A SEAT AT THE TABLE

AN ANALYSIS OF THE MCGILL BOARD OF GOVERNORS BY THE STUDENTS' SOCIETY OF MCGILL UNIVERSITY (SSMU)

Compiled By: Leslie Anne St. Amour **Released On:** November 29, 2016



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BACKGROUND

The current state of governance at McGill University has perpetuated an environment in which students feel disenfranchised and unrepresented. Recent history has shown that crucial administrative decisions by the university have often ignored or undermined student interests. Many of these decisions have been made by the McGill Board of Governors, the highest governing body of the institution.

Concerns regarding the governance structure and operations of the Board previously catalyzed the development of a Governance Reform Project by McGill students in early 2011. Unfortunately, due to a lack of mobilization amongst community members, solutions identified in the project were never acted upon, and reform of the Board fell off of the agenda for the Students Society of McGill University (SSMU).

In spring 2016, following increased student concerns regarding the activities of the Board of Governors over the 2015-2016 year, the SSMU Executive hired an Alternative and Equitable Governance Review Researcher to analyze the current structure of the Board and produce recommendations for improvement.

BOARD COMPOSITION

The current composition of the McGill University Board of Governors is as follows:

- the Chancellor, ex officio,
- Principal and Vice-Chancellor, ex officio,
- 12 members-at-large,
- 3 representatives of the McGill Alumni Association,
- 2 representatives of Senate,
- 2 representatives of the academic staff,
- 2 representatives of the administrative and support staff,
- 1 representative of the Students' Society of McGill University and
- 1 representative of the Post-Graduate Students' Society².

It is worth noting that there is no student representative with voting rights from the MacDonald Campus or the School of Continuing Studies, thus undermining their presence as integral members of the student body. Of the 25 members on the Board of Governors, 12 are members-atlarge, including many alumni and donors chosen from industry communities. Many students question the role of these external members-at-large on the Board, given that they are not current staff members or students at McGill and it is unclear how they can judge what is best for the university as an educational institution. Though external members may bring practical expertise to the table, an over-emphasis on outside perspectives may result in an institutional structure promoting singular interests that are not representative of the McGill Community as a whole.

In the past, concerns have been raised regarding Governor conflicts-of-interest, given the likelihood of external members holding vested interests in industries related to the McGill

¹ *The McGill Daily.* "Our board of governors." November 21, 2011. http://www.mcgilldaily.com/2011/11/our-board-of-governors/

² "Composition and Membership | Board of Governors." McGill University. Accessed October 10, 2016.

University context and operations. For example, allegations of conflict-of-interest have surfaced in regards to Board's debates and decisions on fossil fuel divestment since 2013.³ Staff, faculty, and students have also argued that members-at-large with strong ties to industry facilitate or allow for the commercialization of the University, including the increasing emphasis on revenue-generating activities and fee increases.

Concerns regarding vested interests have also included the broader financial operations of McGill. Students and staff alike have raised ethical issues with several conceptual models of revenue generation in a Canadian University context. The type of money accepted by the University in respect to donations and policies in place in order to address possibly unethical funds⁴ have and continue to be concerns that should be monitored more closely.⁵ One example is the call for revisions to the *Regulation on the Conduct of Research* to delineate criteria of social responsibility and require a vetting process by researchers, ⁶ with the intention of limiting research (and funding for research) with potentially harmful applications.

DIVERSITY IN REPRESENTATION

There currently exists a lack of diversity in the various demographics and identities represented on the Board of Governors, particularly in terms of race, ability, gender identity, socio-economic background, and related factors. A review of case studies, some taught in the Desautels Faculty of Management, emphasizes the importance of community engagement in decision making at higher levels of governance. Across a survey of Canadian U15 post-secondary institutions, McGill demonstrates few concrete channels that give voice to the community it serves. As an institution that markets itself as of the highest caliber, it is concerning that the University does not align with the progressive governance practices of many peers. A selection of these representative practices are summarized here:

University of Toronto

The University of Toronto has seats for 8 students on their Governing Council, including 4 full-time undergraduates, 2 part-time undergraduates, and 2 graduate students. While this 50 member Governing Council is larger than the 25 member Board of Governors at McGill, the percentage of student representation is still twice as high.

