



Memorandum

Secretariat

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TO: Senate

FROM: Professor Richard Gold, Chair, Committee on the Rights of Senate

SUBJECT: Report of the Committee on the Rights of Senate

DATE: April 17, 2019

DOCUMENT #: D18-61

ACTION REQUIRED: INFORMATION ENDORSEMENT

ISSUE: The report of the Committee on the Rights of Senate is presented to Senate for endorsement.

BACKGROUND & RATIONALE: The Committee on the Rights of Senate (the “Committee”) is a standing committee of Senate. In accordance with its [Terms of Reference](#), it is convened further to a request by Senate to investigate a complaint of a breach of the rights of Senate, as described in [part XIX of the Senate Standing Rules of Procedure](#).

On November 21, 2018, further to a recommendation of the Senate Steering Committee, Senate asked the Committee on the Rights of Senate (the “Committee”) to investigate a complaint of a breach of Senate’s confidentiality. The alleged breach related to a motion from the Honorary Degrees and Convocations Committee presented to Senate on October 24, 2018 in confidential session.

The Committee met on January 22, 2019 and on February 26, 2019 to review the matter and invite witnesses. Based on its findings, the Committee recommends five actions described in the report, attached as Appendix A. Senate is asked to endorse the implementation of the Committee’s recommendations.

PRIOR CONSULTATION: Committee on the Rights of Senate

SUSTAINABILITY CONSIDERATIONS: N/A

IMPACT OF DECISION AND NEXT STEPS: The Committee’s recommendations will be shared with relevant units.

**MOTION OR
RESOLUTION
FOR APPROVAL:**

Be it resolved that Senate endorse the implementation of the recommendations of the Committee on the Rights of Senate, as presented in Appendix A.

APPENDICES:

Appendix A: Report of the Committee on the Rights of Senate



**Report of the Committee on the Rights of Senate
March 20, 2019**

The Committee on the Rights of Senate, chaired by Professor Richard Gold, and composed of Mr. Daniel Amon, Professor Peter Grütter, Ms. Mary Jo McCullogh, Mr. Marc Richard and Professor Axel van den Berg, submits this report to Senate in accordance with its Terms of Reference. The Committee was supported by Ms. Edyta Rogowska, Secretary-General and Ms. Georgia Ntentis, Governance Officer (Senate).

1. BACKGROUND AND MANDATE

The Committee on the Rights of Senate (the “Committee”) is a standing committee of Senate. In accordance with its Terms of Reference (see Appendix), the Committee is convened further to a request by Senate to investigate a complaint of a breach of the rights of Senate.

Part XIX of the Senate Standing Rules of Procedure define a “breach of the rights of Senate” as follows:

1. A breach of the rights of Senate consists in such improper obstruction, or attempt at or threat of obstruction, of Senate, its members, officers, or committees, as is causing, or likely to cause, substantial interference with the performance of their respective functions.
2. Where the business of Senate or of any of its committees or of any officer of either involves a confidential matter, a breach of that confidentiality shall be a breach of the rights of Senate, without prejudice to application of rules relating to University discipline.

Once convened, the Committee conducts an investigation and reports its findings to Senate. Consistent with the Senate Standing Rules of Procedure and, as provided for in its Terms of Reference, the Committee may recommend appropriate action, including temporary exclusion from Senate, expulsion from Senate, or the institution of disciplinary proceedings by the appropriate University bodies.

On November 21, 2018, further to a recommendation of the Senate Steering Committee, Senate asked the Committee to investigate a complaint of a breach of Senate’s confidentiality. The alleged breach related to a motion from the Honorary Degrees and Convocations Committee presented to Senate on October 24, 2018 in confidential session. The Committee met twice, on January 22, 2019 and on February 26, 2019, to review the matter and to invite witnesses. In particular, the Committee invited and heard from senior editorial staff from the McGill Tribune as it was involved with the alleged breach.

2. SUMMARY FINDINGS

Based on the facts it collected, the Committee concluded that there was a breach of the rights of Senate. The Committee found that a Senator disclosed confidential information to an editor from the McGill Tribune. The editor followed regular journalistic practice by seeking interviews from a second Senator and from staff of the Secretariat. The editor also posted an item on the Tribune’s

Twitter account relating to the matter. Once informed that the matter was confidential, the Tribune deleted the Tweet and did no further reporting on the matter. The Committee found that the breach was likely unintentional and thus concluded that disciplinary action is not warranted.

While this was a case of unintentional breach (and thus does not raise any questions concerning freedom of expression or of the press), the Committee made several findings. First, the Committee notes that all of the Tribune, the second Senator and the Secretariat acted quickly and responsibly to curtail the effects of the breach of confidentiality. The Committee concluded that the checks and balances within the University worked appropriately to limit the consequences of the breach. The Committee would like to acknowledge the full cooperation of the four members of the McGill Tribune editorial staff throughout this process and thank them for their collaboration.

