



Students' Society of McGill University
Association étudiante de l'Université McGill

Office of the Speakers
Bureau de Présidents du Conseil

Motion Regarding Conflict of Interest Policy

Whereas, many members are concerned that the SSMU's current Conflict of Interest Policy does not provide sufficient clarity or due process for managing conflicts of interests regarding Society business;

Whereas, the Conflict of Interest Policy worked on during the Winter 2011 term was tabled until the 2011-2012 academic year, and subsequently referred for further review to the Bylaw Review Committee;

Whereas, the proposed policy below has drawn on the input of the Bylaw Review Committee, General Manager, and the Society's legal counsel to further strengthen the draft presented to Council in March 2011;

Resolved, the following Conflict of Interest Policy be adopted to replace the current Conflict of Interest Policy, effective March 29, 2012 to March 29, 2017.

Moved by:

Maggie Knight, President
Emily Yee Clare, VP University Affairs
Isabelle Bi, Arts Representative
Ian Clarke, Law Representative

Conflict of Interest Policy (the "policy")

Preamble and Scope

The Students' Society of McGill University (the "Society") is committed to making decisions with integrity, transparency, and objectivity.

This policy applies to Directors, Councillors, Executive Officers, Senators, committee members, staff (employees), and all others involved in Society decision-making processes (hereinafter "members") for the duration of their formal involvement with the Society. This policy is intended to guide members in independent decision-making, assist the Society and its members in managing conflicts of interest – whether real or perceived – and provide a framework within which decisions in respect of conflicts of interest are made and, where appropriate, disciplinary measures imposed.

It is the intent of the Society that members be briefed on the policy and its contents. Regardless of the briefing, all members are responsible for upholding this policy.

1. Definitions

- 1.1. **Conflict of Interest:** means any situation which is sufficient to affect, or provide incentive to affect, the individual's impartiality in their conduct of Society activities, including the events and circumstances detailed in Section 2 below. Provided the conflict of interest is



appropriately recognized, disclosed, assessed, and addressed, the existence of a conflict of interest does not connote misconduct.

- 1.2. **Perceived Conflict of Interest:** means a situation in which a member *appears* to have a Conflict of Interest or any situation which creates the *appearance* of a Conflict of Interest in respect of a member.
- 1.3. **Financial Interest:** means any financial interest of any kind which, in view of all of the circumstances, is substantial enough that it would, or reasonably could, affect a member's judgement with respect to such member's involvement with the Society.
- 1.4. **Professional Interest:** means any advantage or benefit that an individual may pursue regarding non-Society, professional affiliations or career opportunities which would, or reasonably could, affect a member's judgement with respect to such member's involvement with the Society.
- 1.5. **Interpersonal Interest:** means any relationship a member has with other individuals, including but not limited to a current or former romantic partner, friend, family member, colleague (from occupations including but not limited to remunerated work, student group activities, and campus publications), roommate, or (including student group leadership or projects), which would, or reasonably could, affect a member's judgement with respect to such member's involvement with the Society.
- 1.6. **Personal Interest:** means any personal advantage or benefit that may be pursued by an individual, whether a Financial Interest, Interpersonal Interest, Professional Interest or otherwise.
- 1.7. **Breach of the Conflict of Interest Policy:** A situation in which a member has not properly addressed a Conflict of Interest or Perceived Conflict of Interest by failing to address it and allowing it to affect the individual's conduct of their Society activities in an inappropriate manner, as determined in accordance with this policy.

2. Ethics Commissioner

- 2.1. Pursuant to this policy, the Society shall have an Ethics Commissioner who shall help members identify and manage Conflicts of Interest and Perceived Conflicts of Interest in accordance with this policy.
- 2.2. The Ethics Commissioner shall be a member of the Society who has completed at least four (4) full-time semesters in the Faculty of Law at McGill University, or equivalent, selected by the Nominating Committee.
- 2.3. The Ethics Commissioner shall be selected annually by April 1st and must reside in Montreal and be available to conduct his or her duties from May 1st to April 30th.
- 2.4. The Ethics Commissioner may: (i) where required, receive guidance in respect of this policy from a committee comprised of the Society's President, Vice-President (Finance and



Operations) and General Manager and (ii) upon the prior approval of the committee, delegate his or her responsibilities herein to the committee.

