



Submitted for: October 11th, 2018

## Motion Regarding the Creation of the SSMU Legal Defence Fund and Fee Levy 2018-10-11

**WHEREAS**, the Students' Society of McGill University (SSMU) serves as an umbrella organization to strengthen the social conditions of our Members and commits to demonstrating leadership in matters of human rights and social justice;

**WHEREAS**, the SSMU Constitution reaffirms our commitment to promote and protect the welfare of our peers, the Members of the Society;

**WHEREAS**, the SSMU Legal Defence Fund shall be used for legal expenses incurred as a result of conduct in service to the Society or its Members, or as a result of seeking legal recourse against McGill University or members of the McGill community, or as a result of legal proceedings initiated by McGill University or members of the McGill community;

**WHEREAS**, Members of the Society are eligible to apply for financial relief for eligible legal expenses, as stated above, through through the Fund;

**BE IT RESOLVED, THAT** the Legislative Council approve the following questions for the Fall 2018 Referendum period:

QUESTION 1: "Do you agree to amend the Internal Regulations Of Representation And Advocacy to include Appendix A in order to bring about the creation of the SSMU Legal Defence Fund?"

QUESTION 2: "Do you agree to the creation of a non-opt-outable Legal Defence Fund fee levy, at \$3.00 per semester payable by all undergraduate students who are Members of the Students' Society of McGill University, starting Winter 2019 until Winter 2024 (inclusive), when it will be brought back to the membership for renewal?"

**BE IT FURTHER RESOLVED, THAT** the whereas clauses contained herein be included with the question on the referendum ballot;



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**BE IT FURTHER RESOLVED, THAT** Appendix A be included on the referendum ballot.

**Moved By:**

Bryan Buraga, Senate Caucus Representative  
Ana Paula Sanchez, Arts Representative  
Imogen Hobbs, Arts & Science Representative  
Marina Cupido, Vice-President (External)  
Haoyi Qiu, Science Representative

NOT APPROVED



## Appendix A

### INTERNAL REGULATIONS OF REPRESENTATION AND ADVOCACY 06: LEGAL DEFENCE

#### 1. LEGAL DEFENCE FUND

- 1.1. **GENERAL.** The Legal Defence Fund (hereinafter referred to as the “Fund”) shall be a fund available to the Students’ Society of McGill University (hereinafter referred to as the “Society”) for those seeking financial relief for legal expenses incurred in specific instances.
- 1.2. **CONTINUANCE.** The continuance of the Fund shall be put to Referendum by the Vice-President (External), in consultation with the Vice-President (Finance), once every five (5) years.
- 1.3. **ADMINISTRATION.** The Vice-President (External) and the Vice-President (Finance) shall be responsible for the administration and disbursement of the Fund. The Vice-President (External) shall be responsible for promoting the Fund’s existence to the Society, as well as creating a standardized application form and an information package that interested parties can use to inform their application.
- 1.4. **ELIGIBILITY.** The Society itself, Clubs and Services, as well as all Members, Elected Officials, Officers, and Employees of the Society, are eligible to apply for funding through the Fund provided the expenses are utilized under Article 1.5. Applications are only to be submitted by individual Members, the head of a Club or Service, or the Society (represented by the President).
- 1.5. **CRITERIA.** The Fund shall be used for legal expenses incurred as a result of conduct in service to the Society or its Members, or as a result of seeking legal recourse against McGill University or members of the McGill community, or as a result of legal proceedings initiated by McGill University or members of the McGill community. The Legislative Council or the membership, through



Referendum, shall ultimately determine whether an application merits disbursement of proceeds from the Fund.

- 1.5.1. **DEFINITION.** A member of the McGill community shall be defined as a person who is, either currently or previously, a student, staff member, faculty member, administrator, or volunteer at McGill University, or any other person deemed to be a member of the McGill community by the Steering Committee upon receipt of an application.
- 1.5.2. **LIMITATION.** At least one of the parties of the legal proceedings must be a current member of the McGill community.

1.6. **APPLICATION.** Those eligible to seek financial relief for legal expenses through the Fund (hereinafter referred to as the “Applicant”) must apply to the Fund through the Vice-President (External). The application will be reviewed by the Vice-President (External) within five (5) working days, who may suggest revisions to the application, before they must submit the application to the Steering Committee by the appropriate deadline to ensure that the application will be considered at the upcoming Legislative Council meeting. The Vice-President (External) will work with the Applicant to ensure that the requirements of the application are met. The application must include:

- a) Details of the legal action including:
  - i) Purpose of legal action;
  - ii) Who the legal action is being taken against or is being initiated by;
  - iii) Past proceedings of the legal action;
  - iv) Current state of the legal action;
  - v) Future plans for proceedings of the legal action;
- b) Total estimated legal expenses;
- c) Total incurred legal expenses;
- d) Amount requested from the Fund;
- e) Whether the Applicant wishes to have their application considered by the Legislative Council in Confidential Session or not;
- f) Any further information the Applicant would like to be considered.

