



MAUT Special Council Meeting
Friday, September 17, 2021 at 1:00 pm
Zoom Meeting

Approved Agenda

1. Approval of Agenda
2. Campus Health Measures
3. Other Business
4. Adjournment



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Attendees:	<u>Executive Officers</u> Andrew Kirk, President Renée Sieber, President-Elect	<u>Council Members</u> Caroline Riches Lucy Kiester Maureen Mckeague Melanie Dirks Sandra Hyde Thavy Long Dawn McKinnon, MAUT-LS Bruce M. Shore, MAUT-RAC
Guests:	Christopher Manfredi, Provost Angela Campbell, Associate Provost Fabrice Labeau, Deputy Provost Line Thibault, General Counsel	
Members:	MAUT Members (approximately 120)	
MAUT Office:	Jo-Anne Watier, Administrative and Membership Engagement Officer, Recording Officer Joseph Varga, Professional and Legal Officer	
Regrets:	Janine Mauzeroll, Past-President / Nate Quitoriano, Executive, VP Finance / Simon Rousseau, VP External Council Members: Ada Sinacore, Jill Boruff	

Approved Minutes of the Meeting

A. Kirk called the meeting to order at 12:02 pm and welcomed everyone. He began by letting attendees know that the meeting was being recorded and if anyone had questions to either post them in the chat to everyone, post them in the chat to Andrew Kirk or to be hyper secure, send questions to Renee Sieber's Gmail rather than using their McGill email. Questions would be read after the Provost and his team make their presentations for about 20 minutes. A. Kirk added that because this is a Council meeting, the usual format must be followed in sharing and approving the agenda.

1. Approval of Agenda

M. Mckeague moved to approve the agenda, seconded by L. Kiester. Council approved unanimously.

2. Campus Health Measures

Andrew Kirk:

The only agenda item is actually campus health measures. I'm going to move to ask the Provost and his team to talk to us about these different issues. So for regular members, MAUT Presidents had the meeting

with the Provost and his team quite regularly over the last few weeks talking about all the different things that you've sent your concerns about. But we thought this was a great opportunity for the administration to talk to as many people as possible. So please, Chris, take it away.

Christopher Manfredi:

Thanks, Andy. As a 30 plus year member of MAUT and actually once a member of the MAUT Council, I'm happy to be here and happy to be accompanied by Angela, Fabrice and Line Thibault. I'm not sure if there's anyone else, but maybe Chris Buddle is on the call, too. But I'm not 100%. Happy to be here and happy to listen to concerns of MAUT members, and to provide whatever insights and answers we can. Andy and the rest of the MAUT presidents have asked us to keep our presentations as short as possible to allow for as much time for questions and answers as we can. I'll start by just saying a couple of things. One is really about the work we've been doing over the last couple of weeks to re-engage in a more robust governance process around the management of the return to campus and the management of the campus as we move forward. We are, of course, nowhere near normal operations, but we're slowly moving to something closer to normal operations. And that means that we have to re-engage in our normal, something closer to our normal governance, governance processes around these issues. And so many of you may know that this week, a group of senators, including faculty, senators and student senators, brought a motion to the Steering Committee to be discussed around these kinds of issues. The Steering Committee did not accept it in the form in which it was presented, but we thought it was an important issue. So Angela and I actually met with several of the movers of that of that motion to see if we could work out a motion that that would be acceptable to the Steering Committee and that could come to the next Senate meeting for debate and possible adoption. I think we had a very productive meeting with them. We've come up with a motion that the Steering Committee is actually going to be looking at later this afternoon and we hope will come to Senate at the next meeting, which will provide a process for re-engaging the conventional governance processes of the university in the way in which we are addressing the challenges caused by the pandemic. So I think that's an important step forward and Angela and I we're happy to have that meeting with colleagues and to come up with something that would be a motion that would be jointly moved by members of the administration and members and other faculty, senators and student senators as well, if they if they agree to do so. I think that's an important step forward. I think it's a necessary step forward. I think it will help engage the community in a much more robust way. And getting us through the next step. Andy, that's about all I'll say and maybe I'll turn it over to Fabrice.

