

Montreal Oct 2018, FQPPU report

- 1) The University of Laval is considering renewing its membership to the FQPPU. They were present as observer and will report to their assembly. A decision on membership renewal will be made by next meeting and would significantly improve the lobbying power of the FQPPU
- 2) Presentation on decision-making process at different institutions (McGill & UQAM). Joseph Varga prepared a MAUT organigram outlining the decision-making and influencing structure of MAUT. I presented the organigram at FQPPU. I plan on writing a short summary for the newsletter.
- 3) There will be a president elect at FQPPU for 1 year from now on.
- 4) Round table on Sexual Violence Policy revisions at all participating universities
- 5) A Practical Guide for Faculty serving on University Board of Governors is being put together by the FQPPU. Me Marie-Claude St-Amant, Mireille Dubé from UQTR and Maryse Tétreault, Research Professional at FQPPU .

A Practical Guide for Faculty Serving on University Boards

The financial literacy of Faculty serving as members of University Board of Governors is often lacking. Faculty also face dilemma concerning their loyalty towards their colleagues or the institution. The "Federation Quebecoise des Professeurs et Professeures Universitaires (FQPPU) is finalizing a practical survival guide to help Faculty catapulted into such roles. The objective of the guide is:

- 1) Describe the legal responsibility and duties of professors serving as administrators.
- 2) Improve financial literacy of Faculty helping them to learn to read financial information, identify pertinent information enabling them to raise questions when needed.

Legal aspects: Responsibility and Duty of the Faculty

The legal nature of universities is governed by University Charters. The responsibility and powers of the Board of Governors is one of management and oversight. Members of the Board have a responsibility and a duty to respect the law; act within the power limits that are mandated; act prudently and diligently; act honestly and with loyalty in the interest of the University. In keeping with their legal duty, Faculty serving on Boards face several grey zone dilemma such as:

- 1) Who speaks when the university takes position?
- 2) To who are Faculty beholden: the University or the interest of the McGill Faculty at large?
- 3) How does a Faculty weigh loyalty versus conflict of interest?
- 4) How do we define solidarity in terms of keeping the opinion of the Board in cases where decisions may limit academic freedom?

As I listened to other university union representative speak about their interactions with their Boards, which for the most part are conflictual. I see a clear advantage of McGill's collegial governance model. Faculty serving on our Board should be able to freely make decisions concerning the "grey zone" situations to be effective in their role. Additional information available to McGill members serving on the Board can be found (<https://mcgill.ca/boardofgovernors/governance/conduct>), (https://mcgill.ca/boardofgovernors/files/boardofgovernors/5_code_of_ethics_2018.pdf), (https://mcgill.ca/boardofgovernors/files/boardofgovernors/statutes_of_mcgill_university.pdf), (https://mcgill.ca/boardofgovernors/files/boardofgovernors/report_evolution_on_governance.pdf) (https://mcgill.ca/boardofgovernors/files/boardofgovernors/summaries_of_board_standing_committee_terms_of_reference.pdf)

Improving Financial Literacy.

The University's financial obligations are legal and accounting in nature. Legal obligations are related to the "E-14.1 the act respecting educational institutions at the university level". Accounting responsibilities must follow Canadian generally accepted accounting principles, have audited financial statements, fund accounting, clearly detail the restricted contributions and unrestricted contributions. Faculty serving on Boards can rely on several sources of publicly available information including the Final Calculation, the "Système d'Information Financière des Universités (SIFU)", performance indicators and university affair's indicators, the Financial Statements and internally the university budget.

As part of their Board activity, Faculty should request the documents mentioned above, read the auditor's report, and analyze the different financial reports to serve on the Board. An efficient way to contribute to Board discussions is to ask questions when large variations in operational budgets and spending occur. In an ideal case, Faculty serving on Boards should try to identify and ask questions about the nature and amounts of interfund transfers.

The final practical guide will be available Spring 2019 and will provide variation thresholds for the different financial statements items to help Faculty rapidly identify situations that would require further attention.