Lakehead University

Lakehead University operates with a full Ogimaawin-Aboriginal Governance Council.⁸ This council is designed to provide Indigenous perspectives in administrative decision-making, with members chosen from the local Indigenous community through organizations such as the Metis

³ Gray-Donald, David. "Fossil Fuel Divestment at Universities: Inside McGill's Campaign." Rabble.ca. Last modified March 4, 2016.

⁴ http://www.mcgilldaily.com/2009/11/get dirty money out of mcgill/

⁵ http://ssmu.mcgill.ca/wp-content/uploads/2009/10/Motion-Regarding-Global-Access-to-Medicines-Policy-2016-11-07-Approved.pdf

⁶ http://www.mcgilldailv.com/2010/03/senate_debates_harmful_research/

⁷ Semler, Ricardo. "Managing without Managers." hbr.ca. Accessed November 20, 2016.

⁸ "Ogimaawin-Aboriginal Governance Council." Lakehead University. Accessed October 11, 2016.

Nation of Ontario and the Ontario Native Women's' Association, as well as Membership from the Lakehead University Native Students Association. The council is also guaranteed its own representative on the Lakehead Board of Governors.

University of Guelph

The University of Guelph includes a specific section on diverse representation within the *Board of Governors Appointment Protocol*, stating that "Particular attention will be given to measures that can cultivate and support diversity among elected members. Skilled candidates will be sought including those who reflect a gender balance and representation from ethno-racial communities, francophones, First Nations people, and persons with disabilities." This demonstrates an understanding that the Board of Governors should reflect the diversity of the university community in order to ensure that decisions reflect the needs of all members.

Here it is also relevant to note McGill University's relative autonomy in determining the composition and membership of the Board of Governors. At other institutions, such as the University of Alberta, the provincial Minister of Innovation and Advanced Education is responsible for appointment of government representatives to the Board. Regulations that would have introduced similar external oversight at McGill were proposed with Bill 38. This Bill was blocked in part due to protests by the McGill administration and other universities in Quebec. As a result, any plan to remodel Board composition should consider the flexibility and potential for innovation that this situation offers the university. The absence of direct government representation should allow the university more freedom to develop models that reflect the needs and interests of the McGill community.

NOMINATIONS AND SELECTION

In addition to the issues identified regarding representation on the Board of Governors, there is little clarity as to how one becomes a Governor. Members-at-large are typically selected from major industries and organizations in the Montreal community, however there is no transparency with regards to the appointment process. Notably, there are no public criteria for qualifications or requirements apart from generalized governance competencies. While documentation detailing this process was available via request from the administration, this is not an accessible means for the community to understand McGill's system of governance appointments.

Currently, the Nominations, Governance and Ethics (NGE) Committee of the Board brings forward nominations for Member-at-Large seats. In addition, the Recruitment and Succession Planning (RSP) Subcommittee of the NGE Committee is responsible for developing a roster of potential candidates for future openings. While it is stated that the Subcommittee is responsible considering "the diversity of the wider community in terms of gender, age and visible minority

⁹ https://www.uoguelph.ca/secretariat/office-services-board-governors-board-governors-laws-governing-documents/board-governors-appointment

¹⁰ The Governors of the University of Alberta Mandate and Roles Document.

¹¹ Wright, Julia M. "Who Controls the Purse Strings? Quebec Variations." *University Governance in Canada* (blog). September 15, 2015.

¹² Process of Appointing Members [to the Board of Directors].

representation" this is not reflected in the list of skills and attributes identified in the Subcommittee's "Process for appointing members-at-large to the Board of Governors" document.¹³ This list includes qualities such as "strategy/policy," "finance/accounting," "human resources," "investment & pension," "real estate," "philanthropy/fundraising," and "government relations."

The RSP Subcommittee employs a special consultant to assist in the recruitment of candidates with the desired background and expertise. Following this, the NGE Committee will make recommendations to the Board concerning appointments. Often, Members-at-Large will first be appointed to serve as Montreal or Canadian community members on standing committees. This nomination process differs from other schools, such as Lakehead University, where there is an open online application process to become a member-at-large on the Board of Governors.¹⁴ Other schools with open application processes include the University of Ottawa,¹⁵ Carleton University, ¹⁶ and the University of British Columbia. ¹⁷ Notably, these practices also extend beyond the realm of academic institutions For example, the Canadian Senate has moved toward open application process in order to provide a list of candidates for appointment. 18 This allows for the increased accessibility of these positions for community members of diverse backgrounds who might not otherwise qualify or be considered through internal selection mechanisms. Finally, progressive models found outside of Canada include the nomination process at Helsinki University, where a "Collegium" is responsible for electing members-at-large to the Board. ¹⁹ This Collegium includes 20 professors, 15 university education and research staff, 15 administrative staff, and 15 students for terms of two to four years each.

