

UUSJ Governance Team Opinion on Awarding of Staff Bonuses

As part of UUSJ's strategic planning process of 2020-2021, the Governance Team drafted a major overhaul of the by-laws and created a policies document. After discussion and making some revisions to both, the Board of Trustees approved these two documents.

As anticipated, some questions are now arising about how to interpret these revised documents, and, further, if there are gaps and if and how the documents need to be modified. At the UUSJ board meeting on December 19, 2020, there arose a question about who has the authority in the UUSJ by-laws or policy document regarding the awarding of staff performance bonuses. Bob Denniston, UUSJ Board Chair, addressed the question in a document dated February 1, 2021.

In his February 1st document, Bob very clearly laid out the question under discussion as follows:

- Background -- volunteers who led the 20th-anniversary celebration event recommended to the Board Chair that Pablo and Paulette be awarded cash bonuses for their excellent support of the event. The Board Chair very agreeably moved this recommendation forward to the Executive Committee, *sans* Pablo as staff for obvious reasons. The Executive Committee approved unanimously and the Board Chair asked the treasurer to have the payments made.
- During the Dec. 19 Board meeting, upon hearing the announcement of the performance bonuses, several members of the governance task force asked whether the Executive Committee had the authority to award such bonuses without explicit Board approval. After discussion, "...to erase any doubt, a motion to authorize these bonuses was moved, seconded, and passed" to approve the Executive Committee's decision, with the understanding that financial management policies and rules may require further work (as documented in the draft Board meeting minutes of that date)..

After extensive discussion and review of our revised governing documents, the Governance Team determined that actually we were all partially wrong. Briefly, we concluded that

- The Board is the entity that has the sole authority to award a bonus to the Executive Director.
- The Executive Director is the entity that has the sole authority to award a bonus to a staff member who reports to them.

Anyone—Executive Committee member, Board member or volunteer—may recommend that the Executive Director or a staff member be given a bonus. They should make the recommendation to the Board or the Executive Director as appropriate.

Before we look at the specific provisions of the new UUSJ governing documents that we rely on to explain our conclusions, let us consider the thinking behind these recent changes to our By-laws and Policies. One of the several goals of these revisions was to make UUSJ more efficient by significantly reducing the size of the Board to nine to eleven members and by clarifying that the Board's final decision-making authority belongs to the Board as a whole. This clarification does not take power away from anyone who previously held it, because the Board still operates under the leadership of the Board Chair and other officers. It simply ensures that final responsibility for Board decisions is shared among everyone who was elected to serve on the Board. Because the Board will become much smaller beginning July 2021 than it is now, making Board level decisions will be a much more efficient process than it has been during this transition period. A separate goal of the new governance system was to give our Executive Director more autonomy.

Conclusion 1: The Board of Trustees has the sole authority to award a bonus to the Executive Director.

Here is how we reached this conclusion.

1. Section 5.1 of the UUSJ By-laws gives supervision of the Executive Director to the Board. There is no reference to the Executive Committee.

By-laws, 5.1 (b): The Board shall appoint, evaluate and terminate the Executive Director in accordance with a process, other requirements and conditions set by the Board.

In our opinion the compensation of the Executive Director, including any bonuses, is clearly the responsibility of the Board as part of the process of evaluating the Executive Director. If the Board believes it necessary, we can propose some additions to the UUSJ Policies to make this clearer.

2. UUSJ Governance Policy 3 (GP3) goes into some detail describing what matters come under the jurisdiction of the Executive Committee. These matters do not include the evaluation or compensation, including bonuses, of the Executive Director.

GP3, second bullet:

Understanding there are **administrative needs** to care for between Board meetings, **the Executive Committee is responsible for** dealing with these needs, **maintaining legal and regulatory compliance for the organization, and ensuring the Board has the materials and notices it requires to effectively fulfill its duties.**

3. The duties of the Executive Committee are further described in Policy GP 3.1 (shown below). The sentence highlighted in yellow makes it clear that, even if the EC makes a decision (i.e., “any action taken on behalf of the Board”), the Board has the authority to approve or disapprove it, hence giving the final say to the Board as a whole. For this reason, any decision that the EC might make “on behalf of the Board” cannot be executed until the Board has had a chance to review and approve it. In this case, UUSJ could not have issued a check for the ED’s bonus until the Board had had a chance to review and approve the matter.

Furthermore, as noted above, bonuses are part of the compensation of the Executive Director. The compensation of the Executive Director is the responsibility of the Board and is not a “routine administrative matter” that is the responsibility of the Executive Committee.

Therefore, in our opinion the proper way for the Executive Committee to involve itself in a matter that is the Board’s responsibility is to make a recommendation to the Board for its approval. If the matter is urgent and cannot wait for the next regular meeting of the Board, the Board can be asked to vote, and if necessary, a Special meeting of the Board may be convened, in either case telephonically or by other virtual means (i.e., email, Zoom), as provided in Section 5.5 of the By-laws.

GP 3.1: Executive Committee Responsibilities: Except as otherwise provided by applicable law, the Executive Committee shall serve the Board by planning and executing efficient and effective Board meetings and they shall have the power to act for the Board on routine administrative matters and not matters of policy between meetings of the Board. Any actions taken on behalf of the Board shall be subject to the approval or disapproval of the Board at its next regularly scheduled meeting. The proceedings of meetings of the Executive Committee shall be presented to the Board within seven days of such meetings and prior to the next regularly scheduled meeting of the Board.

Conclusion 2: The Executive Director has the sole authority to award a bonus to any other member of the UUSJ staff.

We reached this conclusion by referring to Section 6.7 of the by-laws:

Section 6.7—Executive Director

The Executive Director shall report to the Board of Directors and shall implement the programs of UUSJ in accordance with organizational Policies. **The Executive Director shall be solely responsible for hiring, evaluating, supervising and terminating the staff of the UUSJ.**

In addition, Executive Limitation 2 (EL2) limits any expenditure the Executive Director may authorize, including any bonuses. Therefore, the Executive Director must obtain the approval of the Board Chair and Treasurer, if any bonus for a staff member exceeds the applicable budget line item by more than 5% but no more than 20% and to obtain the approval of the Board, if the bonus exceeds the applicable budget line item by more than 20%..

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for the Governance Team

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