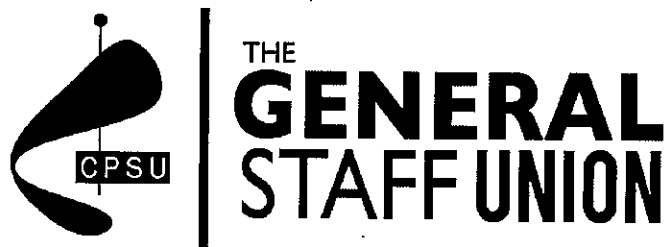


**INQUIRY INTO THE GOVERNANCE OF NSW
UNIVERSITIES**

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**CPSU – State Public Service Federation NSW Branch &
Public Service Association of NSW**

Submission

**NSW Legislative Council Inquiry into the Governance of NSW
Universities**

16 February 2009

Introduction

1. The CPSU-SPSF NSW Branch is the union that represents general staff in the higher education sector. Our union has had lengthy experience in interacting with the governing bodies and processes of universities in NSW not only as the union covering staff affected by the decisions from these bodies, but also in light of the experience of CPSU members who have been continuously elected as the general staff representative, or in some institutions the non-academic staff representative, position on university councils and senates.

2. The CPSU thanks the NSW Legislative Council Inquiry for the opportunity to make a submission. The CPSU is happy to make oral submissions to the Inquiry to supplement this submission.

3. The CPSU's peak delegate body for members in higher education met, and their feedback forms the core of the submission being made to this inquiry. Amongst the delegates that make up the CPSU's higher education delegate body are the elected general staff representatives of various University Councils and Senates.

This submission revolves around the following issues.

State vs Federal Governance

5. The CPSU believes Universities should continue to be governed under state government statute. This view is formed by a number of factors.
6. Any effort to Federalise governance would have to be preceded by a consultative process of harmonising governance across the country for universities. This would have to include a process by which current governance arrangements are audited, and their shortcomings highlighted. This would then have to be supplemented by a comparison between the various state jurisdictions to ensure the advantages of governance through NSW legislation is not lost.
7. The CPSU is also concerned by the loss of local community input into the governing bodies that the current NSW acts provide. Specifically, NSW legislation has resulted in a reasonable measure of community participation in the activities of universities. This is particularly the case in the outer metropolitan and regional universities.
8. State governance also means a more transparent and comprehensive governance and regulatory framework. This includes the NSW anti discrimination and equal opportunity laws, which are superior on a number of levels compared to the various Federal equivalents. Examples include the presence in NSW law only of specific EEO targets and discrimination on the grounds of sexual orientation. Another area of superior NSW regulation and oversight is in financial disclosure, as well as access to a statutory anti-corruption body, the Independent Commission Against Corruption, which does not have a federal equivalent.
9. For these reasons the CPSU supports the retention of University Governance in the NSW system of laws.

Recommendation # 1: That the Governance of higher education institutions in NSW remain a responsibility of the NSW Government.

University Governing Bodies

10. The CPSU believe there is room for improvement in the composition and operation of university governing bodies, called in various institutions the University Council, University Senate, or Board of Trustees. For convenience they will be called the broad term of University Councils.
11. The first issue is the scope of University Councils. They are the peak governing body of a university, yet consistently they are informed that their role is to focus on strategic and not operational matters. There should be a clearer delineation of the powers and functions of University Councils, and those in the delegated responsibility of the Vice Chancellor and other members of the University leadership.

Recommendation #2: That there be a clearer delineation of the powers of the University Council, Chancellor, Vice Chancellor, and other members of the Governing Structure of a higher education institution.

12. Another issue is model standing orders and procedures for the operation of University Councils. Whilst legislation and delegated legislation provides detailed outlines of the composition, appointment or election of Council members, it is less detailed in the provision of Standing Orders or procedures for the operation of a University Council in its day-to-day duties. The lack of consistent and transparent Standing Orders mean that the operation of Councils is heavily reliant upon the diligent and competent operation of the Chancellor, and the activities and composition of a secretariat. In the experience of CPSU members who have held elected University Council positions, this lack of clarity has led to University Councils that in some circumstances have been a cipher for managerial fiat. In other circumstance, legitimate debate has been stifled.

Recommendation #3: That there be Model Standing Orders for the Operation and Function of University Councils as a By-Law/Regulation under each University Act.

13. A concern that has been communicated to the CPSU from CPSU members is the lack of understanding or knowledge of how their University Council is operating, what they are deliberating, and how they can provide informed input into the decision making process. Examples of concerns that have been raised include the access of staff to papers presented and adopted by University Council, awareness in good time of when and where University Council meetings are being held, clear submission and consultative mechanisms to receive feedback, comment and input into Council decision making, and the ability to observe University Council meetings. As the University Council is a public institution created and funded by the community through their Governments, *in camera* proceedings and confidential papers should be kept to a bare, and clearly defined, minimum.

Recommendation #4: That the Model Standing Orders include a submission procedure for members of the university community to contribute, a minimum advertisement period to the university community of when and where University council meetings are held, a right for members of the University community to observe University Council meetings, and a requirement to circulate minutes and agendas of meetings in good time. The Model Standing Orders should include the specific circumstances as to when and how Council sessions and documents can be made confidential or secret.

Composition of Governing Bodies

14. The CPSU is also concerned about the composition of University Councils. Typically, the majority of a Council consists of "community representatives", which often includes business and corporate interests.

15. This problem was made worse by the considerable interference from the former Howard Government in the governance arrangements of universities. Under the guise of simplification and modernisation the former Howard Government tied Federal Government funding to Governance protocols that mandated smaller sized University councils, a ban on serving politicians, and a requirements for more Council members with accounting and business experience.

16. As an example, the Eighteen Boart of Trustees at the University Of Western Sydney is composed of:

Six ministerial appointments, of which four are business leaders;

Four appointments made by the Board of Trustees itself, which can be equated to the NSW Parliament appointing its own members;

Five elected members form the University Community (Two students, Two staff, and One graduate); and

Three members of senior University Management (Chancellor, Vice Chancellor, Chair of Academic Senate).

17. It is clear that the current framework for the composition of University Councils needs to be changed to ensure a greater and broader representation of the communities that University Councils are serving.

18. A framework for the Inquiry to consider may include:

Increased staff representation, with an equal allocation between academic and general staff;

Increased student representation; with an equal allocation between undergraduate and postgraduate students;

A requirement that no Council, or senior manager such as a Chancellor or Vice Chancellor, can appoint members to the Council;

A requirement in addition to the minimum number of business and accounting background members of the Council that there is a need to consider and appoint Council members who can reflect the diversity of the community in which the University is situated.

Affirmative action for the composition of the Council to ensure the Council reflects the demographics of the community that it serves.

Recommendation #5: That the Inquiry consider changes to the mandatory composition of University Councils to ensure enhanced accountability and a better reflection of the community it represents.