As cited previously, a growing number of managerial theorists and business owners have emphasized the importance of constituent participation in high-level decision making. Reexamining the role of external members sitting as McGill Governors is crucial if we wish to move toward more experience-based models of expertise. For example, the Nominating, Governance and Ethics Committee itself includes at least two seats for Governors-at-Large. In order to draw on the expertise and experiences of the McGill community, the NGE Committee Terms of Reference could better emphasize diverse representation and active outreach in order to fill these Member at Large seats:

¹³ Process for appointing members-at-large to the Board of Governors. 2016.

¹⁴ "Opportunities - Board of Governors." Lakehead University. Accessed October 10, 2016

¹⁵ "Board Member Profile | Administration and Governance | University of Ottawa." Universite d'Ottawa | University of Ottawa. Accessed November 10, 2016. https://www.uottawa.ca/administration-and-governance/board-member-profile.

¹⁶ "Community at Large Representatives - Board of Governors." Carleton University - Canada's Capital University. Accessed November 10, 2016.

https://carleton.ca/secretariat/boardofgovernors/electionsnominations/community-at-large-representatives/

¹⁷ "Job Details, University of British Columbia in Vancouver." Accessed November 10, 2016. https://www.brainhunter.com/frontoffice/seekerViewJobDetailAction.do?sitecode=pl526&jobId=1094825&page=search&external

¹⁸ Wherry, Aaron. "Canadians Can Now Apply to Join the Senate." CBC News. Last modified July 7, 2016. http://www.cbc.ca/news/politics/wherry-senate-application-1.3669318.

¹⁹ "University Management." University of Helsinki. Last modified November 10, 2016. https://www.helsinki.fi/en/university/strategy-and-management/university-management#section-2868

Committee Terms of Reference (Current)

Committee Terms of Reference (with amendments)

1. Composition

- a. Other than the Chair of the Board, the Chancellor and the Principal, appointments to the Committee are approved by the Board, normally on the recommendation of the Committee.
- b. In accordance with the relevant provisions of the Statutes, the Committee shall consist of the Chair of the Board, the Chancellor, the Principal and seven governors, selected, as indicated below, from the following Board membership categories:
 - four from:
 - At-Large members (at least two);
 - Alumni Association members
 - Governors Emeriti:
 - one from the Academic Staff and Senate members;
 - one Administrative and Support Staff members;
 - one student representative of the Board (member or observer).
- c. The Chair of the Committee shall be appointed by the Board, normally on the recommendation of this Committee.
- d. The Committee may recommend to the Board of Governors the appointment of a Vice-Chair of the Committee.
- e. The Principal shall serve as the Senior Steward to the Committee.
- f. The Secretary-General or delegate shall serve as Secretary and governance advisor to the Committee.

1. Composition

- a. Other than the Chair of the Board, the Chancellor and the Principal and the Secretary General, appointments to the Committee are approved by the Board, normally on the recommendation of the Committee.
- b. In accordance with the relevant provisions of the Statutes, the Committee shall consist of Chair of the Board, the Chancellor, the Principal, the Secretary General, three seven governors, and four members from the greater University community selected, as indicated below, from the following categories:
 - two elected by the Senate;
 - → At-Large members (at least two);
 - → Alumni Association members
 - → Governors Emeriti:
 - one from the Academic Staff and Senate members;
 - one Administrative and Support Staff members:
 - one student representative of the Board (member or observer).
 - one Indigenous community representative;
 - one undergraduate student, selected by the Students' Society of McGill University;
 - one graduate student, selected by the Post-Graduate Students' Society.
- c. The Chair of the Committee shall be appointed by the Committee from among the member-atlarge seats at the first meeting of each academic year. Board, normally on the recommendation of this Committee.
- d. The Committee will additionally may recommend to the Board of Governors the appointment of a Vice-Chair of the Committee. The position of Vice-Chair will be held by a Governor who will be responsible for reporting to the Board on behalf of the Committee.
- e. The Principal shall serve as the Senior Steward to the Committee.
- f. The Secretary-General or delegate shall serve as Secretary and governance advisor to the Committee.

