TO: Charter and Mission Group
FROM: Wm. W. Wells, Associate Vice President for Operations
SUBJECT: Evidence of Various Absolutes
DATE: June 13, 2013

All, the lists and information below was compiled from the joint, and overlapping, work of Martha Freeman, Sally Meredith and I. In general this information came from reviews of the Revised Statutes of Maine that relate to the University of Maine System, University of Maine System Board of Trustee Policies, and University of Southern Maine’s Governance Constitution. The list, especially the list of Statutes, is not comprehensive. I made a unilateral decision to leave out of this compilation the many sections not related to the educational mission and governance authority of the System. They are still “absolutes” in the scheme of things but they did not appear to be germane to this information gathering exercise.

University Mission Absolutes:

- Laws of Maine and Maine Revised Statutes
  - Higher education is an organized program of instruction, research and service
  - To develop, maintain and support a cohesive system for planning, action and service
  - To provide the programs of study research or experimentation that the citizens require
  - To encourage the growth and development of higher education institutions
  - All citizens shall be considered eligible for the benefits of appropriate higher education
  - To expect appropriate public accountability
  - To expect and request cooperative undertakings among higher educational institutions and between them and business, industrial and labor interests to advance the state’s economy
  - To make effective use of resources by maximum emphasis on commuters

- Board of Trustee Policies
  - UMS is established to create a cohesive structure of public higher education in the State
  - The board establishes the direction for the System
  - The Board plans strategies for programs and allocation of resources that most effectively serve the educational needs of the citizens
  - Board policy directs the Chancellor to provide quality education and to coordinate academic offerings to avoid duplication within the state

- University of Southern Maine Governance Constitution
  - The Governance Constitution does not speak directly to the Mission of USM. It does lay out the responsibilities and authority in relation to the governance aspects of the University.
University Authority Absolutes:

- Laws of Maine and Maine Revised Statutes
  - USM is one of seven legislatively designated campuses of the UMS
  - The University is a legislatively designated instrumentality and agency of the state

- Board of Trustee Policies
  - The Board appoints Chancellor, Presidents and Deans
  - The Board requires the acknowledgement in all governance documents that it is the legal governing authority for the UMS and reserves the right to alter, amend, etc. any governance document
  - The Chancellor is the chief administrative and education officer of the University System
  - The campus President is the chief administrative and education office of their campus
  - The BOT recognizes shared governance and collaboration can be used to make effective and efficient decisions but, it does not mean everything has to be done by joint efforts or by delegating decision making. Three major areas where it plays a role
    - Academic Policies
    - Peer Review and Academic Administrative Selection processes
    - Budget and Strategic Planning
  - The responsibility for the determination of the requirements which students must meet to be eligible for an academic degree rests with the faculty
  - The Chancellor has the final decision for the creation, modification, suspension or elimination of an academic program
  - The addition, elimination or merger of operating units requires prior Board approval.

- USM Governance Constitution
  - The President has ultimate authority and responsibility for the establishment of goals and priorities and for the decisions that lead to their attainment; management of resources; performance of personnel; and representation of the University.
  - The Faculty Senate has the responsibility to make a recommendation on the creation or elimination of degree bearing programs.
  - The Faculty Senate is the academic community’s primary advisory body to the President
  - The Senate has recommendation responsibilities for:
    - Academic policy for the University as a whole
    - Resources and Planning
    - Faculty Affairs (not covered in the bargaining contract)
    - Research
    - Participation in administrative searches
  - In general, Deans, Chief Academic Officer and/or President have final decision making authority over academic actions
SUMMARY OF RESOURCES
(text is paraphrased and related absolutes are highlighted)

BOARD OF TRUSTEE POLICIES

Section 101  3 Board approved policies establish direction for the System.

Section 102 Charter of UMS

Section 102  1-A Establishment of UMS To develop, maintain and support a cohesive structure of public higher education in the State of Maine

Section 102  4 Board Membership

Section 102  4-A Board Appoints Chancellor; Chancellor nominates and BOT appoints Presidents

Section 102  4-B  1 BOT is the governing and planning body of the University; the duties of the BOT are:

A. Support and enhance the system and the mission of the system;
B. Provide sound financial management of the system;
C. Exercise prudent stewardship of the assets of the system;
D. Evaluate the Chancellor and presidents
E. Plan strategies for programs and allocation of resources that most effectively serve the educational needs of the citizens of this State;
F. Develop and maintain a strong system of accountability to the public for performance results of the system;
G. Visibly advocate higher education as a means to strengthen the economy and communities of the State; and
H. Establish mechanisms for review and approval of system programs.