1.6.1. **EXCEPTION.** In the case that the Vice-President (External) is initiating the legal action against the Applicant or they are whom the legal action



is being taken against by the Applicant, the Applicant must apply to the Fund through the Vice-President (University Affairs). The same consideration process shall be followed, with the Vice-President (University Affairs) fulfilling the duties of the Vice-President (External) throughout the consideration process.

#### 1.7. PROCESS OF CONSIDERATION.

1.7.1. **STEERING COMMITTEE.** After the application has been sent in by the Vice-President (External) to the Steering Committee, the Steering Committee will ensure that the application is in compliance with these Internal Regulations. The Steering Committee may make amendments to the application as necessary in order to achieve compliance, only after consulting the Applicant, but must allow the application to be presented to the Legislative Council at the upcoming meeting unless the application itself does not meet the criteria set out in Articles 1.4, 1.5, and 1.6.

1.7.2. **ADVANCE NOTICE.** The application will be sent out to the membership of the Legislative Council in accordance with the Internal Regulations of Governance and the Standing Rules prior to the Legislative Council meeting when the application will be considered. A copy of the Legal Defence section of the Internal Regulations of Representation and Advocacy must also be sent out concurrently for review.

1.7.2.1. **RECUSAL.** An Officer or Councillor must recuse themselves from voting and leave the room during consideration of an application if:

- a) They are initiating the legal action against the Applicant;
- b) They are whom the legal action is being taken against by the Applicant;
- c) They are part of a Club or Service that stands to benefit from a successful application;
- d) A Conflict of Interest between a Councillor and the Applicant exists as defined by the SSMU Conflict of Interest Policy;



e) The Steering Committee deems it appropriate for them to do so for any other reason.

1.7.3. **ATTENDANCE OF APPLICANT.** The Applicant must attend the Legislative Council meeting when their application will be considered. If the application is to be considered in Confidential Session, the Applicant does not have to attend the Legislative Council meeting until the Confidential Session begins, when they will be allowed to sit in proceedings after a  $\frac{2}{3}$  majority vote of the Legislative Council permits them to.

1.7.3.1. **EXCEPTION.** If the Applicant is unable to attend the Legislative Council meeting due to an extenuating circumstance as determined by the Steering Committee, they must inform the Steering Committee whether they would like the Legislative Council to consider their application at the upcoming meeting or to postpone consideration until they are able to be in attendance.

1.7.4. **PRESENTATION OF APPLICATION.** The application will be considered by the Legislative Council as New Business (or in Confidential Session, as the case may be) and will be presented by the Vice-President (External). The Vice-President (External) will give an overview of the application to the best of their ability. After the presentation, the Applicant may speak to the Legislative Council to explain their application further.

1.7.5. **QUESTION PERIOD AND DEBATE.** The Speaker of the Legislative Council will entertain a Question Period in accordance with Article 4.6 of the Standing Rules where the Vice-President (External) and the Applicant will be permitted to answer questions pertaining to their application. A debate period will follow.

1.7.6. **MOTIONS.** Motions authorizing the disbursement of the Fund in the full amount requested in the application shall be in order. Motions authorizing the disbursement of the Fund in a portion of the amount requested in the application shall be in order. Motions to reject the application shall be in order. Motions to send the application for disbursement of the Fund to Referendum in accordance with Article 1.9.1 shall be in order. The Legislative Council must vote affirmatively



on a motion (whether to disburse funds, to reject an application, or to send the application for disbursement of the Fund to Referendum) in order to designate the application as considered.

1.7.6.1. **OTHER MOTIONS.** Other motions as permitted by the Standing Rules shall be in order.

1.7.7. **VOTING.** All motions (as designated in Article 1.7.6) must be passed by  $\frac{2}{3}$  majority and must be conducted by roll call.

1.7.8. **SUCCESSFUL APPLICATION.** Upon the passing of a motion to disburse funds, the Vice-President (Finance) will work with the Applicant to ensure they are able to receive the disbursement from the Fund as soon as possible. Funds will only be disbursed for already incurred legal expenses with proper receipts or invoices, as deemed by the Society's Accounting Department, and only up to the amount authorized by the Legislative Council.

1.7.9. **UNSUCCESSFUL APPLICATION.** Upon the passing of a motion to reject the application, the Applicant may appeal to the membership through Referendum as set out by Article 1.9.2.