Fabrice Labeau:

Hi, everybody. So I guess you all know me because you've seen me in different town halls in the past. Again, I don't want to be too long here. Just want to say a few words about a couple of different things. In the last few days, I think we've seen a lot of questions regarding the different safety measures in place - happy to answer the questions you have about this. But the whole idea of the way we have planned the return to campus this fall is by adding layers of different measures. With the idea being that overall, given the situation, we see in the community now, these are adding up to making an environment where we can resume some of our activities. We're far from normal has been said, but this allows us to run a lot of our academic activities on campus and has allowed us to welcome a lot of our students back on campus. I realized there was a lot of questions around vaccination in particular, what vaccination data we have in terms of the of our populations, and the vaccination passports, vaccination mandates, and maybe I'll say just two words about this. That the vaccination data we have about our population, there's no perfect record of that. But the we've said in some of the earlier communications that we can we have vaccination rate, that is the we estimated 85% plus in our student population, and I can elaborate on the on the details of where these estimates come from. I think this is really a fair estimate of the situation at least a week or two ago. We're hoping that we'll get more numbers soon that will show some progress of the vaccination anyway, as we continue to incentivize vaccination. And that also leads me to talk about the vaccine passport, you've also seen in a lot of a lot of communications from the university that we have said that we'll implement the

vaccine passport as much as possible as a huge incentive for our community members to get vaccinated - we're continuing to do that. And so as we continue applying the vaccine passport to different activities, what we hold previous to make it clear to individuals in the community that it's going to be complicated to not be vaccinated, at McGill, and you'll cut yourself off from a lot of your possibilities. The main reason why I'm saying this also is that I know that there was a lot of concerns about the vaccine mandate, and what the impact of that could be. We're very much convinced that the vaccine passport will get us to a place that is very similar to what a vaccine mandate would get us. But the advantage, of course, is that this is a tool that is readily available to us and the does not present any major other challenges. So I think I will stop there. I realize there's many other questions that may come up. We'll see them come up in the chat and we'll be happy to respond to these questions as we go.

Andrew Kirk:

Okay, thanks Fabrice. Anybody else from the Provost's team want to talk?

Christopher Manfredi:

Line, do you want to say a few words or just wait to answer questions?

Line Thibault:

My name is Line Thibault, I am the general counsel at the university for those who don't know me. First of all, good afternoon, and thank you for inviting me. I've been asked to present the legal basis for the approach or that underpins the approach of the university, and to do it in three minutes. So I apologize in advance for describing these considerations without the required nuances. There are essentially two legal concepts applicable to the situation the university is facing. The first one is the respect of fundamental rights and that is distinct from assuring ourselves that we're not discriminating against individuals. I'll come back to discrimination later. In Quebec, fundamental rights are guaranteed by the civil code within the Quebec Charter of Rights and freedom. There are several fundamental rights the most significant than the context of what we're discussing now is that of the integrity of the person. And there is also a right to inviolability that a person which is distinct from integrity, other fundamental rights are relevant. Such as the right to dignity of the person that means the right to make decisions according to our own set of values and what we respect in ourselves as a person, the right to freedom of conscience, the right of freedom of religion. All of these rights must be respected. The courts have declared in Quebec, but in Canada as well that one can refuse a vaccine on the basis of some of these rights in particular, the right to integrity of the person. Of course, fundamental rights are not absolute, they can be breached when a higher public interest requires it. However, any measure that breaches a fundamental right must be what the courts call a proportionality test. That test is usually applied to laws adopted by the government. But it's also relevant to policies adopted by an employer, as in our case, as well, in the relationship between students and the university. So in order to be legal, a measure that breaches fundamental rights, such as the right to integrity of the person, for instance, has to be well calibrated, so as to breach the fundamental rights as little as possible. It has to have minimal impact. So the minimal impact possible on the fundamental rights given the goal that is, is set if you wish, it has to be rational, that means that it has to be geared toward the real risks, and not only fears, but the real risks based on facts. And the final test is based on the balance of interests. And I'll skip this one for the sake of time. What this means, is that the ability to make such an order so a vaccine mandate or a vaccine passport mandate, which would on the face of it be a breach of fundamental rights depends on the facts. If measures that do not breach fundamental rights, or breach them in a way that is more minimal than a mandate or these mandates, then the breaches of fundamental rights must be avoided. The second legal concept that is relevant is discrimination. The Quebec Charter of Rights of course, prevents discrimination on the basis of several grounds. So several grounds are, you know, decisions are not differential, differential decisions are not to be made on the basis of several grounds. So genders, sex, religion, disability, and so on. Again, these rights are not absolute. In the context of COVID. As an employer and towards its students, the university has to take reasonable measures to avoid discrimination. In practice, this means that staff or students who are at increased risk, because of health conditions need to

be accommodated so they can carry out their activities as much as possible. The university does that it has a system for that purpose. It also works the other way. Individuals who cannot get vaccinated for medical or religious reasons would have to be accommodated if the vaccine mandate or vaccine passport mandate for to be adopted. The short of it is that even with such mandates, with the unvaccinated staff members for students on campus. Thank you.