85th CAUT Council Report

November 25, 2018

- CAUT is doing well financially and has a surplus.
- 2018 Librarians' and Archivists' Distinguished Service Award was award to McGill's Mark Richards.
- Two new CAUT Membership applications have been approved: Concordia University Part-Time Faculty Association & Syndicat général des professeurs et professeures de l'Université de Montréal has become a member of CAUT.
- Free speech problems across campuses is a target area of the CAUT. They have done some polling across Canadian universities looking at education, age, political affiliation.
- The most important item for MAUT are the results on the Andrew Potter Investigation.

CAUT presented their final report on the Andrew Potter Investigation. "The main recommendation of the report is that McGill should adopt a policy that gives full protection to the academic freedom of academic administrators as outlined in the relevant CAUT policies. This new language should also be included in the faculty handbook with the McGill Association of University Teachers. Should McGill fail to establish an acceptable policy, Dr. Gabbert, the author of the report, has recommended that CAUT Council should impose censure."

This position is reiterated in David Robinson's Letter to MAUT NOV 23, 2018 stating "I hope that the McGill Administration can learn from Dr. Potter's case by developing a policy that displays a deeper understanding of how academic freedom protects extramural speech, and applies to academic administrators. I would of course be very happy to discuss how CAUT might assist the MAUT in pursuing this matter with the University.

This last statement seems somewhat hypocritical considering the CAUT/assigned special investigator did not reach out to MAUT for consultation, chose to use terminology detrimental to ongoing negotiations for MAUT with the McGill administration referring specifically to the "Fortier Doctrine".

MAUT had specifically discussed this with M. Robinson at the 2018 Spring council.

FINDINGS OF THE REPORT:

1. Neither Andrew Potter nor some members of the McGill administration properly understood that academic freedom protects the right of academics to extramural speech.
2. McGill's tweet of March 21, 2017 and subsequent behavior violated the McGill Statement of Academic Freedom's requirement that the University's autonomy and the academic freedom of its faculty be protected against "undue external influence," generated uncertainties about the University's willingness to defend academic freedom, and undercut the standard assumption that the views of individual academics were not to be taken as those of the University.
3. There is no conclusive evidence that the McGill administration put pressure on Professor Potter to resign as Director of MISC, and this report makes no finding, implied or otherwise, on that issue. What is critically important, however, is that the application of the "Fortier doctrine" as the Principal expressed it in her various public statements after Professor Potter's resignation as Director of MISC, could certainly serve to justify such pressure as a legitimate prerogative of senior administrators.
4. The "Fortier doctrine" of the conditional nature of the academic freedom of academic administrators is contrary to the academic freedom rights of the University's academic administrators and of all members of the McGill faculty. The doctrine constitutes a violation of the CAUT Policy Statement on the Academic Freedom of Academic Administrators and threatens the protections embodied in the CAUT Policy Statement on Academic Freedom as they apply to all faculty members at McGill.

THE RECOMMENDATIONS OF THE REPORT:

A) CAUT is insisting that CAUT-based/inspired academic freedom statements regarding administrative Faculty be used and replace the current one as posted on the University website.

B) This new language should also be included in the faculty handbook with the McGill Association of University Teachers.

Then they are threatening to impose censure if we do not comply.

Overall, it should be straightforward to change the MAUT language. We need to put pressure to change their first recommendations, ideally before the next council meeting in April 2019.

SELECTED INFORMATION FROM THE POTTER REPORT TAKEN FROM EMAIL TRACES ACQUIRED THROUGH ACCESS TO INFORMATION REQUEST:

“When Vice- Principal Arseneault inquired about Professor Potter’s status, Ms. Graveline affirmed that as an appointee of the Board of MISC and not a professor, Professor Potter could not be certain of support from the McGill Association of University Teachers (MAUT) if he claimed his academic freedom had been infringed.¹²”

“Already on the afternoon of March 23, MAUT President, Professor Terry Hébert, had written to the Principal and Provost asking for their “insights” into the Potter case, saying he had received many calls for comments on the matter, noting that rumour had it that Professor Potter had been dismissed, and indicating MAUT’s concerns with the impact of the case on academic freedom.²⁴ At the end of the day on March 24, Professor Hébert sent a memo to the MAUT discussion forum asking for clarification of the administration’s part in Professor Potter’s departure as Director and promising to raise in the University Senate the question “[w]hether the McGill administration should comment on any opinion expressed by academics, however controversial.”²⁵

Terry Hébert, MAUT Discussion Forum, 24 March 2017, “569 Documents Previous Requests,” CAUT, pp. 48-49.