3. RECOMMENDATIONS

Based on its findings, the Committee recommends the actions noted below. These recommendations are addressed to Senate but the Committee acknowledges that many of the actions fall outside the scope of Senate's mandate. In this respect, the Committee recommends to Senate that it endorse the implementation of these actions.

1. Continuation of reminders regarding confidentiality

When moving into confidential session, the Chair of Senate ought to continue to remind Senators that deliberations are to remain confidential. The Chair ought to continue to ask anyone who feels unable to maintain this confidentiality to leave the room. The Chair ought to remind Senators that they share responsibility for maintaining the confidentiality and integrity of the process and that they ought to specifically avoid disclosures, even in casual conversation. The Chair ought also to continue to ask non-members of Senate to leave the room. The Committee finds that these steps are an essential part of the due diligence process.

2. Providing concrete examples of breaches of confidentiality at the Senate Orientation

The Committee recommends that the Senate orientation session held annually for new and returning members of Senate, prior to the first Senate meeting of the academic year, be made a venue to review the obligation of confidentiality. The session includes a presentation on University governance, delivered by the Secretary-General.

The Committee recommends integrating concrete, albeit non-nominative, examples of breaches of confidentiality in the context of this presentation to stress the importance of respecting Senate's rules. In particular, Senators should be cautioned not to disclose confidential information even with friends, in casual settings, or where non-members could overhear a conversation. The Secretary-General has accepted this recommendation and will implement it, starting with the upcoming Senate orientation session in September 2019.

3. Organizing an orientation session for members of the student press and McGill's Communications Team

The representatives of the McGill Tribune expressed interest in learning more about the University's governance processes and receiving information and an orientation on confidentiality and suggested that this be extended to the editors of other media on campus. This orientation would include an overview of matters discussed by Senate and the Board of Governors that have a tendency to be confidential. The session would also provide an opportunity for members of the administration (notably, the Secretariat and Communications and External Relations) and the media to establish a process for sharing information related to University or governance activities.

The Committee recommends that the administration provide an orientation session to members of the media. In light of the annual turnover in student staff, the session should be provided at the beginning of each academic year. Continued discussions with the editors of the McGill Reporter should also include a discussion of confidentiality. Given that turnover at the Reporter is not annual, these sessions can be separately scheduled.

4. Review of Memoranda of Agreements (MOAs) between McGill and the student press

The Committee supports the inclusion of a provision in the MOAs that the University has with student press stating that the University agrees to provide an annual orientation session on university governance processes, including those involving confidentiality requirements, and that the members of the student press agree to attend. The Secretary-General has agreed to discuss this recommendation with the office of the Deputy-Provost (Student Life and Learning), which is responsible for developing MOAs with student newspapers.

5. Encouraging dialogue with students in the Faculty of Law

The representatives of the McGill Tribune expressed interest in obtaining more information on legal issues faced by journalists. The Committee learned that the Tribune normally contacts, as necessary, the Legal Information Clinic at McGill for legal information.

In addition to receiving assistance from the Legal Information Clinic, the Committee supports the idea of the Tribune and other student newspapers seeking additional information, on an informal basis, from fellow students from the Faculty of Law. This would provide an opportunity for the student community to exchange information and provide informal input on other legal resources that may be of interest to student newspapers.

Respectfully submitted:

Professor Richard Gold
Chair, Committee on the Rights of Senate

Report of the Committee on the Rights of Senate – Appendix

TERMS OF REFERENCE

Jurisdiction

1. The Committee on the Rights of Senate is established to investigate and report on complaints of breach of the rights of Senate as set out in Part XIX of the Standing Rules of Procedure, Governing the Proceedings of the Senate of McGill University.
2. The Committee on the Rights of Senate shall exercise its jurisdiction only upon receipt of a complaint made in accordance with Section C of Part XIX.
3. The Committee on the Rights of Senate shall be a standing committee of Senate comprised of six (6) Senators serving renewable three year terms, except the students who shall serve a one year term.

The Committee on the Rights of Senate shall:

1. be appointed by Senate on the recommendation of the Nominating Committee;
2. include a Senator who is a tenured professor in the Faculty of Law;
3. include three other Senators who are members of the academic staff;
4. include one student Senator;
5. include one Senator who is an administrative and support staff member;
6. be chaired by a tenured member of academic staff, elected by simple majority of its members;
7. have a quorum consisting of the majority of its members.

Conflicts of Interest

4. If any member of the Committee on the Rights of Senate has a conflict of interest or apparent conflict of interest in a matter referred to it, that member shall recuse himself or herself immediately.

Powers of the Committee

5. The Committee on the Rights of Senate shall study every matter duly referred to it.
 1. It shall report its findings to Senate.
 2. It may recommend further actions, including temporary exclusion from Senate, expulsion from Senate, or the institution of disciplinary proceedings by the appropriate University bodies.
6. The Committee shall have the power to hold open or closed sessions.

Source: Senate Minute 81, February 10, 1971
Amendment: Senate Minute 105, April 5, 1995
Senate Minute 5, January 30, 2002
Senate Minute IIB4, April 28, 2010
Senate Minute IIB4, IIB7, February 16, 2011