Andrew Kirk:

Thanks so much Line. I appreciate that summary. Okay, so we're going to open it up to questions. I just like to say before we start, we have a lot of questions coming in some directly to me, some to everybody. I imagine Renee might have some as well. And you know, right now I'm seeing four different types of questions: one about the application of, let's say, the vaccine passport for curricular activities, you might call it the vaccine mandate. There's a lot of questions about air quality in classrooms, about COVID reporting, both the data that we have access to and the requirements for people to report. And then there are questions about the treatment of academic staff who are seeking accommodation, and there's probably a few others that aren't in those categories. But those seem to be the main ones. To start with, maybe we should talk about the vaccine application of the vaccine passport to access classrooms. So you know, several colleagues have pointed out that other universities in Canada have implemented a vaccine passport to access all of campus, not just cafés and things. And one comment that has been made is that, why is it a breach of someone's right to ask them whether or not they are vaccinated?

Christopher Manfredi:

I'm not going to answer the legal question. But I mean, I'll talk a little bit about the vaccine passport as we are using it and perhaps what we know a little bit about what other universities are doing. I'll start by saying that the concept of vaccine mandate is actually a concept that seems to cover a wide variety of possible measures, ranging from one end of the spectrum, kind of an honor system in which or a voluntary attestation of vaccination status, which is what the first very first vaccination mandates were all the way up to mandatory vaccination as a condition of employment or enrollment at a university. At that end of the spectrum, I don't think there's any Canadian university that's there yet. There are some universities in the United States that have gone that far. Duke University, for example, has that type of vaccine mandate, if you will, in which, and University of Virginia also disenrolled students who did not meet the vaccination mandate. I will say just, note that there are different contexts the vaccination rate in North Carolina where Duke is located, is the full vaccination rate is less than 50%. So the kind of factual things that would, that Line referred to, might be met there. And I also suspect that North Carolina having probably one of the weakest sets of worker protections in the continent, it's a lot easier for Duke University to fire employees who don't meet the mandate. So that's the other spectrum. A lot of the discourse has or has now sort of crystallized around the notion of a proof of vaccination requirement. And I suppose we can have a discussion about whether there really is a difference between a proof of vaccination requirement and mandating vaccination. Since of course, you can't have a proof of vaccination without having been vaccinated. But that's perhaps a semantic point. But we have decided, in fact, to implement the proof of vaccination requirement, proof of vaccination requirements or the use of the of the Quebec vaccine passport in the first instance, to all non curricular activities that we that we thought we could apply it to before the official government decree came out. And you may know we announced the things to which we are applying the vaccine passport, before the official decree came out, that authorized the use of the vaccine passport, we are the first Quebec university to act on that. We applied it to a wide range of activities and facilities on campus, the decree has come out and the decree is such that our analysis suggests that we have even wider discretion to use the vaccine passport than we initially thought we would have. And so we are actively looking at different contexts in which we can apply the vaccine passport, which may include curricular spaces, if we believe that is a necessary and justified measure to ensure the safety of the community. So I'll stop there. And perhaps Fabrice or Line want to speak more to how we're using the vaccine passport.

Andrew Kirk:

Richard Janda actually offered to come online and speak, maybe provide some response or input to this since he's been looking at this a lot. So, Richard, if you would.

Richard Janda:

Thanks Chris and thanks to the presenters. Chris, I'm happy to hear you say that it is possible still for the university to reconsider, in the current health context, the implementation of a true proof of vaccination requirement. The relevant comparatives here, of course, are what our sister universities in Canada have been doing at the University of Toronto, at the University of Ottawa. We know the mechanics of this and we can implement it, it'll take some time. It'll take a couple of weeks to roll out. But I hope that the university has this ready to go now as we watch the unfolding of the Delta variant. What we haven't heard from the university in any convincing way at all, is why having been given advice from our colleagues in epidemiology, we didn't do this and plan for this in the summer. We're already getting cases. It's a dangerous context now. And it is possible for the university to exercise the authority that it has which the former dean of law Daniel Jutra, now rector of the University of Montreal has stated publicly to his community is something that the community, that the university has within its own jurisdiction. We're not talking about whether this can be done. We're talking about whether the university wants to do it. And I hope you can announce to us today Chris, that it's on the drawing board, and that it's something that we can roll out quickly.