Section 102  4-B  2 The duties of the Chancellor are:

A. Provide leadership to the universities in the system in addressing the State's highest priority needs;
B. Establish a vision and planning for the system that:
   (1) Provides quality education that is affordable and accessible for the students of this State; and
   (2) Strengthens the State's economy for its citizens;
C. Promote system planning, in collaboration with university presidents, for academic affairs, student affairs, outreach and community services programs, financial operations, capital plans and resource allocations;
D. Prepare all operating and capital budgets, appropriation requests and bond issues;
E. Take an active role in the nomination, appointment and evaluation of persons to head the universities and to serve in other major staff positions in the system;
F. Develop and implement an effective statewide public relations and legislative program;
G. Provide a centralized management oversight of services;

H. Coordinate University of Maine System academic offerings to avoid duplication with private and public institutions in this State; and
I. Develop a method to transfer academic credits to all universities within the University of Maine System.

Section 102  4-B  3 The head of each campus is the chief administrative and educational officer thereof and is responsible for the day-to-day operation and development of its academic program within the limits defined by the Board of Trustees and the Chancellor; and in addition, shall exercise such rights and privileges as are generally recognized in the administering of admissions, curriculum development,
extracurricular programs, long-range planning within the framework of the overall university plan, and supervision of faculty.

Section 102 18 The Legislature has the right to grant any further powers, to alter, limit or restrain any of the powers vested in the Board of Trustees of the University of Maine System established by this Act, as may be judged necessary to promote the best interests thereof.

Section 103 BOT By Laws

Section 103 1.3 BOT Powers and duties. The jurisdiction of the Board relates to, and is exercised over, inter alia, all educational, public service and research policies, financial policy, and the relation of the University System to the state and federal governments

Section 201 Governance Documents. All must acknowledge the BOT is the legal governing authority for UMS; BOT may alter, amend, etc. any governance document.

Section 203 Chancellor The Chancellor is the chief administrative and education officer of the University System. The Chancellor is responsible for:

-- the governance and administration of the University System;
-- the implementation of Board policy and procedures and other such duties as the Board may delegate or assign;
-- providing the Board with professional judgments on all matters affecting the System and the universities;
-- System planning, in conjunction with campus Presidents, for academic affairs, student affairs, public service programs, financial operations, capital plans, and resource utilization;
-- the preparation of all operating and capital budgets, appropriation requests, bond issues, and statutory changes;
-- the presentation of appropriation requests, bond issues, and statutory changes to executive or legislative branches of Maine government in accordance with the provisions of the Maine statutes;
-- the nomination of persons to head the campuses and other System major staff for appointment by the Board of Trustees, and for implementation of professional development programs and performance review of the presidents and major staff;
-- seeking consultation and advice from the Presidents, both collectively and individually, on matters pertaining to the System and, as appropriate, to each campus;
-- the development of an effective statewide public relations and legislative program.

Section 204 The President is the chief administrative and educational officer of the respective institution and is responsible for all aspects of operations within the approved mission, and policies and procedures set forth by the Chancellor and the Board of Trustees. The President reports directly to the Chancellor. The President is responsible for:

-- the implementation of plans, policies, and directives from the Board of Trustees and the Chancellor;
-- the establishment of an effective communications link between the President and the Chancellor and between the President and all of the constituencies at the institutional level: faculty, students, staff, and alumni;
-- the academic leadership of the institution through established planning processes and prioritizing of goals and objectives, promotion of academic excellence, development and motivation of faculty and staff to accomplish the campus mission, and promotion of innovative and efficient use of resources;
-- the development and administration of the institution's operational and auxiliary enterprise budgets as approved by the Chancellor and Board of Trustees, including establishment of priorities for expenditures and achievement of revenue projections as set forth in the approved budgets;
-- the development, maintenance and operation of the physical plant and for the development of long-range capital construction priorities in accordance with the mission and guidelines set forth by the Board of Trustees;
-- the administration of all programs affecting student life and promotion of the learning environment for the welfare of the student body;
-- the development of an effective public service program for both the internal and external communities;
-- the development of an effective community relations program.

Section 205  Campus Student and Faculty, non-voting, representatives to the BOT

BOT Statement on Shared Governance. Shared governance relates to collaboration in specific areas where the mission of a University is strengthened by the joint participation of administrators and faculty members. Shared governance does not mean everything has to be done by joint efforts or by delegating decision making to faculty members; rather, it is an approach whereby the talents and collective intelligence of the university community are used to make effective and efficient decisions in specific areas.

