

**FOR INFORMATION:
A COMPARISON OF CURRENT EDUCATION COUNCIL BYLAWS AND THE
DRAFT REVISED EDUCATION COUNCIL BYLAWS**

About a year ago the education council established an ad hoc committee to review and revise council bylaws. The committee members are: Ivana Cikes, Rachael Newton, Trevor Smith, John Kinsley, Ariel Ataiza, Sarah Dench and Manuela Costantino, and me (Graeme Bowbrick). The revised bylaws you received with your September council meeting package are the culmination of that work during many meetings in the past year, and they are reflective of the consensus-based approach the committee used.

What follows is a comparison of the current education council bylaws (which you can find here: <https://www.douglascollege.ca/about-douglas/governance/education-council/education-council-laws> or just Google “Douglas College Education Council Bylaws”) and the draft revised education council bylaws that were included in your September 14 council meeting package.

I am presenting the comparison in two ways:

- A. **Comparison of Current and Revised Bylaws** in which I proceed through the current bylaws, in order, and try to identify how the revised bylaws may differ.
- B. **Specific Changes or Differences Between Current and Revised Bylaws** in which I try to identify the key differences or changes that the revised bylaws make to the current bylaws.

I recommend, if possible, opening both sets of bylaws (revised and current) and looking at them side by side on your screen if possible.

While this comparison emphasizes *differences* because this is what was requested at our last council meeting, it is worth noting that overall the revised bylaws do not represent significant change. There are changes to be sure, but for the most part council business should take place in a manner largely similar under the revised bylaws as the previous (current) bylaws.

Given that the education council is a body that receives its mandate from the *College and Institute Act* one of the goals of the committee in reviewing the bylaws was to try to ensure that council bylaws are always reflective of, and conform to, that legal mandate. The committee has tried to accomplish this throughout the revised bylaws, including, in many parts, direct references to specific sections of the *College and Institute Act*.

Finally, a major goal of the bylaw review committee was to simply make the new bylaws much more clear and user-friendly: easier to read, better organized and easier to access.

A. Comparison of Current and Revised Bylaws

For this comparison I have proceeded through the current bylaws, in order, and indicated how (or in some cases if) the revised bylaws address the same matters.

1. Preamble

Current Bylaws

- Addresses function of education council and the role of members of the council

Revised Bylaws

- Shorter than current bylaws
- Restricted to a statement about the function of education council (role of members is addressed later in 1.3 “Roles and Duties of All Members”)

2. Powers and Terms of the Education Council (Item 1 in Current Bylaws)

Current Bylaws (Item #1 in Current Bylaws)

- Largely copy the language of the *College and Institute Act* word for word, setting out the mandate and powers of the education council
- This comprises approximately 3 full pages of the current bylaws

Revised Bylaws (no reference in the Revised Bylaws)

- Omitted from the revised bylaws
- The committee was of the view that it was not necessary to copy large parts of the *College and Institute Act* into council bylaws. Having said this, the committee did incorporate specific references to the Act in parts where it might be helpful to have direct references (such as Bylaw 3.4 Agenda and Bylaw 4.2 Standing Committees). Also, in some parts of the revised bylaws there are footnoted references to specific sections of the Act. Finally, the Act is easily accessible online and a link can be provided on the education council webpage.

3. Composition of the Education Council (Item #2 in Current Bylaws)

Current Bylaws (Item #2 in Current Bylaws)

- The current bylaws refer in a brief and vague way to members reflecting the “geographic distribution of programs of the institution and provide for representation of program and educational support areas at the institution as determined by the Registrar.”
- There is an elaboration on composition of the council in a separate document (and appendix?) that appears later and is entitled “Rules and Procedures – Douglas College Education Council”. It is not clear why there would be an initial brief reference to composition of the council in the bylaws, and then an elaboration with more detail only in a later “Rules and Procedures” document/appendix

Revised Bylaws (Bylaw #1 in Revised Bylaws)

- The first item/bylaw after the preamble is “1. Membership”
- This item/bylaw includes a comprehensive description of the membership of the council, including:
 - Composition (detailed description): Bylaw 1.1
 - Faculty Members at Large cannot be from the same faculty: Bylaw 1.1.1.2
 - Terms of Office: Bylaw 1.2

- Roles and Duties of Members: Bylaw 1.3
- Rationale: For the most part the substance is the same as the current bylaws (an important exception being clearer and more detailed descriptions of the role of the chair of the council as set out in Bylaw 1.4, further discussed below) but the committee felt it made sense to start the bylaws with a clear articulation of the composition of the council and roles of members (since the bylaws are used most often by members) and to have all information pertaining to council composition and members in one place, rather than split throughout the document as exists with the current bylaws. The committee has also sought to clarify that all members have a duty to participate in council matters with a view to what is in the best interest of the college as a whole (Bylaw 1.3.2).
- Rationale regarding Faculty Members at Large: The requirement that the two faculty at large positions not be occupied by members of the same faculty is designed to ensure more diverse representation of faculty members from across the college.

4. Operational Procedures for Education Council (Item 3 in Current Bylaws)

Current Bylaws (Item #3 in Current Bylaws)

- This item in the current bylaws sets out various rules about the conduct of council meetings, including the frequency of meetings, quorum, mandatory attendance for members (and possible removal of members who fail to attend), filling vacant seats ...
- This item jumps around between a number of different matters including: conduct of meetings, member duties, elections to fill vacant seats ...
- It is notable that the current bylaws then return, again, to a further articulation of rules for the conduct of meetings under Item #5 “Meetings and Procedures” ... and again in an appendix (?) entitled “Rules and Procedures – Douglas College Education Council” under item number 4 “Meetings and Procedures”

Revised Bylaws (Bylaw #3 in Revised Bylaws)

- All procedures relating to council meetings are found in Bylaw #3 of the revised bylaws
- These include (with corresponding bylaw number):
 - 3.1 General Meetings (frequency, meeting schedule, process for cancelling)
 - 3.2 Special Meetings (scheduling, notice and agenda)
 - 3.3 Open Meetings (principle that all meetings are open to the public)
 - 3.4 Agenda (process for setting the agenda)
 - 3.5 Meeting Procedures (rules of order, forum, quorum, types of motions, voting procedure)
- The committee was of the view that it was best to try to have all details relating to the conduct of meetings in one section of the bylaws, rather than spread across multiple parts of the bylaws and appendices as is the case with the current bylaws

5. Roles and Functions of Members (Item 4 in Current Bylaws)

Current Bylaws (Item #4 in Current Bylaws)

- In the current bylaws, details relating to the different roles (chair, vice-chair, other members) and the roles performed by members are found in several different parts of the bylaws and appendices:
 - Item #4 in the current bylaws (“Roles and Functions of Members”)
 - Item #6 in the current bylaws (“Conflict of Interest”)
 - Appendix (?) to the current bylaws (“Rules and Procedures – Douglas College Education Council”) under the headings (“1. Composition of the Education Council” and “3. Roles and Functions of Members”)

Revised Bylaws (Bylaws 1.3 and 1.4 in the Revised Bylaws)

- Details relating to the roles and functions of council members are set out under the general heading of “1. Membership” at the very beginning of the bylaws (after the preamble), specifically:
 - Bylaw 1.3 Roles and Duties of All Members
 - Bylaw 1.4 Specific Roles and Duties of Officers
- The committee was of the view that all details pertaining to members (roles and duties) should be clearly articulated in one part of the bylaws, without needing to jump back and forth between different parts of the bylaws as is currently the case. The committee also felt it was important to clarify that all members have a duty to exercise their functions in a manner that serves the best interests of the college as a whole (Bylaw 1.3.2).

6. Meetings and Procedures (Item 5 in Current Bylaws)

Current Bylaws (Item #5 in Current Bylaws)

- The current bylaws set out some details relating to meetings and procedures, including: voting (5.2), special meetings (5.3), Status of Observers (5.4)
- However, the current bylaws also (5.1) state that council meetings will be conducted in compliance with item #3 of the “Douglas College Education Council Rules and Procedures” that appears to be an appendix
- There are then further details about meetings and procedures set out in the appendix (?) entitled “Rules and Procedures – Douglas College Education Council”, however rather than being item #3 (as stated in the bylaws) they appear as item #4 “Meetings and Procedures”
 - while this part of the appendix does set out some meeting procedures, such as an articulation of regular versus short-cycling, and incorporates Robert’s Rules of Order, it also includes matters unrelated to meetings such as a declaration that the chair of the education council shall receive a ½ time release every year (4.1.1)

Revised Bylaws (Bylaw #3 in the Revised Bylaws)

- all provisions relating to meetings and meeting procedures are set out in Bylaw #3 of the revised bylaws, including:
 - 3.1 General Meetings (frequency, meeting schedule, process for cancelling)
 - 3.2 Special Meetings (scheduling, notice and agenda)
 - 3.3 Open Meetings (principle that all meetings are open to the public)
 - 3.4 Agenda (process for setting the agenda)
 - 3.5 Meeting Procedures (rules of order, forum, quorum, types of motions, voting procedure)
- Again, the committee was of the view that all provisions relating to meetings should be easily found in one part of the bylaws, thus avoiding the need to jump back and forth between different parts of the bylaws.

7. Conflict of Interest (Item 6 in Current Bylaws)

Current Bylaws (Item #6 in Current Bylaws)

- The current bylaws in item #6 simply state “Education Council will specify the duties of Education Council members in conflict of interest situations, as described in Schedule A”
- Details about conflict of interest are then articulated in Schedule A

Revised Bylaws (Bylaw #1.3.5 in the Revised Bylaws)

- In the revised bylaws conflict of interest is addressed under the general heading of “1. Membership” because it is the duty of all members to avoid conflicts of interest. Further, Bylaw 1.3.5 clearly imposes a duty to avoid conflicts of interest. Finally, details regarding the definition of conflict of interest and the procedure for addressing conflicts of interest is articulated in Appendix I of the revised bylaws

- The committee was of the view that conflict of interest, as a member duty, needed to be included in the section of the revised bylaws articulating the roles and duties of all members, rather than in a completely separate part of the bylaws

8. Elections (Item 7 in Current Bylaws)

Current Bylaws (Item #7 in Current Bylaws)

- The current bylaws in item #7 simply state that elections will be conducted in accordance with the College and Institute Act and according to the “guidelines” prepared by the registrar

Revised Bylaws (No reference to elections in Revised Bylaws)

- The committee was of the view that since there is no authority under the *College and Institute Act* for the council to conduct its own elections there is no need for a bylaw addressing council elections.

9. Standing Committees (Item 8 in Current Bylaws)

Current Bylaws (Item #8 in Current Bylaws)

- The provisions regarding standing committees are found in two different parts of the bylaws: item #8 in the bylaws, and also item #5 in the appendix (?) entitled “Rules and Procedures – Douglas College Education Council”
- While this item is entitled “Standing Committees” it also addresses ad hoc committees
- All of these provisions are very general, e.g. there is no indication what the different standing committees are or what they do

Revised Bylaws (Bylaw #4 in the Revised Bylaws)

- In the revised bylaws committees of all types (standing and ad hoc) are addressed comprehensively in one place:
 - 4.1 General – council authority to establish and empower committees; committees are accountable to the council and do not have independent decision-making authority; council must always set clear terms of reference
 - 4.2 Standing Committees – outline of different standing committees and their functions/mandates, process for establishing standing committees and appointing members to these committees
 - 4.3 Ad Hoc Committees

10. Limitation of Liability (Item 9 in Current Bylaws)

Current Bylaws (Item #9 in Current Bylaws)

- There is a short provision at the end of the current bylaws that purports to protect council members from any liability as long as they are exercising their powers under the *College and Institute Act* “in good faith”

Revised Bylaws (Bylaw #4 in the Revised Bylaws)

- Omitted from the revised bylaws
- The “limitation of liability” provision in the current bylaws has no independent legal effect (in short, it is a meaningless statement). In the event of any legal action arising out of an exercise of council powers, the council cannot direct a court to – in effect – absolve it of all legal liability. That is a matter of statute and common law, and not education council bylaws.

B. Specific Changes or Differences Between Current and Revised Bylaws

Here I have identified specific changes or differences between the current and revised bylaws. This is not an exhaustive list; there are certainly other minor differences but I believe I have captured the most important changes/differences here.

1. The Role of the Council Chair

- Under Bylaw 1.4 of the Revised Bylaws the role and duties of the chair are more clearly defined, and in particular, with a view to ensuring the chair plays a neutral role. For example:
 - 1.4.1 the chair shall generally remain neutral (e.g. not voting or taking positions on matters coming before the council; not taking positions in the broader college community while representing themselves as the council chair or representing the position they are taking as a council position, without prior authorization of council)
 - 1.4.5 the chair does not have complete discretion in setting the agendas of council meetings and must follow the agenda-setting process prescribed in Bylaw 3.4
- The revised bylaws provide detailed information about the role and duties of the chair, as well as delineating the authority and responsibilities of the position. For example, in the current bylaws the process for setting the agenda of council meetings is vague and at the discretion of the chair, which led to some inconsistent practices from year to year. In the revised bylaws the committee felt it was important to clarify the process for agenda setting to ensure consistency and transparency.

2. Process for Setting Agendas for Council Meetings

- Under Bylaw 3.4 of the Revised Bylaws there is an extensively defined process for setting the agendas of council meetings. For example:
 - 3.4.1 the chair sets the agenda in consultation with the Executive Committee (a new standing committee addressed below)
 - 3.4.2 there are clearly defined categories for agenda items (anything coming forward must be designated as coming within one of the prescribed categories)
 - 3.4.3 as a general rule agenda items must first go through a relevant standing committee before being added to a council meeting agenda (this minimizes “side-table” agenda items)
- In the current bylaws the process for setting the agenda of council meetings is almost completely undefined and is left exclusively to the discretion of the chair. Having said this, an informal practice has developed in which the chair consults the vice-chair and a member of the senior management team (such as the president or vice-president academic) when setting the agenda. The revised bylaws add clarity by confirming this process and stating it directly in the bylaws.

3. Meeting Procedures

- Under Bylaw 3.5 of the Revised Bylaws there are details that update the manner in which meetings may be conducted and clarify certain important points. For example:
 - 3.5.1 meetings may be conducted in-person or electronically, although electronic meetings are to be held only in unusual or exceptional circumstances
 - 3.5.3 “presence at meetings” addresses how the council determines whether a member shall be considered to be present at a meeting (which is important in considering whether a member is meeting their duty to attend meetings)
 - 3.5.5 council will only consider items that have been placed on the agenda in accordance with the agenda setting procedure in Bylaw 3.4
- The current bylaws are silent on some of these points.

4. Member Absences from Meetings (Proxy Voting)

- Under Bylaw 1.3.1.1 if a member is absent from a council meeting they may arrange to have another member of the council cast a vote on their behalf as their proxy, and they may also arrange for another person to attend the meeting as a guest and speak to any item on the agenda
- The current bylaws are silent on what, if any, accommodations can be made for a council member who cannot be present at a council meeting.

5. Education Council Advice to the Board

- Under Bylaw 3.6 of the Revised Bylaws any formal advice that the council gives to the college board must satisfy specified requirements (e.g. consultations done by the council, evidence considered by the council, a clear statement of the position/advice of the council). This requirement was added to ensure that council advice to the board is always as clearly communicated and effective as possible.
- The current bylaws are silent on this matter.

6. Committees and Appointments

- The Revised Bylaws set out a clearly defined structure for standing committees, mandates for standing committees, and process for establishment of all committees (standing and ad hoc) as well as appointment of members to these committees:
 - 4.1.1 – 4.1.2 clarify that committees serve the council and receive their authority from the council, and do have the authority to make decisions in place of the council
 - 4.1.3 provides that the council must set terms of reference for all committees and provides for common elements to all terms of reference (including a Terms of Reference Template in the appendix to the Revised Bylaws)
 - 4.2 sets out the standing committees of the council, including the mandate of each committee with specific reference to the College and Institute Act. **PLEASE NOTE: this section of the bylaws also revises the current standing committee structure, creating one completely new committee and adjusting the roles and renaming some existing committees:**
 - 4.2.1.1 Educational Policies Committee (currently exists)
 - 4.2.1.2 Curriculum Committee (currently exists)
 - 4.2.1.3 Programs Committee (takes on some of the functions currently performed by SCALC)
 - 4.2.1.4 Admissions Advisory Committee (takes on some of the functions currently performed by SCALC)
 - 4.2.1.5 Educational Excellence Committee (currently exists)
 - 4.2.1.6 Education Council Executive Committee (new committee – the creation of this committee is an attempt to formalize in the revised bylaws the existing practice that has arisen, in which the chair consults the vice-chair and a member of the senior management team (president or vice president academic) when, for example, setting the agendas for council meetings.
 - 4.2.1.7 Academic Appeals Tribunal (currently exists)
- The current bylaws address the subject of committees but not as comprehensively as in the Revised Bylaws, and the committee structure (standing committees) is somewhat different than in the Revised Bylaws.

7. Review of Bylaws

- Under Bylaw 5 there is a defined process for amending education council bylaws and for a regular review of bylaws.
- The current bylaws are silent on this matter.

8. Terms of Reference for Committees

- Under Bylaw 4.1.3 of the Revised Bylaws there is a requirement that the council establish terms of reference for all committees and that these terms of reference follow a particular format/template. A sample template is provided in the Appendix. Further, all committee terms of reference must be attached to the Revised Bylaws as appendices.
- The current bylaws do provide that the council must set terms of reference for committees but do not specify anything regarding the substance or form of those terms of reference. Further, there is no requirement to “publish” these terms of reference in any particular way or location thus potentially making them not easily accessible.

9. Annual Elections of Chair and Vice-Chair

- Under Bylaw 1.2.4.1 the elections of the chair and vice-chair occur at the May council meeting each year.
- The current bylaws provide that the elections of the chair and vice-chair occur at the May council meeting and then are “ratified” at the September meeting. The committee felt that this was an awkward procedure whereby council members in May elected the chair and vice-chair and then council members in September (some of whom were not members in May) were ratifying the results of the May election. While there has never been a time when the May election results were not ratified at the September meeting (that committee members could recall) the process does create a potential logistical problem if that was ever to happen (for example, the chair elected at the May meeting, who has changed their teaching schedule to take on their chair duties, would suddenly have to change their schedule again if not ratified as chair – something that could not occur in mid-September). Consequently, the committee eliminated the ratification process in the revised bylaws – the May election results are then final.

10. Elimination of the “Rules and Procedures” Appendix

- The revised bylaws do not include a “Rules and Procedures” appendix like the current bylaws.
- In the current bylaws there is what appears to be an appendix (it is not labeled as such) entitled “Rules and Procedures – Douglas College”. This appendix has been omitted from the revised bylaws for two main reasons. First, as they exist in the current bylaws the “Rules and Procedures” are often duplicative of items found in the main bylaws (for example, a section entitled “Roles and Functions of Members” is found in both the bylaws and in the “Rules and Procedures”). Second, the committee was of the view that it is much more user-friendly to have all details regarding the operation of the education council in one place (bylaws) rather than requiring the reader of the bylaws to jump back and forth between what amount to two separate documents (bylaws and “Rules and Procedures”).