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TO: Senate

FROM: Morton J. Mendelson, Deputy Provost (Student Life & Learning)

SUBJECT: Terms of Reference for Ombudsperson for Students

DATE: 20 October 2008

DOCUMENT #: D08-15

ACTION REQUIRED: INFORMATION DISCUSSION APPROVAL / DECISION

ISSUE: Revision of the Terms of Reference for the Ombudsperson for Students

BACKGROUND & RATIONALE:

The attached proposed terms of reference were formulated considering the recommendations made by an ad-hoc Advisory Committee (membership is attached) regarding the m _____ erson for Students.

The proposed revisions to terms of reference are intended to update and clarify the role of the Ombudsperson for Students.

The revision is consistent with the principles determined by the International Ombudsperson Association and the Association of Canadian College and University Ombudspersons (ACCUO).

OMBUDSPERSON FOR STUDENTS

1. Terms of Reference

- 1.1 The mandate of the Ombudsperson for Students (OFS) shall be to:
- (i) provide an independent, impartial and confidential process through which a student may seek the just, fair and equitable resolution of any university-related concern where normal non-adversarial administrative channels for addressing such matters are inappropriate in the circumstances or prove ineffective;
 - (ii) where appropriate, review University policies, guidelines and procedures affecting students and make recommendations for change normally to the relevant University administrative officer;
 - (iii) where appropriate, promote discussion of University-wide student related concerns.
- 1.2 "Student" means a person who is, or within the past twelve months was, registered in the University as a student, whether or not as a candidate for a degree, diploma or certificate.

2. Appointment

- 2.1 The Board of Governors, on the recommendation of a joint Senate/ Board Committee one-quarter of whose members shall be students, shall appoint the OFS from among members of the tenured academic staff of the University who are well respected by both students and other members of the McGill community.

3. Terms of Appointment

- 3.1 The appointment of the OFS shall be half time for a non-renewable term of five years.
- 3.2 During the term of the appointment, the OFS shall not hold other than a half-time academic appointment in addition to his or her appointment as OFS.
- 3.3 The OFS shall be independent of all existing institutional administrative structures while acting within the mandate of the position.
- 3.4 To further ensure the independence of the OFS:
- (i) the salary of the OFS shall initially be shared equally by the unit in which the OFS holds an academic appointment and by the University;
 - (ii) the OFS shall be subject to academic salary policy and receive as annual merit increases the merit increase allocated by the unit in which the OFS holds an academic appointment, prorated for a half-time position, and the greater of:
 - (a) the prorated increase; or
 - (b) 50% of the University's average academic merit.
 - (iii) the OFS shall be provided with a separate office, appropriate secretarial support, and dedicated full service telephone and internet facilities;
 - (iv) the OFS shall be provided with a reasonable budget to support the mandated functions of the position.

4. Functions

General:

4.1.1 The OFS may:

- (i) discuss an issue with students who prefer to consult a neutral party;
- (ii) advise students on their

5. Limitation of Functions:

5.1 The Ombudsperson exercises no powers that are beyond the legal scope of the University.

5.2 The Office

**REPORT FROM
THE ADVISORY COMMITTEE REGARDING THE MANDATE OF
MCGILL'S OMBUDSPERSON FOR STUDENTS**

December 6, 2007

The Advisory Committee regarding the Mandate of McGill's Ombudsperson for Students, which met five times, comprised the following members;

Morton J. Mendelson, Deputy Provost (Student Life and Learning), **Chair**
Anthony C. Masi, Provost
Adrian Angus, VP University Affairs, SSMU
Bruce Minorgan, Associate Dean Administration, Schulich School of Music
Estelle Hopmeyer, Professor, School of Social Work
Fabien G  linas, Professor, Faculty of Law
Patricia Kirkpatrick, Professor, Faculty of Religious Studies
Sally Kilborn, Graduate Student, PGSS
Vaughan W. Dowie, Office of the Vice-Principal (Public Affairs)

The Committee recommends that the term should remain five years, but that it should explicitly not be renewable, which would maintain the independence of the position from the University.

The Ombudsperson is a member of the McGill Faculty respected by staff and students. The half-time Ombudsperson's appointment is subject to a fixed formula for merit increases equivalent to 50% of the University's average academic merit, unless the academic half appointment is higher. Where the academic half is higher, the Ombudsperson's half-appointment merit component will follow.

The Committee agreed that the second sentence be revised slightly to clarify the meaning: "... unless the merit for the academic half appointment is higher"

The Committee discussed the OFS's role as a faculty member and agreed that there are benefits to be gained by maintaining this model. Appointing faculty members for 5 years makes the nonrenewable term feasible with respect to an academic career path.

The Committee recommends that the independence of the position should be more explicitly stated.

Office Facilities

The Ombudsperson is provided with a separate office, appropriate secretarial support and on-going answering phone facilities.

The Committee recommends that communication facilities be mentioned explicitly.

Functions

The Ombudsperson is an impartial arbitrator, as free as possible from conflicts of interest.

The Ombudsperson investigates, at the request of any member of the student body, any complaint that may arise between that student and the University or anyone in the University exercising authority.

The Ombudsperson brings his or her findings and recommendations to the attention of those in authority by the most expeditious means possible.

The Ombudsperson investigates any apparent inadequacies in existing University procedures which may jeopardize the rights and liberties of any members of the University community.

The Ombudsperson formulates recommendations which are not to be construed as formal policy.

The Ombudsperson, if required by both parties, mediates disputes between parties.

The Committee recommends that there be an explicit statement of who should fulfill the function of OFS in cases where the OFS cannot act because of a conflict of interest. The Dean of Students would appear to be an appropriate alternative.

The Committee recommends that the third clause under Functions be expanded. The questions that should be answered are the following: To whom should the recommendations be forwarded? What types of recommendations can be made? When should the recommendations be made?

The Committee recommends that the word "arbitrator" be replaced with "facilitator" in order to remove the insinuation of decision-making.

The Committee recommends that the OFS be mandated to increase the visibility of the Office to the community as a whole.

The Committee recommends that, in the fourth paragraph, the words "any members of the University community" be replaced with "students".

The Committee recommends that the scope of the referral service be articulated.

The Committee recommends that the scope of intervention be articulated.

The Committee recommends that the OFS should intervene normally only after formal University procedures have been exhausted. The following is a good sample clause from another Canadian institution, but the word “satisfaction” should be changed.

The Office of the Ombudsman is not meant to replace established channels of assistance but may be used if an individual needs assistance in identifying where to go, would prefer to discuss a problem with a neutral party, or has already gone through established channels without satisfaction.

The Committee recommends that the investigative power of the OFS be articulated.

Confidentiality