At the university level, there are three major areas in which shared governance plays a role:
1. Academic policies.
2. Peer Review and Academic Administrative Selection processes
3. Budget and Strategic Planning

Section 303  The responsibility for the determination of the requirements which students must meet to be eligible for an academic degree rests with the faculty

Section 305.1 - .5  The Chancellor has the final decision for the creation, modification, suspension or elimination of academic programs

Section 309  The addition, elimination or merger of operating units require prior Board approval.

USM GOVERNANCE CONSTITUTION

PART I ARTICLE I Section 1  The President: The president is the chief administrative officer of the University responsible for the implementation of plans, policies, and directives from the Board of Trustees and the chancellor. While the president shares governance responsibility with the university community, the president has ultimate authority and responsibility for the establishment of goals and priorities and for the decisions that lead to their attainment; for the management of institutional resources; for the effective performance of all university personnel; and for the representation of the University to its various publics.

PART I ARTICLE II Section 1  Faculty Senate. The Faculty Senate shall be the academic community’s primary advisory body to the president or, as appropriate, the chief academic officer. The Senate shall be responsible for academic policy recommendations applying to the University as a whole, and may make recommendations on any matter of concern to the faculty not reserved to other bodies by this constitution. The Faculty Senate may not concern itself with the internal affairs of a college, school or independent degree program with the exception of recommendations regarding the creation or elimination of degree programs.

Faculty Senate areas of responsibility include: Resources and Planning; Academic Policy; Faculty Affairs (not covered in the bargaining agreement) and Research; Library and Media; Scholarly, Cultural, and Intercollegiate Programs; Administration; Faculty Representatives to other bodies; University Honors; and Offer Counsel.
PART I ARTICLE II Section 10 Even with the spirit of shared governance, the President may modify or overrule a Faculty Senate recommendation.

PART I ARTICLE III The President may call for a meeting of the whole faculty where actions may be taken. A quorum for this meeting is to be 50% of those eligible to participate.

PART I ARTICLE VIII In the instance where a decision requires the approval of the Chancellor or BOT the President forwards USM’s recommendation. If the Senates do not concur, their recommendation can be forwarded if approved by a 2/3 majority of those voting. *(It is not clear if this is on the individual senates or all together)*

PART I ARTICLE IX Section 4. Judiciary. The normal and preferred resolution of differences in the University is through conciliation, mediation, or appeal. The final decision making authority is the President. If the President is a party then an appeal may be appealed to the Chancellor.

PART II ACADEMIC ACTIONS In general, departments have review or recommending responsibilities that are forwarded to either a Dean, the Chief Academic Officer or President.

PART III ARTICLE IV Section 1
A. The dean is the chief administrative and academic officer of a College.
B. The dean is appointed by the BOT upon recommendation of the CAO or President.

PART VI ARTICLE(S) I, II, and III All amendments to the Governance Constitution require the approval of the President.

AFUM CONTRACT

The AFUM contract is focused solely on the employment rights and obligations of those individuals in the unit. It generally confirms the rights and responsibilities of the BOT, Chancellor, President’s and CAO’s.

MAINE REVISED STATUTES Title 20-A

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20-A §10901-A. UNIVERSITY OF MAINE SYSTEM

The University of Maine System is made up of 7 universities

1. Campuses. The universities of the University of Maine System are located and named as follows:
   A. Orono - University of Maine;
   B. Augusta - University of Maine at Augusta;
   C. Farmington - University of Maine at Farmington;
   D. Fort Kent - University of Maine at Fort Kent;
   E. Machias - University of Maine at Machias;
   F. Presque Isle - University of Maine at Presque Isle; and
   G. Portland and Gorham - University of Southern Maine.

20-A §10902. PUBLIC POLICY ON HIGHER EDUCATION

The following shall be the fundamental policies adhered to in the state's public higher educational planning:

1. Recognition. To recognize higher education as an organized program of instruction, research and service:
   A. Primarily concerned with the field of organized knowledge, related theory and associated practice;
   B. Offered by a collegiate institution, not necessarily of 4 years, authorized to award academic degrees; and
   C. Administered and systematically pursued on a full-time or part-time basis by persons who have completed secondary school or who demonstrate equivalent competence;

2. Principles. To support the principles that each higher educational institution in the State, public and private:
   A. Shall have control over its educational program and related activities, within its board of control;
   B. That its faculty shall enjoy the freedom traditionally accorded to the faculty of higher educational institutions in teaching, research and expression of opinions; and
   C. That the faculty shall be consulted in the formulation of academic policies pertaining to it;

3. Cohesive system. To develop, maintain and support a structure of public higher education in the State which will assure the most cohesive system possible for planning, action and service in providing higher educational opportunities, to which the highest priority for fiscal support shall be assigned;

4. Programs. To provide in its public higher educational institutions, or through cooperative arrangements with private institutions or institutions outside the State, the programs of study, research or experimentation that its citizens may require;

5. Encourage growth. To encourage the growth and development of existing or new private higher educational institutions within the State where studies justify their continuation or establishment;

6. All citizens eligible. To recognize that all citizens shall be considered eligible for the benefits of appropriate higher education, whether they are high school graduates or the equivalent, or those seeking retraining or training for new careers;

7. Public funds. To assign continually a high priority in the allocation of public funds to the development of services, programs and institutions designed to provide opportunities for those who do not now share equitably in the advantages of higher education, because of limiting economic, social, educational and cultural factors;

8. Financial support. To support financially the programs of public higher educational institutions through appropriations, grants and loans, based on comprehensive plans and budgets, both short-term and long-term;

9. Public accountability. To expect appropriate public accountability for this support;

10. Federal funds. To encourage all institutions, public and private, to make maximum use of federal funds available for the support of higher educational programs and activities, the State to provide matching funds, where necessary, initially and on a continuing basis;

11. Cooperative undertakings. To expect and request cooperative undertakings among the higher educational institutions, public and private, and between them and the business, industrial and labor
interests, to further the development of quality and quantity in educational programs and services and the advancement of the state's economy;

12. Evaluation and research. To encourage a continuing program of evaluation and research with respect to higher educational opportunities in the State through financial support and the expectation of annual reporting;

13. Master plan. To give a high priority to the provisions of the master plan for higher education through legislative action and appropriate publicity;

14. Commuter education. To make the most effective use possible of the financial resources allocated to public higher education by maximum emphasis on commuter facilities.

15. Transfer of credits. To provide for a uniform system of transferring credits for equivalent courses between the various units of the University of Maine System;

16. Uniform course numbering. To provide for a uniform system of the numbering of courses for equivalent courses between the various units of the University of Maine System;

17. Uniform course descriptions. To provide for a uniform system of course descriptions for equivalent courses between the various units of the University of Maine System;

18. Temporary Assistance for Needy Families recipients. To develop programs with the goal of enabling recipients of Temporary Assistance for Needy Families to achieve educational and skill levels that will assist them to compete for employment; and

19. Public school restructuring. To encourage the public and private postsecondary education institutions in the State to cooperate with the commissioner, the state board and school administrative units to provide appropriate and timely professional development programs and other support services to educators in public schools engaged in school restructuring efforts.

20-A §10902-A. REPORT BY TRUSTEES

The trustees, or their board representative, shall appear annually, in January, before the Joint Standing Committee on Education to report on efforts by the University of Maine System to comply with the state public policy on higher education established by section 10902. That report shall include, but need not be limited to, the following:

1. Planning. Efforts of the trustees to assure a cohesive system of planning for a delivery of higher educational opportunities; and

2. Accounting. An accounting of the prior year's funding.

20-A §10902-B. REPORT BY CHANCELLOR

The Chancellor of the University of Maine System shall be invited by the Speaker of the House of Representatives and the President of the Senate annually, in January, to appear before a joint session of the Legislature to address the Legislature on the state of the university system and such other matters as the chancellor desires to bring to the Legislature's attention.

20-A §10903. STATE AGENCY

The university shall be an instrumentality and agency of the State for the purpose for which it was established and for which it has been managed and maintained under Private and Special Law 1865, chapter 532, and related supplementary legislation.

SECTION 10904 (Not Included)

20-A §10905. TREASURER; COMPENSATION

The trustees shall appoint a full-time treasurer of the university. The treasurer shall give bond for the faithful performance of the duties of the office in an amount and with such conditions and sureties as the trustees may determine. The compensation of the treasurer shall be set by the trustees.

20-A §10906. POWERS AND DUTIES OF TREASURER

1. Receipt and custody of moneys, expenditures, authority to contract. The treasurer shall:
A. Receive and have custody of all moneys received for the university;
B. Make all expenditures upon vouchers authenticated and approved in a manner designated by the trustees; and
C. Have no authority to contract debts and obligations or borrow money except:
   (1) Loans in anticipation of assured revenues when approved by vote of the trustees; and
   (2) Other loans when directed by vote of the trustees and duly and properly authorized by the Governor.
All such loans shall be effected in accordance with the provisions of chapter 412.

2. **Report of treasurer.** The treasurer shall prepare a complete report for the period ending on June 30th of each year and forward a copy of the report to the Governor, the board of trustees and the members of the Legislature.

**SECTIONS 20-A §10907 THRU 10909 (Not Included)**