- 2.5. Where the Ethics Commissioner is itself placed in a Conflict of Interest or Perceived Conflict of Interest, the committee set forth in section 2.4 above shall substitute the Ethics Commissioner in all matters dealing with such conflict, the whole in accordance with the procedures set forth herein.

3. Conflicts of Interest

For the purposes of this policy, the following events or circumstances describe situations which may be deemed as Conflicts of Interest, as well as situations which may create a Conflict of Interest or Perceived Conflict of Interest and which are to be avoided by any member. In addition, in certain circumstances the following paragraphs detail courses of action for a member who is placed in the situations outlined below.

- 3.1. **Preferential Treatment:** A member using his or her position to influence a decision so as to further his or her own personal interests or those of a party with whom he or she has an Interpersonal Relationship.
- 3.2. **Use of Privileged Information:** A member disclosing to any person, including a Personal Interest or Professional Interest, information obtained in the course of his or her duties as a member, which information is not generally available to the public and which, once disclosed, may place or could reasonably be expected to place, the member in a situation where the interests of the Society are in conflict with those of the person having received the information.
- 3.3. **Contracts and Financial Transactions:** A member who knowingly has a Personal Interest or a Professional Interest in a Society contract or business transaction. Such member must not represent or advise the Society on these matters.
- 3.4. **Hiring:** A member involved in a hiring process involving an Interpersonal Interest, including a family member, current or former roommate and/or a current or former romantic partner, amongst other significant interpersonal relations. A member who is part of a hiring committee is responsible for disclosing to said committee and the Ethics Commissioner where any person with whom he or she has an interpersonal relationship is a candidate for hire.
- 3.5. **Outside Activities:** Members should always prioritize the interests of the Society while conducting or participating in Society business. If an external activity or affiliation creates a Conflict of Interest or Perceived Conflict of Interest, the member must disclose it immediately to the Ethics Commissioner.
- 3.6. **Gifts, Hospitality, and Other Benefits:** A member shall be prudent in choosing whether to accept a gift, hospitality, donation, or other benefit from a person, group, or organization which may influence a decision or result from securing a financial transaction between the



aforementioned and the Society. A member may accept minor gifts as token courtesies (i.e., notepads, pens, coffee mugs, etc.), but may not accept gifts that may put him or her in a position of obligation and under no circumstances any gifts from any person in excess of \$50 in value (be it individually or in the aggregate). If a member has a doubt about the appropriateness of accepting a gift, hospitality, donation, or other benefit, the member must refuse. The member is welcome to consult with the Ethics Commissioner after such an occurrence to be better prepared for any similar situations which may subsequently occur.

- 3.7. **Use of Society Resources:** A member shall not use Society resources, including but not limited to office supplies, building space, staff time, or funding, in pursuit of personal or professional interests. The Society permits its members to use Society communication devices, including but not limited to email addresses, telephones, computers, and internet connections, for personal purposes. However, a member's use of Society resources should not be used to the detriment of the Society. A member should exercise good judgment when using Society communication devices to offer personal opinions. To avoid confusion, a member shall add the following notice where confusion may arise in written media: "The views expressed in this medium are mine alone and do not necessarily reflect those of the Society."

4. Procedure for Members who Believe Themselves to Hold a Conflict of Interest or Perceived Conflict of Interest

4.1. Disclosure of Conflicts of Interest to the Ethics Commissioner

4.1.1. Where a member becomes aware that he or she is in a Conflict of Interest or that a Perceived Conflict of Interest exists, including in respect of any of the matters outlined in Section 3 above, he or she must disclose this Conflict of Interest to the Ethics Commissioner and proceed in accordance with section 4.2 below.

4.1.2. Disclosure must occur as soon as the member becomes aware of the Conflict of Interest or Perceived Conflict of Interest in writing to the Ethics Commissioner using the Potential Conflict of Interest Disclosure Form (*Appendix I*).