Christopher Manfredi:

Well, we've always said that we would take whatever measures were necessary and justified under the circumstances. I think as Line laid out, although there are fundamental rights at stake here, and I know it's difficult, probably not for you Richard, to understand that the frustrating thing about fundamental rights is that they exist to constrain what the majority wants to do. or many people that's a frustration. But nevertheless, those are not absolute. And there are conditions under which they can be breached. And we certainly have the vaccine passport. Now, Quebec was the first province to have the vaccine passport. And I would say that, you know, we've looked very carefully at what our sister universities are doing. We've talked to them, we've looked at their systems, and McMaster, which probably has, I would say, the strongest vaccine mandate system, basically, because the government of Ontario was unwilling to move in this until very recently, what McMaster did is effectively develop its own in house vaccine passport. And so we don't need to do that we have we have a tool provided by the Quebec government and we'll use that up to the limits the legal limits of that we can't.

Richard Janda:

Chris, the legal limits are that you can implement it now for everybody. And the arguments that Line Thibault just made, frankly, are specious. Everybody in the Faculty of Law who studied this and as you know, 37 colleagues ultimately signed a letter on this question, concluded that the university is fully able to implement a proof of vaccination requirement now. So I think that you know, it's not about dithering and telling us is it possible perhaps in the future, what we really need to know is when is the university going to get on with it?

Christopher Manfredi:

Well, as I said, we have a proof of vaccination requirement now and we will use it to the fullest extent possible.

Andrew Kirk:

Okay, thanks very much. I think we will move on just for the moment, proof of vaccination questions to one that Professor Platt proposed, which is, what is university to plan should case in hospital numbers rise to unacceptable levels?

Christopher Manfredi:

You want to take that Fabrice?

Fabrice Labeau:

We've had backup plans from the get go and the so there's basically a series of backup plans if things go south, I would say. But I will also want to spend a minute saying that the it's not clear yet what *going south means* until what is the threshold by which we deploy these things? And that's the kind of things we'll have to judge as we go along. But the remember now we have no distancing in classrooms, we still have in our back pocket, the one meter distancing schedule, which is the initial schedule we had posted in June, which is basically one where we would fold back some of our classes that are now in person back online. So move from 80%-85% of our classes or activities, being in person to maybe 65% of these activities being in-person and if that is not enough, if this tuition gets even worse, really the plan would be to go back to the two meter distancing scenario that sees most of our activities being online. That being said the likelihood will have to exist the ties that second backup plan is really really low.

Andrew Kirk:

So on a related question, thanks for it's a related question is, you know, is the university able to unilaterally increase the distancing requirements or is it bound by whatever recommendations by public health is making in terms of distancing requirements, masking and everything else?

Fabrice Labeau:

Chris, do you want to go or should I?

Christopher Manfredi:

Why don't you take it Fabrice?

Fabrice Labeau:

So overall, I think it's always a discussion as to what is the autonomy of the of the university as compared to the ministry? I think the as of now, we're basically taking all the different directives we're getting and trying to compose with them in the best possible way. I've seen also a question, by the way that was talking about the weird, heterogeneous distancing rules we have and I think a lot of it comes from putting all these different directives together and trying to juggle them in our own situation at McGill. So as you know, we have no distancing in classrooms only in that setting. Then the minute you're in corridors, we have the requirement of the one meter distancing, that increases to two meter distancing in very specific situations, such as eating or playing a wind instrument, etc. So this is really putting together all the different directives we get from public health from the ministry from the, from the CNSST, also for our employees and our workers. So that explains why we have what looks like a patchwork of distancing measures, but there's actually also the recommendations we're getting now. So in terms of the new distancing in classrooms, I've seen some questions pass by also. Why is it that we cannot distancing classrooms, but then all of a sudden, we get out in the corridor it's one meter? It's really based on the balance of the risks and the activities and so of course, the risk always gets lower if you have more and more distancing. And there's actually a very nice video that Don Shepard did the that explains that in one of the series of the videos we published. Of course, the further apart people are, the less risk there is and the more you get them together, the more you increase the risk. There's never going to be any way zero risk situations which really trying to balance the level of activity we can have with the risk that we run so at the end of the day, we're completely aligned with the instruction from the ministry here. I will point out that when we received the instructions from the ministry to have no distancing in classrooms, they also pointed out that they wanted to remove masks in classroom and we said, no, that's not a good idea. And we kept the masks and that was our perspective from the get go and they ended up changing their policies after that to adapt to what we had done.