1.8. **SUMMER CONSIDERATION.** If an application is received by the Vice-President (External) during the Summer semester, Article 1.7 may be carried out electronically in accordance with Article 5.15 of the Internal Regulations of Governance and with the consent of the Applicant. In the case of an unsuccessful application or by preference of the Applicant, the Applicant has the right to have their application reconsidered at the next regular Legislative Council meeting.

1.9. **REFERENDUM.**

1.9.1. **COUNCIL-INITIATED REFERENDUM.** Upon the passing of a motion to send the application for disbursement of the Fund to Referendum, the Legislative Council must send the question to the membership within thirty (30) days, either by the processes set out in Articles 4.1.2 and 4.1.4 of the Internal Regulations of Elections and Referenda, or the processes set out in Articles 2.6.3 and 2.6.4 of the same document. The Legislative



Council cannot send an application for disbursement of the Fund to Referendum if it is considered in Confidential Session.

- 1.9.2. **APPLICANT-INITIATED REFERENDUM.** Upon the passing of a motion by the Legislative Council to reject the application, the Applicant may appeal to the membership by the processes set out in Article 4.1.3 of the Internal Regulations of Elections and Referenda. An Applicant can only initiate a Referendum question after their application has been considered by the Legislative Council. An Applicant may consult with Elections SSMU for advice on submitting a question to Referendum.
- 1.9.3. **REFERENDUM QUESTION.** The Referendum question must include the complete application for disbursement of the Fund, and all meeting minutes by the Steering Committee and Legislative Council regarding discussions on the application. The question must be phrased as to ask for authorization for the disbursement of the Fund for the full amount requested in the application.
- 1.9.4. **SUCCESSFUL REFERENDUM.** Upon the passing of a Referendum question to disburse funds, the Vice-President (Finance) will work with the Applicant to ensure they are able to receive the disbursement from the Fund as soon as possible. Funds will only be disbursed for already incurred legal expenses with proper receipts or invoices, as deemed by the Society's Accounting Department, and only up to the amount authorized by Referendum.
- 1.9.5. **UNSUCCESSFUL REFERENDUM.** Upon the failure of a Referendum question to disburse funds, the application will be deemed considered by the membership.
- 1.10. **RECONSIDERATION.** An Applicant cannot apply to the Fund until six (6) months after a previous application of the same legal proceeding submitted by the same Applicant, as determined by the Steering Committee, was already considered and rejected either by the Legislative Council or by the membership through Referendum.
- 1.11. **EXPENSES INCURRED PAST AUTHORIZED AMOUNT.** In the case that an Applicant's legal expenses exceed those authorized by the Legislative Council



or by the membership through Referendum, they must file a new application and proceed through the consideration process again.

#### 1.12. REPORT TO COUNCIL.

1.12.1. **TIMING.** The Vice-President (External) (or an alternate Officer, as the case may arise) must report semesterly to the Legislative Council:

- a) At the first meeting of the Legislative Council of the Fall semester for applications received after the penultimate Legislative Council meeting of the previous Winter semester and before the first Legislative Council meeting of the upcoming Fall semester;
- b) At the last meeting of the Legislative Council of the Fall semester for applications received after the first Legislative Council meeting of the Fall semester and before the penultimate Legislative Council meeting of the Fall semester;
- c) At the last meeting of the Legislative Council of the Winter semester for applications received after the penultimate Legislative Council meeting of the Fall semester and before the penultimate Legislative Council meeting of the Winter semester;

1.12.2. **REPORT REQUIREMENTS.** The report must not include any identifying information. The report must include:

- a) The number of applications received in that semester;
- b) The number of applications rejected by the Steering Committee;
- c) The number of application approved for presentation by the Steering Committee;
- d) The results of each application considered by the Legislative Council tallied numerically:
  - i) Legislative Council:
    - 1) Disbursement in the full amount requested;
    - 2) Disbursement in part;
    - 3) Rejection of the application;
    - 4) Referral to Referendum;
  - ii) Referendum:
    - 1) Council-initiated:



- (a) Disbursement in the full amount requested;
  - (b) Rejection of the application;
  - 2) Applicant-initiated:
    - (a) Disbursement in the full amount requested;
    - (b) Rejection of the application;
  - e) The total amount of proceeds from the Fund disbursed in that semester;
  - f) The total monetary value of the Fund.
- 1.13. **ENDOWMENT.** The proceeds of the Legal Defence Fund fee levy shall be invested by the Vice-President (Finance) in accordance with the established investment guidelines of the Society. Portions of the Fund shall be liquidated as necessary to fulfill the mandate of this Fund.

NOT APPROVED