

POLICY PAPER

Student Association Autonomy

Fall 2019

Prepared by:

Steering Committee 2019-2020

ABOUT OUSA

OUSA represents the interests of 150,000 professional and undergraduate, full-time and part-time university students at eight student associations across Ontario. Our vision is for an accessible, affordable, accountable, and high quality post-secondary education in Ontario. To achieve this vision we've come together to develop solutions to challenges facing higher education, build broad consensus for our policy options, and lobby government to implement them.

The member institutions and home office of the Ontario Undergraduate Student Alliance operate on the ancestral and traditional territories of the Attawandaron (Neutral), Haudenosaunee, Huron-Wendat, Leni-Lunaape, Anishnawbek, and Mississauga peoples.

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STUDENT ASSOCIATION AUTONOMY

Principle: Student associations should have autonomy over their operations so that they can be accountable to their members.

Principle: Students have a right to participate in collective democratic processes through responsible student government democratic processes.

Concern: The autonomy of student associations, which are private not-for-profit corporations with independent governance structures, was threatened by the intrusion onto university autonomy by the Student Choice Initiative.

Concern: The autonomy of student associations is not recognized by the provincial government in its *Tuition Fee Guidelines and Ancillary Fee Framework* as it was before the introduction of the Student Choice Initiative.

Recommendation: The provincial government should not introduce legislation or regulation which re-authorizes intrusion onto university autonomy or the determination of mandatory and non-mandatory fees.

Recommendation: The Ministry of Colleges and Universities should establish, in standalone ancillary fee guidelines or in the *Tuition Fee Framework and Ancillary Fee Guidelines*, that the provincial government respects the rights of universities and student associations, as independent entities, to enter into contracts regarding: (1) mandatory student membership in associations as a condition of university admission; and (2) collection of membership and other fees, subject to mutual agreement by both parties.

The Student Choice Initiative, implemented by the issuance of a Minister's Binding Directive on January 21, 2019 (Ministry of Colleges and Universities 2019), was a document that imposed a system of classification of fees as "essential" (compulsory) and "non-essential" (non-compulsory) on the university system, where no government framework had existed previously.¹ This directive drastically changed the bilateral relationships between post-secondary institutions and their student associations.

The Divisional Court of Ontario, in response to a lawsuit brought by the Canadian Federation of Students and the York Federation of Students, issued a ruling quashing the Student Choice Initiative. The Court cited that there was no statutory basis for the provincial government to direct the spending of universities, which are independent private institutions with the authority to direct their own financial affairs.² The Court also cited that the Student Choice Initiative ran contrary to the *Ontario Colleges of Applied Arts and Technology Act*, which governs public colleges and grants statutory protections for student associations.³

The Ontario Undergraduate Student Alliance (OUSA) respects that the government has a desire to establish student affordability. However, the implementation of the Student Choice Initiative led to increased expenses for the majority of Ontario students who opted to continue paying fees, through tax implications via the imposition of HST on voluntary fees. Furthermore, the initiative affected the ability of student associations to hold universities to account, including with regard to affordability.

OUSA has established, through our Ancillary & Incidental Fees policy, that student associations should have autonomy over their operations for a variety of reasons, including the principle that students should

¹ "Tuition and Ancillary Fees Minister's Binding Policy Directive: Colleges of Applied Arts and Technology, Policy Framework." *Ministry of Training, Colleges and Universities*. January 21, 2019. <http://www.tcu.gov.on.ca/pepg/documents/mteu-tuition-and-ancillary-fees-ministers-binding-policy-directive-mar2019-en.pdf>.

² *Canadian Federation of Students v Ontario*, 2019 ONSC 6658 at para 8.

³ *Ibid* at para 98.

have agency over their fees through access to democratic decision-making within their student associations.⁴

This policy on Student Association Autonomy affirms that the provincial government should not reimpose any initiative, through regulation, legislation, or any other avenue, that infringes upon student association autonomy. The provincial government should, instead, affirm the right of student associations to remain autonomous from the government, to establish and manage their own affairs, and to negotiate with their post-secondary institutions. The government should also affirm the right of post-secondary institutions to determine if being a member of a student association is a condition for enrolment in undergraduate study at their institution. This removal of government frameworks will allow bilateral negotiations to be responsive to individual institutional contexts moving forward.

⁴ Evans, Emma, Matthew Gerrits, Fayza Ibrahim, and Niveditha Sethumadhavan. *Policy Paper: Ancillary & Incidental Fees*. Toronto: Ontario Undergraduate Student Alliance, 2019.