Andrew Kirk:

Thanks Fabrice. Maybe it's a follow up question to that, Professor Nicole Basta, asked which public health experts is McGill consulting with or getting advice from in order to implement these policies?

Fabrice Labeau:

We're happy to take that too if you want Chris. We've been discussing on and off and Nicole knows that because we've been discussing with her also, some of these issues with some of our internal people as we

get different sorts of directives, in particular from the different public agencies and we see differences between different jurisdictions also. I also want to point out that the directives we're getting from public health, they're actually done by public health experts. So when we have discussions with the, with the ministry, very often we have these discussions in the presence of some public health experts who are working at other universities, but temporarily working with the Direction la Santé Publique in public health. Okay, thanks.

Renee Sieber:

Andy, can I step in here for a moment? Just a couple of things. We are not addressing the sheer anger and fear that I am getting from the anonymous questions and from some of the chat and the lack of consultation from a world renowned University in infectious diseases as well is in law. So that has to be up front. And I'm getting calls for people for Nicole Basta to ask questions? Can we open the floor for her?

Andrew Kirk:

Sure, Nicole, are you willing to come on and pose? I know you posed several questions in the chat. I just read one.

Nicole Basta:

Thank you. First of all, I would like to thank the Provost and Fabrice for joining us for this discussion. I think this discussion is long overdue, and that is what is contributing to a great deal of the concern and the lack of transparency and the lack of communication about some of these policies. I think the number one question that I would like to raise and I would like to have an answer to is, what is driving McGill's policies for COVID mitigation on campus? We know that the province is trying to minimize the overloading of the healthcare system. But in a campus community, there's a great deal of risk of outbreaks, as we're starting to see with cases already climbing in these first few weeks. In addition, with the Delta variant causing a great deal of risk to individuals, so I'm wondering whether the university has considered what impact outbreaks are going to have on campus, and why the mitigation strategies that have been chosen don't address the need to minimize and prevent outbreaks? Which is something that can only be done through increasing vaccination rates as high as possible, providing routine testing opportunities on campus or close to campus in and then implementing all of the policies that different ministries and different directives are providing consistently across campus. Otherwise, it seems like you're valuing certain spaces and the risk to certain individuals, rather than the risk to all of us, which is an important community level approach that's necessary. A lot of what we're seeing from McGill's policies are placing the responsibility on individuals to make good decisions, rather than providing structural implementation of policies and programs that can protect us all. Because as an epidemiologist, what we know about preventing and controlling an infectious disease is that we have to take a community level approach, we can never identify what specific individuals are going to be at risk. And the idea is not that we can point to who is at most risk, the idea is that we're all at risk unless these mitigation strategies are put into place. So I'm wondering if you could discuss what's behind the policies that you're implementing and why that type of community based approach hasn't been taken?

Fabrice Labeau:

I'm happy to take that one Chris, if you agree?

Christopher Manfredi:

Yes, go ahead - sure.

Fabrice Labeau:

So the motivation, I think whenever EOC is deployed, it is of course, an example of a very long deployment of EOC. We always start with a set of principles and we've tried to remind everybody of these principles whenever we've done the one of our routine communications over the summer months. The principles established for this particular mobilization of a EOC, there are always variations of the same principles, by the way, but the that number one is to be to protect the health and safety of the community. Number two is to maintain as much as possible, the Academic mission of the university. That's really what's driving most of the things we're doing, so keeping these two things in mind and as I said earlier, trying to always balance

the different priorities we have and the different constraints and the different activities we carry on campus and prioritizing the ones that align with these priorities. That means prioritizing, for instance, and the return to in person teaching, which has been one of the things we said from the get go, we will try to prioritize as soon as the conditions would be met for that, which is what we're doing this fall. This aligns also to with what the government in Quebec is pushing for and that's really related in particular to the impact of the online classes, that has been seen on the students in particular, in terms of mental health etc. So that's why that's one of the reasons why throughout Quebec, the policies are such that the considerations are to bring back the students to their classrooms. And that's also what comes into play when we were trying to balance all these things. So all the decisions we make in terms of policies at McGill, they're trying to, as I've said a couple of times, balance the risks that are health related and the other risks that are related to mental health. For instance, for our students, and the other priorities we have including the continuity of our missions, and trying to find that right balance, that's going to be the best possible. And that actually also goes to another portion of what you were saying he called the question of the mixed application of the measures across the across the campus. I think it reflects that. So it's not a mixed application of measures in the sense that the measure is, is pretty simple. If you are a student in a classroom, then there is no distancing and that's reprioritize the ability to actually run these classrooms. And then in other areas, then distancing of one meter occurs. And that's not a mixed application to different population, it makes application to different activities that also reflect this, this idea of trying to get our students back in their classrooms.

Andrew Kirk:

Nicole, do you have anything you wanted to add?

Nicole Basta:

Yes, so thank you Fabrice for that response. I really do appreciate and respect all of the work that you've been doing. I know this hasn't been easy over the past year. But I just wanted to respond to the two priorities that you mentioned, which is health and safety of the campus and the academic mission. I think administration needs to hear that there is a great majority of faculty and students that feel the university has not taken steps for to accomplish either of those goals. I think there are many of us that aren't, or many of us are not asking to go online or teach classes remotely, we're asking for additional measures to make teaching in-person viable and safe for ourselves and our students and our loved ones. That's where I think that the conversation for some reason is going past each other. I think that a lot of people want to be in the classroom to be teaching and want to be able to have that opportunity to engage with their students, as you said, for the mental health of the students for our mental health of those of us who have been working from home for so long. But the fact that the university has a great deal of scientific evidence for different tools that could use, and they could implement, has the resources to do it and is refusing to, is where I just can't understand why there's that resistance to implement. Things that are pretty reasonable or pretty easy, that require very limited approaches. I'll stop there so others can speak. But thank you.

Andrew Kirk:

Okay, thanks very much, Nicole. So just as a quick break, one of our colleagues has set up a straw poll, which Renee beat me to it by posting already. I'll post it again because link went up. This is a straw poll, you can go and basically express your opinion as to whether McGill should implement, given the choice of blending and mixing passport or get regular testing. So just to get the temperature of the room while you're doing that, Line Thibault, McGill University's legal counsel, has offered to respond to Professor Janda's point so I'm going to give her the floor just for a minute to respond. I'd also like to add a question that somebody else put which is to say that, you know, we're not no one's sort of saying that people have to be jabbed in the arm against their will, but what is the legal argument against someone presenting either a vaccine passport to get access to the campus or providing regular testing results? I'll turn it back to Line Thibault.

Line Thibault:

Okay, so first I think what's important to understand and I understand my colleague, Professor Janda thinks that the arguments that I raised are specious. First of all, I'd like you to know that this is not a legal argument. This is an opinion to the university. It comes with a lot of nuances that I am unable to express in so short a time. However, I disagree that it is specious. And one thing that is missing from the letter that the professors of law circulated is this articulation of fundamental rights. We're not only talking about discrimination here, there is a question of what are fundamental rights and can the majority, or a group of people that has more authority impose its will on others in a way that breaches fundamental rights? And the answer to that is no, unless it is absolutely necessary. So to test 'absolutely necessary', of course, is not the words that the courts use, but that's the concept. And that test, therefore, is what are the facts that showed that the university itself - I'm not talking about the Government of Quebec or the state. I'm talking about the university itself. What are the facts that make it necessary for the university to take these measures? Now, we know that the university is using the vaccine passport, to the full extent possible, short of affecting core mission critical activities, teaching face to face. And that's a decision that the university made in March that it wanted to bring the students back to campus, for face to face teaching. So there is already a breach of fundamental rights in this. We think, the university thinks that it needs the test of rationality, and the minimum impact and proportionality. So that facts such as they are now the university is not the government. And yes, of course, it takes into account the increase in the number of cases, the particular dangers that are related to the Delta variant, but the university has to concern itself with its own community. And it is implementing a variety of measures, a broad area of measures, which so far are successful in ensuring the health and safety of community members. Does that mean that everybody is comfortable with it? No. Does that mean that people are in general at risk? No, it doesn't. The university is so far, implementing measures that are successful, and therefore, it does not seem that a further breach of fundamental rights is justified at this time. Now, that could change quickly. And the administration is aware of that. But at this point in time, the tests are not met. And by the way, when I hear, you know, our law professors, saying that I'm in an ivory tower of my own, and I don't understand, many, many law firms in Canada, not only Quebec, in Canada, essentially describe on their own webpages, the principles that I described to you today.

Andrew Kirk:

Okay, thanks very much Line. So I know a lot of people have asked a lot of questions that we haven't got to yet. One question I'm going to try and sort of put several questions together about air quality. So many people over the last few weeks have asked questions about air quality in their classroom. And, you know, we understand that McGill has said the ventilation systems up to the recommended levels, based on health experts advice, but we haven't got any information about whether there's any measurements being undertaken to check whether the air quality actually in classrooms during lectures, when they're full, actually meets safe values. And you know, that's something that could be done. Is the university doing it or willing to do it?

Fabrice Labeau:

I'll take this one, too. First of all, one of the things I would like to do, because I think it will answer some of the questions that I've seen pass by in the chat is post the couple of web pages that describe ventilation. And I seen a particular question about the MERV (minimum efficiency reporting value) level of our filters, we do have MERV 13 filters everywhere and it's on one of the web pages. There's actually a lot of our mechanically ventilated systems that have built in co2 meters and I can elaborate on that a bit. But to give you a sense, the built in co2 meters are such that they make sure that the co2 level never rises above a set level. And even the ones that don't have the co2 levels, the co2 meters built in the circuit, they actually are designed to have a certain level of co2 in the room to move air sufficiently fast so that co2 does not accumulate in the room at full capacity. With the number of people that the room is supposed to hold in them for a long period. So the mechanically ventilated systems I think, overall. I realize there's a lot of

questions that are coming from this, but the whole system is designed to evacuate the air, it's dimensioned according to the room, and the filtering is there at the level of a MERV 13 at the minimum everywhere so that's important to realize. I realize also that people are much more worried about the situation in rooms that are not mechanically ventilated. And I can understand that. The way we're treating those to make sure that there's air renewal, is that we do have area grounds people and buildings people go through the rooms and open the windows or doors. Whatever is open access to the outside air for longer durations in the morning and at night and during breaks between classes when there are scheduled breaks. So they're on a schedule to run around these different rooms to make sure that at least have air renewal that happens like that for now, it's actually extremely easy because with the good weather we're having, definitely the windows stay open in most of our classrooms all the time. So that's really where we are in terms of ventilation, are we open to adding some measurements of co2 levels, we could do that, I'm not really closing the door to that. So if it is something that can reassure our faculty members and course instructors, that's something we can we can take a look at. We will not have a co2, constant co2 monitoring in every classroom, but I'm sure we can come up with some form of sampling or something along these lines. We could go to certain classrooms and do that when they're occupied as much as we can. So as we have numbers that make sense, we are not making big promises here just going to be looking into this to see if the if it's a helpful measure.

Christopher Manfredi:

Andy, if I if I could just jump in here for a second. So look, you're asking a lot of questions, we're trying to provide you answers to explain the measures that are in place now. And that can sometimes seem like there's a kind of a resistance to the kinds of issues you're raising. Because you're asking questions and we're providing you answers about why the state of affairs is as it is now. But of course, one of the reasons why we're here is to understand these very real concerns that you have, and to understand what measures we can we can think about and work to move forward. And that's why I think was very important at the outset that I spoke to re-engaging the conventional governance processes of the university. So that these things can be discussed within the collegial governance processes. That's what we hope the motion that's coming to Senate next week does. The motion coming to Senate next week, also will refer to the extension of vaccine passports into curricular spaces and so on. And so while we're happy to answer questions about the decisions that have been taken, I think the important message is that of course, there are lots of decisions that are still to be taken and we want to be able to understand what those decisions ought to be, and particularly to be able to engage our ordinary or something closer to our ordinary governance processes in those in that decision making.

Andrew Kirk:

Thanks so much, Chris.

Sandra Hyde:

Andrew can I please raise the discrimination question?

Andrew Kirk:

You know, I was going to turn to you next Sandra.

Sandra Hyde:

Okay. Yes, I very much appreciate this forum. I am concerned, I have heard from a lot of faculty who feel like they are being discriminated against - faculty that have compromised immune systems, faculty that have family that have compromised immune systems. And the system that's in place right now is that you have to petition to HR and HR, pretty much everybody I know who's petitioned has been turned down. I understand the rationale why you don't want to implement a vaccine mandate right now. I don't agree with it. My public health hat does not agree with it. But I feel like there are mitigation measures we could do. And it kind of feels like this meeting, you haven't been open to a single measure that anybody has proposed at this meeting. It seems like you're just repeating what you're already doing. So my question is, why is it not okay for faculty who literally have compromised immune systems, difficulty hearing, to move their classes online?

And why is HR the screening committee for those that have no medical background and no training to make those decisions? At Concordia, those decisions were made by petitioning to chairs and deans. And Concordia now is 50% online and 50% face to face and nobody was turned down, not a single person at Concordia was turned down who made those requests. So I want to know why McGill has come down so heavy handed in something that I see is a form of discrimination.

Line Thibault:

Maybe Fabrice will want to talk to the operational side of this question. But I'd like to address a legal question. There is no illegal discrimination and what you're describing there. The individuals who are indeed entitled to an accommodation who are being discriminated against. And there are grounds to review for that. And at the university, that's always done. Because here, it's mostly medical grounds. So medical condition, illness, pregnancy, and so on. So this is typically reviewed by HR and they have what I believe, the expertise necessary. And if they don't, they consult with the doctors of the professors or staff members in question, in order to get clarity about what the what the problems are, and what accommodations might be necessary. But what you're describing, is not discrimination. No one is being excluded on the basis of their medical condition, and so on, they are being accommodated, if indeed, lack of accommodation would lead to discrimination. But they're not discriminated against. They're not treated differently than others.

Sandra Hyde:

I would beg to differ with you.

Fabrice Labeau:

I just want to address the other part of your question, which is about the inclusion of HR in these decisions. Let's just say it's the normal process for any such cases at McGill, when there's a medical certificate for any reason, it actually goes to HR for staff. Whatever staff we're talking about, academic or non academic staff. There is the disabilities in the office that is actually looking at these requests all the time. They're actually much more qualified and much more used to making these decisions in terms of looking at these files than your chair or your dean would be in that in that particular case. So that's really the normal route for these kinds of discussion.

Sandra Hyde:

Then why are they rejecting all of them? Why are these accommodations being rejected?

Angela Campbell:

I can jump in Sandra. Okay, I don't have all the data, because I'm not an HR. But I am aware of the number of requests that are going to HR and the protocol that's being followed with respect to accommodations as opposed to leaves. And so what I'm told, HR very much respects privacy. And so I have no idea about the individuals concerned. But what I'm given to understand is that when there's a request made with a medical certificate, indicating that a person needs an accommodation for a health related reason, that even if there's more work to be done on HR side in terms of checking in with the medical practitioner, that the starting premise is that the accommodation is given. So the information I have is not in line with what you presented to the effect that all requests for accommodations are being denied. That's not at all what I have, I have the impression that HR is in fact, overwhelmed with requests, even when they have to look into matters that they are being granted. And I will say also that just following the chat, and, you know, trying to stay back to let the people who've been who are best placed to answer/respond. But I just wanted to connect with one of the points that was made in regard to questions about you know, disciplining professors who asked questions about COVID or spacing, I think Sandra, you had put that in the chat. We've been meeting, Chris and I with MAUT regularly. And that came up in a meeting yesterday. But I just want to assure people what we discussed, which is that if an instructor asks students to spread out in a classroom, because there's space in that classroom to do so. There's nothing wrong with that, right? It's not - I don't understand this notion that there would be a punitive consequence brought to bear on the instructor for that. I just wanted to add that while I have the microphone.

Andrew Kirk:

Thanks so much. So we've run out and the hour is up. But I really appreciate all of the interventions. I'm sorry, we couldn't get to ask every question. So what we're going to do is that we will keep a copy of the questions. And we'll put them together and probably removing people's names. We will use these as a basis for future conversations with the administration, which we're meeting once a week with the Provost and his team. We will follow up on these - you've asked a lot of good questions. For those who did respond to the poll about should McGill implement the vaccine passport campus wide? 96% of people said yes, out of 77 respondents and 4% said no. So certainly, you know, within this meeting room, I would say that's a pretty overwhelming majority in favor. I'd really like to thank everybody for their participation. I'm looking forward to finding out more about what's going to happen with this motion to Senate. And I'd like to thank all my colleagues for their help in organizing this meeting and Jo-Anne and the MAUT office for setting it all up.

Christopher Manfredi:

Andy, before you adjourn, I just want to say thank you for all of you being here. And I know, look, these are these are difficult conversations, as I said, I hope that we're going to be moving some of them into structures and processes that are more in line with our normal governance processes, which I think allows us to have better conversations about them. I know you're all engaged in trying to provide the best possible education experience for our students and I appreciate that. I think we all have that goal and we need to work together to it. We're listening to this, I understand a lot of areas where this group believes that there can be improvement by the university and we take that to heart, and we will continue to work on that.

Andrew Kirk:

Thank you to everybody. Please stay in touch with MAUT and we'll try and keep you informed as best we can. Have a good afternoon everybody. Stay healthy. Thanks.

3. Adjournment

A. Kirk called to adjourn the meeting. R. Sieber moved to adjourn, seconded by D. McKinnon. Meeting adjourned at 2:03 pm.

Respectfully submitted by: Jo-Anne Watier, MAUT Recording officer