



# Memorandum

Secretariat  
845 Sherbrooke Street West  
Montreal QC H3A 0G4  
398-3949 | 514-398-4758

**TO:** Senate  
**FROM:** Mr. Stephen Stropale, Secretary-General  
**SUBJECT:** November 20 Senate Open Discussion: Charter of Quebec Values  
**DATE:** November 15, 2013  
**DOCUMENT #:** D13-18

**ACTION REQUIRED:**  INFORMATION  APPROVAL/DECISION

**ISSUE & EXPECTED OUTCOME:** Now that legislation concerning the Charter of Quebec Values has been tabled in the National Assembly, an open discussion is taking place to help develop McGill’s position on Bill 60. Following the open discussion, Senate may wish to entertain a motion expressing its stance on Bill 60.

**BACKGROUND & RATIONALE:** At the September 16, 2013 Senate meeting, the Chair outlined McGill’s initial position concerning the Charter of Values (as it then was) and indicated that in the event of the introduction of legislation she would consult with the University community, including Senate and the Board of Governors. Since legislation has been introduced in the National Assembly, the Steering Committee decided that it would be timely to have a discussion at Senate; the discussion will result in further elaboration of McGill’s position on the issue.

McGill General Counsel, Me Line Thibault, who prepared the attached analysis, will be present for the open discussion to answer any questions Senators may have about the legislation.

**MOTION OR RESOLUTION FOR APPROVAL:** Following the open discussion, Senate may wish to entertain a motion expressing its stance on Bill 60.

**PRIOR CONSULTATION:** N/A

**NEXT STEPS:**

- Discussion and possible resolution by the Board of Governors
- Communicate publicly McGill’s position on Bill 60

**APPENDICES:** Appendix A: Summary of Bill 60 – Charter of State Secularism and Religious Neutrality

## SUMMARY OF BILL 60 - CHARTER OF STATE SECULARISM AND RELIGIOUS NEUTRALITY

SECTIONS	SUBSTANCE	APPLICATION
1.	“A public body must remain neutral in religious matters and reflect the secular nature of the State while making allowance for the emblematic and toponymic elements of Quebec’s cultural heritage that testify to its history.”	Section 2 and Schedule 1 provide that Universities are “public bodies”.
3, 4, 5	In the exercise of their functions, staff members of public bodies must: <ul style="list-style-type: none"> <li>(1) maintain religious neutrality;</li> <li>(2) exercise reserve with regard to expressing their religious beliefs;</li> <li>(3) refrain from wearing religious symbols which by their conspicuous nature overtly indicate a religious affiliation (headgear, clothing, jewelry, etc)</li> </ul>	<p>This does not apply to one’s private life.</p> <p>According to section 13, sections 3 to 6 are deemed to be part of one’s employment conditions, and cannot be modified by the employment agreement.</p> <p>Pursuant to section 18, there will be no accommodation concerning the duties described in sections 3 to 6.</p>
6,7	Staff members of public bodies must work with their face uncovered (unless required by particular working conditions, occupational requirements, etc and individuals receiving services from public bodies must <b>ordinarily</b> have their face uncovered.	Section 7 provides that the implementation mechanisms concerning individuals receiving services is described in an internal policy. Accommodations take into account security, identification and level of communication requirements.
8, 9	The obligations described above apply to several types of individuals occupying “public” functions, such as judges appointed by the Government of Quebec, (including Municipal Courts, Labour Boards, Human Rights Commission, etc), and staff members of the National Assembly.	This does not apply to members of the National Assembly themselves, although the Act respecting the National Assembly is amended to allow the adoption of a framework concerning religious symbols.
10	Public bodies <b>may</b> require that another party such as service provider or holder of a grant, respect the obligations described above, taking into account the nature of the service provided, and where it is delivered.	In the University context, this could be applied to services delivered on campus by third parties such as security agencies, food services, etc.

<p><b>11</b></p>	<p>The obligations described above do not apply to persons providing instruction of a religious nature in a University or to persons providing spiritual care and guidance services in Universities, hospitals, correctional facilities.</p>	
<p><b>15, 16</b></p>	<p>Requests for accommodation on the ground of religion will be based on the following principles:</p> <ol style="list-style-type: none"> <li>1. It is required pursuant to the Charter of Human Rights and Freedom of Quebec;</li> <li>2. It respects the right to equality of women and men;</li> <li>3. It is reasonable (no undue hardship, taking into account the rights of others, health and safety, costs and the smooth running of the organisation);</li> <li>4. It does not compromise the separation of religions and the State or the religious neutrality and secular nature of the State;</li> <li>5. If it requires an absence from work, additional relevant factors to be taken into account are spelled out.</li> </ol>	<p>Section 42 brings an enabling amendment to the same effect to Charter of Human Rights and Freedom.</p> <p>Apart from the notions of “women-men equality” and absence of compromise on State neutrality, all the factors listed as relevant to the analysis of reasonable accommodation are based on the current state of the law in Quebec (and Canada), as established by jurisprudence.</p>
<p><b>19 to 26</b></p>	<p>Public bodies must adopt an implementation policy based on the principles of the Act and consistent with its own mission and characteristics</p>	<p>The Bill describes the principles that must underpin the policy, such as religious neutrality, restriction on wearing religious symbols, obligation to work with face uncovered, framework for religious accommodation, right to receive services with one’s face covered if applicable, etc.</p> <p>This policy is not subject to the approval of the Minister, unless it is not developed within the required time frame (1 year from ascent of the Act), in which case the Minister may impose one.</p> <p>The policy must be reviewed every 5 years.</p>

32	The highest authority of the public body is accountable for ensuring that measures necessary to implement the Act are taken.	At McGill, this is the Board of Governors
40	The Charter of Human Rights and Freedom is amended by adding in the preamble and section 9.1 that the principles of “women-men equality, the primacy of the French language, of separation of religions and State and of the religious neutrality and secular nature of the State are values of the Quebec nation”.	
44, 45	<p>Transitional period of 1 year from the date of assent of the Act for application of section 5 (religious symbols), applicable to staff in the employment of public bodies on the date of assent (and to others to whom the Act applies);</p> <p>Universities, hospitals, and municipalities can avail themselves of a total of 5 years of transitional period, upon meeting some conditions.</p>	According to the Bill, a public body must promptly inform the Minister of its decision to apply a longer transitional period, including of the grounds for such a decision and the measures it intends to implement to ensure full compliance at the end of the period of transition.
46	Health Centres may also request the Government to extend the period of transition.	<p>The Bill provides a framework for the exercise of Ministerial discretion in that respect. In deciding whether or not to extend further the transitional period, the history of the institution, the conditions under which it was founded and the impact on the pursuit of the institution mission and delivery of services will be taken into account.</p> <p>There is no pre-set limit to the length of further extensions, or to the number of extensions that may be granted by the government.</p>