4.2. Conduct pursuant to Conflict of Interest or Perceived Conflict of Interest

4.2.1. Prior to any board, committee or staff meeting or decision to which the member is involved and pursuant to which a matter will be addressed to which the member has Conflict of Interest or a Perceived Conflict of Interest, the member shall disclose the existing of a Conflict of Interest or Perceived Conflict of Interest and the fact that the matter has been (or will be) reviewed by the Ethics Commissioner, following which the relevant decision making body or responsible party may proceed as follows, the whole subject to any additional procedures outlined in section 4.6 below:

- 4.2.1.1. Barring the member from any discussions on the matter being addressed;



- 4.2.1.2. Allowing the member to be present during discussions but without allowing the member to contribute to any such discussions or voting on the subject matter thereof;
- 4.2.1.3. Allowing the member to be present during discussions and allow the member to contribute to any such discussions or voting on the subject matter thereof;
- 4.2.1.4. Allowing the member to be present during discussions and vote on the subject matter thereof.

4.3. Determination of Conflicts of Interest

- 4.3.1. After reviewing the member's disclosure form, the Ethics Commissioner may determine:
 - 4.3.1.1. There is no Conflict of Interest or Perceived Conflict of Interest.
 - 4.3.1.2. There exists a Conflict of Interest or Perceived Conflict of Interest that is permissible if appropriately addressed by the relevant decision making body, including as outlined in this policy.
 - 4.3.1.3. There exists a Conflict of Interest or Perceived Conflict of Interest that is not permissible and/or that is likely to continue indefinitely, such that the matter must be addressed pursuant to section 5 below.
- 4.3.2. The Ethics Commissioner shall disclose in writing his or her determination to the member in question.
- 4.3.3. Where a Conflict of Interest exists, and the member expresses no desire to appeal that decision as per appeal procedure provided in section 4.4, the Ethics Commissioner shall forward the determination (placing appropriate consideration to the member's right to confidentiality) to the chairs of the relevant decision-making bodies to which the member's conflict of interest applies and to the executive responsible for the portfolio within which the member in question falls. For clarity, Legislative Councillors fall under the President's portfolio for the purposes of this policy.

4.4. Appeal Procedure following the Ethics Commissioner's Determination

- 4.4.1. A member may appeal a decision of the Ethics Commissioner to the Judicial Board by notifying the Ethics Commissioner and the Judicial Board within five (5) days of the Ethics Commissioner's decision.
- 4.4.2. The Ethics Commissioner will submit all relevant information to the Judicial Board and the member shall submit to the Judicial Board a written statement outlining the reasons for appeal within five (5) days of the notice contemplated in section 4.4.1 above.
- 4.4.3. Following receipt of the written statement contemplated in section 4.4.2 above, the Judicial Board shall submit their ruling within seven (7) business days to the Ethics Commissioner and the member in question.



4.4.4. The Chair of the relevant decision-making body to which this conflict of interest may apply must be informed that its member is currently involved in a seven (7) day appeals process, and that decision making should be postponed if possible during that period. The Chair must respect the member's right to confidentiality, according to this policy and the recommendation of the Ethics Commissioner.

4.5. Accusation of Breach

4.5.1. If a member (hereinafter "appellant") believes another member (hereinafter "accused") has breached the Conflict of Interest Policy, the appellant shall be responsible for disclosing this in writing to the Ethics Commissioner using the Potential Conflict of Interest Disclosure Form (*Appendix 1*).

4.5.2. If the Chair, Executive and/or Ethics Commissioner who is informed of a member's real conflict of interest, as per section 3.2.2.1 of this policy, believes the member has breached the conflict of interest policy, this member should disclose this accusation immediately.

4.5.3. The procedures outlined in sections 4.3 and 4.4 of this policy shall apply following any accusation of breach.

4.6. Withdrawal from Deliberations and Abstention from Voting

4.6.1. If it is determined that a member has a real conflict of interest, the member is responsible for stating this conflict to the applicable decision-making body prior to the start of deliberations, and to deferring to an alternate in the event that the member is the Chair of the aforementioned.

4.6.2. In the event that a member becomes aware of a conflict of interest, but did not have a reasonable amount of time to address it with the Ethics Commissioner, he or she shall state this real or perceived conflict of interest to the applicable decision-making body before the start of deliberations to prevent a breach in the Conflict of Interest Policy.

4.6.3. A member shall resolve the conflict in the procedure outlined herein by abstaining from voting and, if appropriate, at the member's discretion or at the request of the Chair or by simple majority vote of the committee, withdrawing from the deliberations of the applicable decision-making body.

4.6.4. In the event that a member does not feel comfortable stating his or her real or perceived conflict, he or she reserves the right to abstain from deliberations without giving reason beyond the statement of a real or perceived conflict of interest.

4.6.5. If a real or perceived conflict of interest interferes with the achievement of necessary quorum for a vote and no alternate may fill in for the member, the decision-making body may use its discretion to determine a course of action.

5. Addressing Breaches of the Policy



5.1.1. Any Conflict of Interest or Perceived Conflict of Interest will be dealt with in such a manner as to preserve the interest of the Society. Where the Ethics Commissioner determines that a breach of this policy has occurred, the matter shall be referred to the relevant decision-making body to determine the consequence(s) of such breach, the whole in accordance with the following procedure:

- 5.1.1.1. In circumstances of any Conflict of Interest or Perceived Conflict of Interest which are material or which cannot be effectively addressed except by a substantial change in circumstance: the removal of the member from the decision-making body or from office.
- 5.1.1.2. Any breaches relating to Hiring may result in re-hiring when possible and/or the removal from office.
- 5.1.1.3. Any breaches relating to the Use of Privileged Information or Financial Transactions may result in the suspension or removal from office.
- 5.1.1.4. Any breaches relating to Outside Activities may result in a re-vote on relevant matters in which the member in question abstains from voting, and/or removal from office.
- 5.1.1.5. Any breaches relating to Gifts, Hospitality, and Other Benefits may result in the member being asked to return the gift or benefit; donate the gift or benefit to a charitable or non-profit organization deemed suitable by the relevant decision-making body; where this is not possible, return or donate the financial value of the gift, hospitality or benefit; and/or removal from office.
- 5.1.1.6. Any breaches in the policy on Use of Society Resources may result in temporary suspension from use of the relevant property and/or communication device(s) and the required issuance of a formal apology for inappropriate conduct and/or removal from office.

6. Confidentiality

- 6.1. Except as required by law and stipulations of this policy, any information disclosed by members to the Ethics Commissioner is confidential unless the relevant member consents to its public release. This provision shall not apply to Directors, Executive Officers, Councillors, Senators, or any other of the Society's elected representatives, except in the case that the Ethics Commissioner decides publication of such information would cause undue harm to the member or another party; the Ethics Commissioner shall act in respect of constituents' right to access information regarding the conduct of their elected representatives.

Post-Script

This policy is part of the Society's broader commitment to ethical and responsible action. The Society encourages its members to educate themselves about ethics and to ask questions whenever



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they encounter a situation which raises ethical questions they cannot readily answer. A culture of transparency, accountability, and integrity is essential to maintaining public faith in the Society while pursuing its best interests.



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Appendix I: Potential Conflict of Interest Disclosure Form

This form is to be submitted to the Ethics Commissioner of the Students' Society of McGill University (SSMU) by any member who has reason to believe that he or she may hold a real or perceived conflict of interest or by any member who has reason to believe that another member has breached the Society's Conflict of Interest Policy

Name:

Position held within the Society:

1. Brief disclosure of real or perceived conflict of interest:
2. Persons or groups likely to benefit from the real or perceived conflict of interest:
3. Persons or groups whose interests may be adversely impacted by the real or perceived conflict of interest:
4. The nature or value of any benefit, monetary or otherwise, which may be derived by a member or related party from the situation;
5. The benefit, if any, to be derived by the Society from the situation:

Signature:

Date:

This form should be addressed to the Ethics Commissioner with a copy to the General Manager either via email or in person at:

Students' Society of McGill University
3600 rue McTavish, Suite 1200
Montreal, Quebec, Canada
H3A 1Y2

General Manager : Pauline Gervais, pgervais@ssmu.mcgill.ca

Ethics Commissioner : [Name, email]



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Additional Resources:

McGill University Board of Governors. Code of Ethics & Conduct for Members of the Board of Governors of McGill University and Trustees for the Royal Institution for the Advancement of Learning.

SSMU Legislative Council. Conflict of Interest Policy. Adopted: 1 October 2009

McGill University Senate. Regulation on Conflict of Interest. Approved: 20 May 2009.

City of Toronto. Conflict of Interest Policy for Employees.

Government of Canada. Conflict of Interest and Post-Employment Code for Public Office Holders. Adopted: May 2006.

University of Toronto Governing Council. Policy on Conflict of Interest for Academic Staff. Adopted: 22 June 1994.

Harvard University Board of Governors. Policy on Conflicts of Interest and Commitment for Senior Officials and Administrators. Adopted: 26 May 2010.