“Principal Fortier agreed to an interview in the Globe and Mail which appeared on March 26. There she attempted to clarify her views on the academic freedom issue in relation to the Potter resignation. She concluded that “[w]hen you are an academic administrator, there are things you must be more prudent about doing.”²⁶

“The Globe and Mail interview made abundantly clear that the McGill administration was working with a version of academic freedom that saw the academic freedom of academic administrators as conditional upon the exercise of ‘prudence’ and the avoidance of controversy consistent with the purposes of whatever unit for which they were responsible. The full meaning of Andrew Potter’s supposed earlier realization that he had failed to act in ways consistent with the “mission” of MISC now became apparent.”

“Principal Fortier chose to respond to the two sets of questions together. She began by restating the importance of academic freedom at McGill, but did so by quoting the University’s mission statement in which academic freedom comes first in a list of principles that also includes “integrity, responsibility, equity, and inclusiveness.” She pointed out that in their “scholarly activities,” academic administrators could rely unquestionably on protection for their academic freedom.³¹ She noted, however, that the University administration’s general obligation to protect the academic freedom of faculty members was

complicated in the case of academic administrators due to the need to assure that administrative duties be properly carried out:

Although University officers may not interfere with the academic freedom of academic administrators and have a duty to respect and protect it, they also have an obligation to ensure that administrative responsibilities are discharged effectively to the highest institutional standards, in a manner that pursues the academic mission and responsibilities of the unit that they are charged with overseeing.³² (Italics added)"

"In an e-mail to Principal Fortier written two days after Professor Potter's resignation was announced, Dean Maioni strongly suggested that Professor Potter had not met the standards of scholarship necessary to bring his piece under the protection of academic freedom:

I just want to clarify that academic freedom is a privilege, not an entitlement. It is based on a responsibility to strict standards of research and intellectual honesty in the academy. And an administrative position has a further responsibility based on the description of its duties. Andrew was no longer a journalist and editor when he came to McGill: he was given the title of professor and of director, with the rights and responsibilities that go with those roles.⁴¹"

"The Fortier doctrine does not define "academic administrator," and Principal Fortier never responded to the request in the Directors' letter of April 4, 2017 to specify which administrators were subject to her doctrine. As Director of MISC, Professor Potter reported to the Dean of Arts, which presumably put him in the same category as a Head of Department. In any case, the Fortier doctrine makes no distinctions according to position in the administrative hierarchy beyond leaving it to senior administrators to decide when their subordinates might be removed for a breach."

"Principal Fortier's view of the limited academic freedom of academic administrators is in fundamental conflict with the CAUT position. The Fortier doctrine stipulates that academic administrators may be restricted in their public utterances to those that are not provocative, that do not have a negative impact on the McGill community, that are not inconsistent with the mission of the unit that they lead, that do not suggest or trigger a failure of effective administration, that do not lead to a loss of credibility for the administrator or the unit, and that cannot be faulted as a breach of the McGill mission statement's principle of "responsibility." In her view, academic administrators who fall short of these standards should have the good sense to resign their administrative positions and return to their primary roles as academics without administrative duties. Failing that and where, in the judgement of senior administrators, a breach of the doctrine had occurred as a result of expression which would ordinarily be protected by the principles of academic freedom, the administrator in

question could be removed. Subject to such conditions, it followed that academic administrators could not count on exercising their extramural rights in the usual way; but of course even their scholarly publications and teaching, not to mention critical comments on university policy, might possibly have the sort of "impact" that could result in their dismissal as administrators. In any given case, potentially damaging public controversy might itself be taken as sufficient evidence to support a charge of administrative failure. Where under such circumstances senior administrators acted to remove a unit administrator, they would simply be acting to fulfill what Principal Fortier referred to as their "obligation to ensure that administrative responsibilities are discharged effectively to the highest institutional standards, in a manner that pursues the academic mission and responsibilities of the unit they are charged with overseeing.⁵³"

"Rather, it is the emergence of the Fortier doctrine itself which affects all McGill faculty that makes the Potter case so important to the fate of academic freedom in Canada."