Through such changes, the Board of Governors can open up its governance and selections processes and empower community members to participate in these important decisions. In particular, removing "Governors Emeriti" (past Governors) and ex-officio (non-voting) administrative members while retaining the leadership of the Principal and the expertise of the Secretary General should allow for more meaningful representation while ensuring that the core governance responsibilities of the committee are upheld.. Alternatively, the Board may consider reimagining the NGE Committee as a joint Board-Senate governance body.

ACCOUNTABILITY AND TRANSPARENCY

Students have at times expressed concern that decisions made by the administration, and the Board of Governors in particular, are made without adequate consultation or appreciation for the needs of students. The Board conducts many of its discussions in closed sessions, yet the criteria for which business items warrant a closed session are determined by the Board itself. In addition, records of decisions are difficult to access, contributing to an atmosphere of mistrust where Governors are often separated from students and the community that they represent.

Several other Canadian universities with similar governance systems have encountered issues regarding accountability and transparency in recent years. Notably, after a series of crises implicating the Board of Governors at the University of British Columbia, the UBC Faculty Association developed several recommendations for changes to the Board's operations, training, conduct, conflict-of-interest policies, faculty participation, relationship with the Senate, and processes. These proposals sought to address concerns such as the use of closed meetings for major decisions. It is recommended that the McGill University Board of Governors carefully consider these recommendations in order to avoid the pitfalls and controversies encountered at UBC.

Other procedures that could facilitate accountability and transparency in the decision making process include tracking and reporting Governor voting; clarifying the requirements for entering into confidential or *in-camera*;²¹ allowing for the direct submission of motions by Governors; and open sessions for community member questions and feedback. Tracked voting involves the use of software to register and record how representatives vote, in order to include this information in meeting minutes and provide a clear means by which Governors can be held accountable.²²

Streamlining the process for submitting agenda items would allow any Governor to bring forward motions for discussion at the Board. The current process requires motions to first be vetted by the Secretary General, and resulting in redirection to a Committee. While in principle this may improve efficiency and feedback, in practice it can restrict the ability of Governors to respond to needs identified by the community or to table proposals already backed by research and consultation. This would reduce administrative overhead while simultaneously empowering Governors by providing more direct opportunities for engagement in the decision making process.

²⁰ University of British Columbia Faculty Association. "Faculty Perspectives and Recommendations on Governance at UBC." 2016.

²¹ https://www.mcgill.ca/boardofgovernors/regulations

²² http://ssmu.mcgill.ca/wp-content/uploads/2015/07/Voting-Record-2016-03-10.pdf

In situations where the Board may identify that an item requires more consultation, it can then be easily referred to committee (such is sometimes the practice at Senate).

The addition of an "Open Session" as a staple item on Board meeting agendas would allow for increased transparency, accessibility, and feedback directly from community members. Furthermore, this would also allow constituents and stakeholders (students, staff, and faculty) both to ask questions for their own knowledge and as well as inform Governors of issues and opportunities on-campus. Open sessions may reduce the need for interruptions to meetings and increase efficiency by regulating rather than restricting communications to the Board, which has in various cases proven less effective. These potential benefits are visible in the use of open government practices in municipalities, such as Guelph, Toronto, and the greater Province of Ontario. In fact, in addition to promoting transparency and public involvement, the recorded impacts of open government include streamlining administrative tasks for governing bodies and creating financial savings for institutions. ²⁴

Finally, the removal or further regulation of "in camera sessions" would considerably enhance the clarity and accessibility of Board business. As it currently stands, the *Regulations of the Committees of the Board of Governors* define *in camera* sessions at the committee level as follows:

"44. All committees shall hold an *in camera* session. *In camera* is defined as a two-tiered session, the first part excluding any individuals employed by or studying at the University except for the Principal, and the second part excluding any individuals employed by or studying at the University including the Principal."

