
 - iii. The Committee's meeting schedule will be different from other committees as it will be required to meet monthly (suggest 8 monthly meetings of 30 minutes in which the focus is on hiring and promotion decisions and 4 quarterly meetings of 2 hours in which hiring and promotion decisions will be made along with the other business of the Committee).

- iv. The Committee will conduct a review of the policies and practices related to hiring, tenure and promotion such that they understand the level of diligence the University undertakes prior to making a recommendation for hiring, tenure or promotion. They should identify any concerns they have about gaps and ensure the gaps are addressed. The processes should be reviewed every 3 to 5 years.
- v. Once the Committee has confidence in the processes in place, and in recognition of the robust collegial processes that give rise to academic hiring, tenure and promotion decisions, and the fact that all recommendations come through the president, the Committee will take an approach to approvals that focuses on process rather than getting involved in decisions themselves. Rather than conducting detailed reviews of files to ensure compliance (which has been the practice), the Committee will require the president to confirm compliance with the University's processes as part of the president's recommendations, ensure that any concerns they see are raised, and then approve the recommendations as appropriate.

f) Development, Fundraising and External Relations Committee - Recommendations

Like those above, this Committee has an important mandate and in addition to fulfilling the general recommendations, we recommend that:

1. As frameworks to ensure effective oversight of fundraising plans, external communications plans, external relations and community engagement plans, and the plans to maintain and enhance institutional reputation and image don't appear to exist, this Committee must make it a priority to ensure that administration undertakes to create or renew them. These frameworks should align with the new strategic plan priorities.
2. The approval of the creation of awards, but not the awarding of awards, is appropriately a committee task and the Committee should be delegated with responsibility to approve the creation of awards and scholarships, with an obligation to report the same to the Board. The Committee should receive reports from the Senate annually respecting the granting of awards.

g) Campus Culture Committee - Recommendation

Other than the general recommendations and those recommendations relating to clarity of role and work in the Human Resources Committee section above, there are no further recommendations for the Campus Culture Oversight Committee. It is crucial that this committee is effective in ensuring the fulfillment of the Action Plan commitments.

B. BOARD MEMBERSHIP AND SUCCESSION PLANNING

B.2 Board Membership at UPEI

Recommendations:

The UPEI Act dictates the size and composition of the Board of Governors. Although large by corporate standards, UPEI's Board size is average when compared with other universities. As the University has no discretion regarding board size or composition, the Board's focus must be on the skills and competencies of the Board members. The Board is commended for initiating a skills matrix process and applying it in the recruitment of Board members. This activity should continue, and specifically:

1. The Board should continue to focus on increased board diversity targeting those demographic groups currently absent from the Board.
2. The Board should review the skills matrix regularly and after the committees have identified their skills needs, ensure that the Board skills matrix reflects those skills required by the committees.
3. While relying on self-identification and self-assessment for the skills matrix is a good way to initiate the skills-gap assessment process, the goal should be to move to more objective measures. We recommend that the application process involve self-identification of skills and that the Board member interview process involves assessing the extent of those skills. The assessment by the interviewers should serve as input to the skills spreadsheet.
4. While the skills matrix includes "Not for profit and shared governance system" it should be expanded to include all governance experience and skills. It is also unlikely that many applicants will know what shared governance is unless they are familiar with universities. ICD.D and similar designations impart knowledge about the important governance principles and particularly fiduciary duty – although not sector specific, these are helpful foundations.
5. UPEI should ensure that its application portal is always open and should focus on creating a pool of qualified candidates from which to draw for future appointments.

6. We recommend that the Board continue with 3-year term limits for all Board members other than student members which should remain as they are at 1 and 2 years (noting that a 1-year term for students is consistent with many, if not most, other universities) and impose a cap on renewal terms such that total service does not exceed 9 years.

B.3 Succession Planning – Leadership and Membership Recommendations:

Succession planning is important. We recommend that the UPEI Board focuses on leadership succession planning and that it should:

- a. establish a board policy confirming its commitment to succession planning, identifying the positions for which succession plans will be developed, and identifying its process for identifying, choosing and developing successors.
- b. develop role descriptions.
- c. identify potential Board members.
- d. assess potential members for skills and experience.
- e. take steps to train and develop candidates.
- f. adopt a practice of appointing Vice-Chairs to the Board and committees with the expectation that those in the Vice-Chair role will shadow and support the Chair and step into the Chair's role at the end of the current Chair's term. It can be a good practice to have two Board Vice-Chairs to ensure that there is a candidate available to step in when needed.

C. BOARD EVALUATION AND ONGOING TRAINING

C.1 Board Evaluation Recommendations:

The Board is to be commended for undertaking a self-evaluation process. We recommend that:

- a. The evaluation form be reviewed and updated to reflect the Board's assessment of all aspects of its practices to improve governance. The current form is a good start but the form itself should be a statement of the Board's aspirations and objectives and the Board should evaluate itself against those aspirations.
- b. The form should seek self-reflection on board practices, committee practices, and individual board member practices.

- c. The evaluation should be conducted annually.
- d. Board members should be required to complete the form and the goal should be 100% participation.
- e. The output from the survey should be summarized and presented by the Governance Committee to the Board along with recommendations for future focus. The recommendations should be folded into the Governance Committee's work plan for the following year.

C.2 Orientation and Training/Education

Recommendations:

The challenge with board training and education is that there is much for university board members to learn in order to be effective in their roles. The biggest mistake most universities make is inundating board members in early intensive multi-day sessions. We recommend that:

1. Orientation training focuses on foundational knowledge requirements relating to university governance, bicameral governance, UPEI's specific form of bicameral governance including the roles and responsibilities of the Board and Senate and Administration.
2. Training materials on the work and operations of the university are recorded for Board members to watch on their own time and that the focus be on the role of the board and the types of decisions the Board is responsible to make in key areas. For example, a Finance presentation might focus on two questions: 1) How are university finances structured? What is the role of the Board in university finances/ what decisions is the Board called upon to make? For the other committees, the questions might be: What issues is the university facing? What is the Board's role in respect of these issues?
3. All members, but at least those serving on Finance and Audit and Property and Asset Management should be provided with financial literacy training. Several of the large accounting firms offer it now.
4. Training should be ongoing and regular. The Governance Committee should develop a series of dinner talks to be delivered over dinner immediately prior to board meetings on specific topics: early priorities would focus on conflict of interest and asking good questions. Other priorities will flow from the observations of the governance professional and the results of the board self-evaluation process.
5. Members of senior administration should receive training on the role of the board and what information the board requires to fulfill its obligations of due diligence.

6. UPEI should reinstate board retreats and use them to educate the board as well as to have informal discussions about important strategic topics to assist the board in its formal work.

D. BOARD SUPPORT FUNCTIONS

D.2 Lack of Board Support and Governance Expertise

Recommendations:

We have already made it clear that we recommend the creation of a University Secretariat, and specifically recommend as follows:

1. UPEI seek a governance professional with university governance experience or comparable experience.
2. Support the new University Secretary with mentoring and training.
3. The University Secretariat responsibilities will include:
 - a. supporting effective integrated university governance at UPEI including implementing the governance plan arising from the Governance Review recommendations adopted by the Board.
 - b. supporting the Board and its committees in effective governance.
 - c. supporting the Senate and its committees in effective governance.
 - d. responsibility for the Policy framework at UPEI.
4. The University Secretary will have at least part-time administrative support.
5. Within the next year, or as soon as possible given resource constraints, the University Secretariat will include an additional person responsible for supporting the Board, Senate and the university with its policy framework, policy library and the development of policies.

APPENDIX 7

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APPENDIX 7

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