

## Board Member Liability Coverage

### Background

In June of 2014, the Board received a report and recommendation from the Finance Committee regarding Board member liability coverage. The report outlined that the VP Finance had conducted a review of board member indemnity at the request of the Nominating and Governance Committee in order to reassure the Board that members would be covered when acting in good faith on behalf of the Board.

### Current Status

The VP Finance had the indemnity language in the Board By-laws reviewed by legal counsel and the result was a recommendation to strengthen the language. The revised language was included in the updated By-Laws that were approved by the Board at the June 19, 2014 Annual General Meeting (see Appendix A for relevant section of the revised By-Laws).

In addition to the indemnity language in the By-Laws, the University has liability coverage for Board members in their insurance policy, which outlines the following with regards to errors and omissions (professional liability) coverage:

The policy will indemnify against allegations of wrongdoing:

- Governors and Officers, including employees while carrying out their normal duties on behalf of the University.
- Coverage – Professional liability “To pay on behalf of the Insured all sums which the Insured shall become legally obligated to pay as damages for any Claims made against the Insured because of error or omission in rendering or failure to render professional services...”
- Limit of liability \$30,000,000

While there are exclusions to this policy, it has further been researched that this policy is standard across the University sector, not only in Ontario, but across the country. It has further been determined that related extensions to this policy are not standard practice across Ontario.

### Indemnity Excerpt from the AU Board By-laws 7.1

#### IX INDEMNIFICATION OF BOARD MEMBERS AND OFFICERS

1. Except in respect of an action to procure a judgment in its favour, and except where otherwise prohibited by law, every officer or member of the Board or of any committee or subcommittee of the Board and the heirs, executors and administrators and the estate and effects of each of them, respectively, shall from time to time and at all times be indemnified and saved harmless out of the funds of the University, from and against all costs, charges and expenses whatsoever (including amounts paid to settle an action or satisfy a judgment), that such member or officer sustains or incurs in or about any civil or administrative action, suit, or proceeding that is brought, commenced or prosecuted against such member or officer, for or in respect of any act, deed, matter or thing whatsoever, made, done or permitted by such member or officer, in or about the execution of the duties of such office, except such costs, charges or expenses as are occasioned by such member's or officer's own wilful neglect or wilful default.

Provided however that, in exchange for the presentation of these provisions of indemnity, such indemnified member or officer shall co-operate fully with the University in the defence of such proceedings and shall be subject to such direction as the University or its Counsel shall deem appropriate, failing which such provision of indemnity provided hereby shall forthwith lapse and be of no further force and effect.