Currently, Governors hold no constituent representation, and as such each Governor is seen as equal in rank, title, and ability to provide unbiased recommendations. However, the practice of distinguishing between Governors based off constituency, undermines this regulatory framework. The Board may look to other universities to more clearly define the scope and purpose of *in-camera* sessions.²⁵

STUDENT ROLE IN DECISION-MAKING

There are extremely few channels for students to voice their feedback at the level of the Board of Governors. There is only one voting representative each for graduate and undergraduate students, and only one observer seat each for Macdonald Campus and continuing education students. As a result, students simply do not have a forum where they can adequately ensure that they are heard by our highest governing body. It is important to note that while Governors are tasked with serving in the "best interests" of the McGill community, absent of any biases, many elected Governors, such as students, academic staff and administrative staff, are or have been members of the community themselves. As such, the University should capitalize on the strength of these connections by developing a governance system where internal nuanced perspectives

²³ https://www.ncbi.nlm.nih.gov/pmc/articles/PMC2709326/

²⁴ Open Government: Key Concepts and Benefits. Information and Privacy Commissioner of Ontario, 2016.

²⁵ http://www.usask.ca/secretariat/governing-bodies/board-of-governors/GuidelinesForInCamera.pdf

and lived experiences add value and depth to decision making protocols. Further, promoting a framework where grassroots contributions are valued would encourage cross-university collaboration and provide students with the opportunity to actively engage in the decisions that affect them without fearing Conflicts of Interest.

Other universities have adopted explicit consultation protocols to alleviate the issue of uninformed decision-making at higher levels, with the goal of ensuring that students are incorporated into a constituent-oriented governance process. The Simon Fraser University (SFU), Dalhousie University, and St. Francis Xavier University (St. FX) Board of Governors have all developed such protocols in order to consult with students on tuition and fee changes. These agreements include requirements to disclose information such as financial projections, budget drafts, and potential fee changes. At St. FX, the agreement also includes specific provisions related to fee increases: if a fee is expected to increase by 5% or more for any reason, a student referendum can be called; if a 75% majority vote against the increase, it cannot be introduced. As proposed tuition and fee increases at McGill University have caused considerable student concern and protest in the past, the St. FX model is an important avenue to consider.

ETHICS

The McGill Board of Governors has made several controversial decisions in recent years. This report will use the refusal to divest from fossil fuel holdings as a case study, as this demonstrates the benefits of improving the Board's responsiveness to the wider social and political beliefs held by members of the university community. This report will focus on the consequences of this decision vis-a-vis the student opinion rather than the merits of fossil fuel divestment.

The fossil fuel divestment movement is a worldwide campaign, supported by prominent educational organizations including, but not limited to, Queensland University of Technology, Stockholm University, Syracuse University, and the Students' Society of McGill University (SSMU). In addition, many other governmental, religious, and pension fund organizations have divested from fossil fuels in past years.³⁰ At McGill University, the student campaign *Divest McGill* submitted two petitions requesting divestment to the Board of Governors' Committee to Advise on Matters of Social Responsibility (CAMSR), first in 2013 and again in 2015.³¹ The most recent decision by the Board in 2016 relied on a final report made by the CAMSR regarding whether or not university investments in fossil fuels caused "grave social injury." However, unlike at some other institutions, this report did not include community input beyond the consultation of select "experts" in closed

²⁶ "Consultation with Students on Tuition Fees (B10.15) - Policies and Procedures - Simon Fraser University." SFU.ca - Simon Fraser University.

²⁷ McNutt, Ryan. "Board Approves Student Consultation Procedures for Fee Changes - Dal News - Dalhousie University." Dalhousie News. Last modified February 16, 2012.

²⁸ "St FX Students' Union Signs Historic Consultation Agreement with Their Board of Governors." Students NS. Accessed October 10, 2016.

²⁹ "St FX, Students' Union Agree to Terms on "historic" Consultation Agreement." Academica Group. Last modified March 7, 2016.

³⁰ "Fossil Free – Commitments." Fossil Free. Accessed October 10, 2016. http://gofossilfree.org/commitments/.

^{31 &}lt;a href="http://divestmcgill.com/about/our-campaign/">http://divestmcgill.com/about/our-campaign/

session. No plebiscite was run to determine support from staff, students, or faculty, nor was there clear recognition of the many community members and groups that had endorsed divestment. Finally, the decision was made in closed session during a special meeting held less than 24 hours after Governors had received the CAMSR Report recommending against divestment.

The decision not to divest the University's financial holdings from fossil fuels was controversial on campus, and many students have spoken out in response. This includes one valedictorian from a graduation ceremony in June 2016, who explicitly criticized the CAMSR Report's finding that fossil fuels do not cause "grave social injury" Previously, during the 2013 petition to the Board of Governors by Divest McGill, students raised concerns regarding Governor conflicts of interest in the decision. This was in part due to connections between then-Principal Heather Munroe-Blum and both the Royal Bank of Canada (RBC), and the Canadian Pension Plan Investment Board, given their direct investments in fossil fuel industries. These conflicts were never discussed by the Board at the time, ³⁴ raising questions about the scope and ability of the NGE Committee to fulfill its role in upholding the Code of Conduct and ethical practices within the Board. Such decisions by the Board, when taken without community consultation or engagement, foster mistrust between students and administrators and have a detrimental impact on the climate of the University community as a whole.

SUMMARY OF RECOMMENDATIONS

1. Board Composition and Indigenous Representation

The current composition of the Board of Governors is not reflective of the needs or diversity of the McGill, Montreal, or greater Quebec communities. As such, the university should engage in a review of the composition of the Board as well as regulations pertaining to external representation. This includes:

- Increasing student representation and Members-at-Large from the McGill community;
- Emphasizing an experience-based model, rather the existing industry-based expertise, for Members-at-Large; and
- Actively recruiting Governors who reflect the diversity of the wider community, such as Indigenous people, people of colour, trans people, people with disabilities, and others with diverse lived experiences.

In light of the new Task Force on Indigenous Studies and Education, the McGill Board of Governors should also place particular emphasis on engaging in consultations with Indigenous communities both internal and external to the university. This includes:

- Creating a designated seat(s) for representatives from local Indigenous communities; and
- Developing protocols to ensure that these members are not institutionalized as token representation, such as through:

³² Board of Governors. Minutes of Open Session. Marsh 23 2016.

³³ "McGill University Arts C Valedictorian Speech 2016 - Evan Berry." *YouTube*. June 10, 2016. https://www.youtube.com/watch?v=GkNLmQ-Jz6o

³⁴ Gray-Donald, David. "Fossil Fuel Divestment at Universities: Inside McGill's Campaign." Rabble.ca. Last modified March 4, 2016. http://rabble.ca/news/2016/03/fossil-fuel-divestment-universities-inside-mcgills-campaign

- Veto power for non-vital motions;
- Active outreach for Indigenous community members to fill more than a designated seat(s) on the Board; and,
- Gender and racial parity on committees (with emphasis on Indigenous representation).

2. Community Involvement in Member Selection

In order to better respond to the diverse needs and viewpoints of the community and improve grassroots involvement in Governor selection, the Board should integrate more non-Governor students, staff, and faculty member into the selection process for Members-at-Large. This includes:

- Revising the terms of reference of the Nominating, Governance and Ethics (NGE)
 Committee to include community representation, including possibly reconstituting it as a joint Board-Senate committee;
- Conducting formal community callouts for nominations to Member-at-Large seats; and
- Reviewing all current Board committees in order to introduce more non-Governor representatives.

3. Procedural Changes

In order to improve the transparency and accountability of meetings, it is recommended that the Board of Governors undertake the following procedural changes:

- Revising regulations that outline criteria for the Board to enter into closed and in-camera sessions, which should be publicly available online;
- Implementing tracked voting and public reporting for all Board decisions;
- Eliminating administrative barriers to Governor engagement, such as by allowing the direct submission of motions and agenda items, communications between Governors, and inter-committee participation;
- Introducing a standing open forum and/or question period during Board meetings to allow community members to raise matters of importance.

4. Consultative Protocols

In order to ensure that input from students, staff, and faculty members is adequately represented in decision-making, it is recommended that the Board of Governors establish explicit consultation protocols as modeled by peer institutions. This should be undertaken by:

• Creating an ad-hoc committee, composed of at least 50% students, to further examine the issues of consultation and consent, including but not limited to mandatory committee approvals, McGill-wide plebiscites, and tuition and fee referenda: