

## MOTION REGARDING THE AMENDMENT OF THE INTERNAL REGULATIONS OF GOVERNANCE

**Whereas**, through a referendum passed in April 2016, the SSMU increased the responsibilities of the Board of Directors, modified the composition of the Board of Directors by creating seats for members at large, established committees of the Board of Directors, and separated the jurisdiction of the Board of Directors and the Legislative Council;<sup>1</sup>

**Whereas**, the Board of Directors is legally the highest governing body of the SSMU, but its powers are not clearly limited by the Constitution and the Internal Regulations;

**Whereas**, the autonomous nature of the Legislative Council as the “representative and political body of the Society”<sup>2</sup> is not reflected in the Internal Regulations;

**Whereas**, the Ad-Hoc Democratic Governance Review Committee has reviewed and recommended the following amendments to the Internal Regulations of Governance;

**Be it resolved**, that section 1 “General” of the Internal Regulations of Governance-02 be amended by inserting the following article as article 1.2:

**1.2. PRECEDENCE.** The Board of Directors, the Executive Committee, the Legislative Council, and, where applicable, other bodies of the Society shall abide by the Society’s governing documents in the following order of priority:

- a) the Constitution;
- b) any Interim Provisions;
- c) the Internal Regulations; and
- d) Policies, Plans, and resolutions.

**Be it resolved**, that section 5 of the Internal Regulations of Governance-03 be amended as follows:

### 5. APPEAL PROCEDURE

- 1. JURISDICTION.** The Board of Directors remains the final authority of the Society. It may, at its discretion or at the request of a party to the proceedings, receive a written appeal of the Judicial Board’s opinion. Preliminary decisions may be considered in the context of an appeal of the final opinion, but may not be appealed independently or before the final opinion has been released by the Judicial Board.
- 2. DEADLINE.** The appeal, complete with all relevant documentation, must be filed with the Speaker no more than seven (7) days after the parties receive the written

<sup>1</sup> <http://ssmu.mcgill.ca/wp-content/uploads/2015/07/Council-Notice-of-Motion-Regarding-Restructuring-of-the-Board-of-Directors-2016-04-07.pdf>

<sup>2</sup> SSMU Constitution, article 8.1

**Comment [ES1]:** It’s important to note that the Legislative Council consists of elected representatives (who are therefore each accountable to a constituency), while the Board is made up of a majority of appointed members. With the transition away from the board being merely a “rubber stamp” body, the accountability relationship between the Board and the Legislative Council was not made fully clear in our governance documents.

**Comment [ES2]:** Policies = long-term mandate documents with a set end date (usually 5 or 10 years), which adopt certain positions or responsibilities for specific executives or the Society as a whole (e.g. the Accessible Education Policy, Policy on Support for Family Care, etc). All but one of the current policies in our Policy Book (<http://ssmu.mcgill.ca/wp-content/uploads/2016/07/SSMU-Policy-and-Plan-Book-2016-06-28.pdf>) were adopted by the Legislative Council—this is standard procedure as they are technical documents that typically require deliberation and debate.

Plans = operational documents with clear steps or timelines towards an objective(s) (e.g. space usage in the building), also with a set end date (5 to 10 years).

Resolutions = mandates or decisions adopted by either the Legislative Council (and subsequently ratified by the Board of Directors), Referendum, or General Assembly. Resolutions of Council are by default valid for 1 year.

See the Internal Regulations of Governance-07 for more details: <http://ssmu.mcgill.ca/wp-content/uploads/2016/11/Internal-Regulations-of-Governance-2016-04-07.pdf#page=33>

reasons.

3. **CONSULTATION.** In considering an opinion of the Judicial Board, the Board of Directors may, as appropriate, solicit the advice of the Legislative Council.

4. **FINAL DECISIONS.** After reviewing the Judicial Board's opinion and considering any appeals, the Board of Directors may:

- a. pass a resolution ratifying the Judicial Board's opinion;
- b. pass a resolution to send the opinion back to the Judicial Board, along with the appeal and a written rationale for its decision, at which point the Judicial Board shall have twenty-one (21) days to issue a response either upholding its original opinion or presenting a new opinion for consideration by the Board of Directors;
- c. pass a resolution overturning the opinion, if ~~it~~ the Board of Directors concludes that the opinion ~~was~~ is manifestly unreasonable or was motivated by factors ~~including, but not limited to, racism, sexism, such as prejudice, collusion, bribery, homophobia, or conflict of interest—such a resolution shall require a four-fifths (4/5) majority.~~

5. **OPINION RATIFIED.** Where the Board of Directors ratifies the Judicial Board's opinion, it shall have the force of a binding judgment and shall take immediate effect.

6. **OPINION OVERTURNED.** Where the Board of Directors overturns the Judicial Board's opinion, the opinion shall be considered of no further effect and shall not be subject to further appeal.

7. **AMENDMENT OF GOVERNING DOCUMENTS.** If an opinion of the Judicial Board, ratified by the Board of Directors, recommends the amendment of the Society's governing documents, the Board of Directors shall refer the recommendation to the Legislative Council.

**Be it resolved,** that articles 1.1 and 1.2 of the Internal Regulations of Governance-05 be amended as follows:

1.1. **JURISDICTION.** The Legislative Council is ~~the representative and political body of the Society.~~

1.2. **EFFECT OF RESOLUTIONS.** Resolutions passed by the Legislative Council shall take effect ~~upon~~ subsequent ratification by the Board of Directors. A resolution of the Legislative Council shall cease to have effect if it is overturned by the Board of Directors.

~~1.1.—ADVISORY BODY. The purpose of the Legislative Council is to act as the advisory body of the Society and to make recommendations to the Board of Directors. All resolutions of the Legislative Council must be ratified by the Board of Directors.~~

**Comment [ES3]:** All opinions of the J-Board must be ratified by the Board of Directors. While this is (and should be) the norm, the Judicial Board is not legally a court and there may be circumstances where the BoD must overturn a decision (e.g. related to the corporate status of the Society). Currently there is a procedural grey area between a) ratifying an opinion (requires simple majority) and c) overturning one (requires 4/5 majority), which can produce a limbo situation if the threshold of a vote is in between.

Furthermore, in the event that an opinion is "political" in nature, it may be beneficial for the Board to request additional feedback from the Legislative Council to ensure a more representative action. This is particularly true if ratifying a decision may have implications or requirements for amending governance documents (which should be the primary responsibility of the Legislative Council).

**Comment [ES4]:** Note: the J-Board is only formally responsible for interpreting the SSMU Equity Policy when a) there is an appeal as part of the complaints process (section 13 <http://ssmu.mcgill.ca/wp-content/uploads/2016/07/SSMU-Policy-and-Plan-Book-2016-06-28.pdf#page=83>) or b) in the context of interpreting our governance documents as a whole for the purposes of assessing a submission. It is not the /only/ body responsible for upholding or adjudicating this or other policies.

**Comment [ES5]:** The option to refer a decision back to the Legislative Council has been removed

**Comment [ES6]:** This is comparable to the Supreme Court issuing a recommendation that must then be enacted in governance by the legislative and/or executive branch.

**Comment [ES7]:** This language is used in article 8.1 of the constitution

**Comment [ES8]:** This amendment ensures compliance with the Companies Act

**Deleted:** immediately, but shall require

**Comment [ES9]:** Note: the Legislative Council cannot do things like pass fee changes (must go through referendum), affiliate the SSMU to an external student federation (also referendum), or pass a resolution in support of the BDS movement (would be deemed a matter for the GA as per Article 1.3B of the Internal Regulations of Governance-05). These do not constitute "policies" according to our regulations.

**Comment [ES10]:** This role is not changed in practice or legally with the above amendment

~~1.2. TERMS OF REFERENCE. The Legislative Council shall abide by the Society's governing documents in the following order of priority:~~

- ~~a) the Constitution~~
- ~~b) the Internal Regulations; and~~
- ~~c) Policies, Plans and resolutions.~~

**Be it resolved**, that article 1.3 of the Internal Regulations of Governance-07 be struck, and that the subsequent article be renumbered accordingly:

~~1.3. EXCEPTION. A resolution of the Legislative Council shall not be binding on the Board of Directors, but may call for the Board of Directors to undertake a particular action or adopt a particular Policy. In those cases, the Board of Directors, as the highest governing body of the Society, shall consider the resolution at its next meeting.~~

**Be it resolved**, that articles 6.1 and 6.2 of the Internal Regulations of Governance-07 be amended as follows:

**6.1. POWER TO ADOPT.** ~~Policies and Plans may be only be adopted by the Board of Directors, with the exception that Policies may also be established, amended or rescinded by a General Assembly or a Referendum.~~ Policies and Plans may be adopted, amended, or rescinded by the Legislative Council, the General Assembly, or a Referendum.

**6.2. TWO READINGS REQUIRED.** The adoption of a Policy or a Plan by the Legislative Council shall require two (2) readings, as shall be detailed in the Standing Rules adopted by the Legislative Council.

~~6.2. ROLE OF LEGISLATIVE COUNCIL. Legislative Council may recommend the adoption, amendment or repeal of Policies and Plans to the Board of Directors, or a General Assembly or Referendum by way of a resolution adopted by Legislative Council by a Simple Majority, which is subsequently presented to the Board of Directors or General Assembly for a vote. There shall be a procedure for the adoption of such a resolution that shall consist of two (2) readings, further detailed in the Standing Rules.~~

**a) FIRST READING**

- ~~i. Notice of a motion to adopt, amend, or repeal a Policy or Plan must be sent by a member of the Legislative Council to the Speaker at least five (5) days before the meeting of the Legislative Council at which the motion is to be introduced.~~

**Comment [ES11]:** Addressed in the first Be It Resolved clause (expanded to clarify order of precedence for all governance bodies)

**Comment [ES12]:** The approval process/order of precedence for resolutions and other governance documents has already been established

**Deleted: or**

**Comment [ES13]:** Added back based on consultation

**Comment [ES14]:** This is similarly addressed elsewhere

- ii.—~~The Speaker shall send the motion to all members of the Legislative Council at least three (3) days before the meeting of Legislative Council at which the motion is to be introduced.~~
- iii.—~~The motion shall also be publicized to the Members through the Society's website at least three (3) days before the meeting of the Legislative Council at which the motion is to be introduced.~~
- iv.—~~The motion shall be read a first time at the Legislative Council.~~

**~~b) SECOND READING~~**

- i.—~~The Steering Committee shall review the substance of the proposed adoption of, amendment to, or repeal of the Policy or Plan to ensure it fulfills the requirements for Policies and Plans laid out in the Internal Regulations and prepare a recommendation for the Legislative Council;~~
- ii.—~~During this time, Councillors and Members may submit a report on the procedural integrity of the proposed adoption, amendment, or repeal of the Policy or Plan to the Speaker at least five (5) days before the meeting of the Legislative Council at which the motion is to be debated and voted upon.~~
- iii.—~~The Speaker shall send any reports received to all members of the Legislative Council at least three (3) days before the meeting of the Legislative Council at which the motion is to be debated and voted upon.~~
- iv.—~~The motion shall be read a second time at the Legislative Council and put to a vote.~~

**~~c) PRESENTATION TO BOARD OF DIRECTORS OR GENERAL ASSEMBLY~~**

- i.—~~A resolution respecting the adoption, amendment or repeal of a Policy or Plan requires the motion to be passed by a two-thirds (2/3) vote of the Board of Directors, Legislative Council, General Assembly or Referendum.~~
- ii.—~~If a resolution is passed, the proposed adoption, amendment or repeal of the Policy or Plan shall be subsequently put to the Board of Directors, Legislative Council, General Assembly, or Referendum for a final vote, in accordance with the Constitution and Internal Regulations.~~

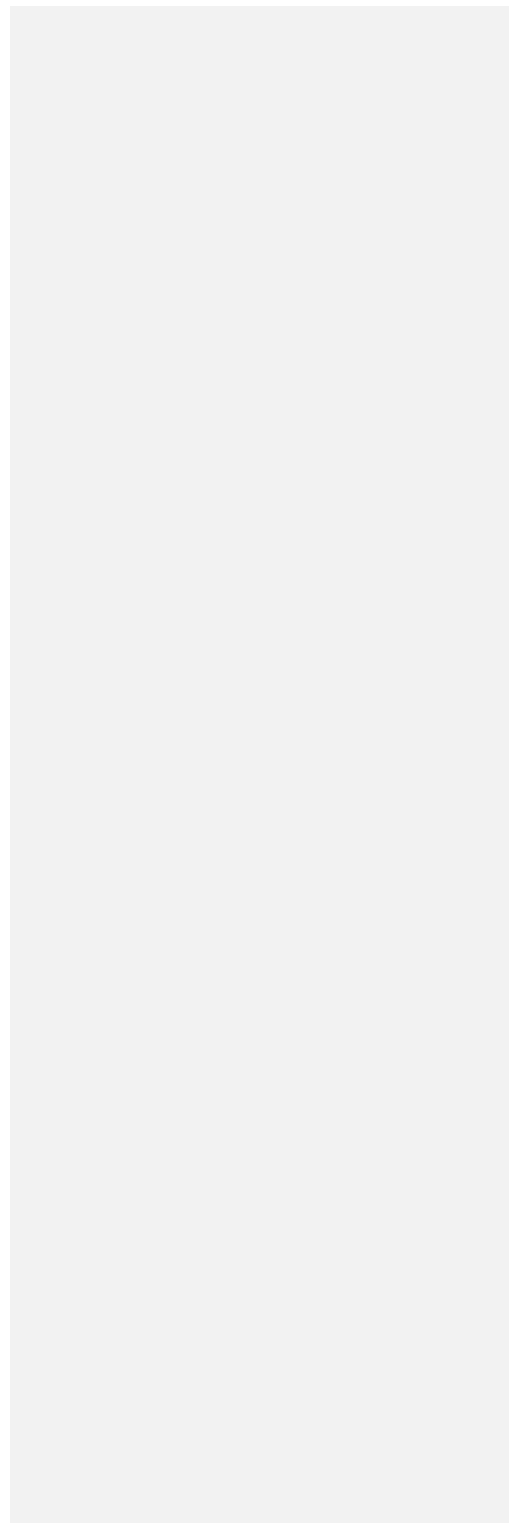
**Be it resolved**, that the Internal Regulations of Governance be amended to insert the chapter “Board of Directors” as Internal Regulations of Governance-06, attached hereto as **Appendix A**, and that the subsequent chapters be renumbered accordingly;

**Be it resolved**, that the Interim Provision for Board of Directors Reporting, adopted by the Legislative Council on January 12, 2017, be repealed.

**Moved by:**

Olivia Shi, Residences Representative  
Kevin Zhou, First Year Council Representative  
Igor Sadikov, Arts Representative

Erin Sobat, Vice-President (University Affairs)  
Ben Ger, President



## APPENDIX A – INTERNAL REGULATIONS OF GOVERNANCE-06: BOARD OF DIRECTORS

### 1. FUNCTION

- 1.1. JURISDICTION.** The Board of Directors is primarily responsible for the human resources, legal, financial, and operational affairs of the Society.
- 1.2. RATIFICATION OF COUNCIL RESOLUTIONS.** All resolutions passed at a meeting of the Legislative Council shall be considered for ratification or overturning at the next regular meeting of the Board of Directors, or at a special meeting called for that purpose. The Board of Directors may not amend a resolution of the Legislative Council prior to ratifying it.
- 1.3. COUNCIL RESOLUTION OVERTURNED.** In the event that the Board of Directors resolves to overturn a resolution of the Legislative Council, the Legislative Council shall consider the resolution anew at its next regular meeting. In such a case, the Board of Directors shall submit to the Legislative Council any concerns or proposed amendments to the resolution.
- 1.3.1.** The Board of Directors should only exercise its power to overturn resolutions of the Legislative Council to protect the legal, financial, or operational well-being of the Society.
- 1.4. CONSIDERATION OF COUNCIL RESOLUTIONS IN PUBLIC SESSION.** The Board of Directors shall not consider the ratification of resolutions of the Legislative Council in confidential session, with the exception of resolutions passed by the Legislative Council in confidential session.
- 1.5. RECOMMENDATION TO INITIATE REFERENDUM QUESTION.** The Board of Directors may, by way of resolution, recommend to the Legislative Council the initiation of a Referendum question. Notwithstanding the regular requirements for placing such a motion before the Legislative Council, the Legislative Council shall consider the Referendum question at its next regular meeting.
- 1.6. EXCEPTIONAL INTERIM PROVISION.** Notwithstanding the regular requirements for the adoption of Interim Provisions, the Board of Directors may, by way of resolution passed by a two-thirds ( $\frac{2}{3}$ ) vote, adopt an Interim Provision, which shall take effect immediately. The Legislative Council shall consider such an Interim Provision at its next regular meeting. If the Interim Provision is confirmed, or confirmed as amended, by the Legislative Council, in accordance with the procedures regularly required for the adoption of Interim Provisions, the Interim Provision shall remain in effect with the period of validity set by the Legislative Council. Otherwise, the Interim Provision shall cease to have effect.

**Comment [ES15]:** This clarifies the jurisdiction of the Legislative Council over the Society's political mandates and governing documents

**Comment [ES16]:** Ditto. The Board cannot simply overturn a decision unilaterally without accountability

**Comment [ES17]:** "Should" allow the necessary (legal) discretion for possible extenuating circumstances

**Comment [ES18]:** Similarly, this should be council's responsibility

**Comment [ES19]:** This also allows for any immediate measures that might be warranted in response to a procedural issue (however this is quite rare)

1.7. **REPORT TO LEGISLATIVE COUNCIL.** The Chair of the Board of Directors shall report to each regular meeting of the Legislative Council on all matters, if any, with which the Board of Directors has dealt since the previous regular meeting of the Legislative Council. A portion of this report may take place in a confidential session of the Legislative Council.

## 2. MEMBERS OF THE BOARD OF DIRECTORS

2.1. **CHAIR.** The President shall be the Chair of the Board of Directors. If the President is not a member of the Board of Directors, the Board of Directors shall select a Chair from among its members who is an Executive.

2.1.1. In the absence of the Chair, the Board of Directors shall select a Chair from among its members for the time being.

2.2. **RESPONSIBILITIES OF THE CHAIR.** The Chair shall preside over the meetings of the Board of Directors and enforce the rules of procedure. Being a member of the Board of Directors, the Chair may vote at meetings of the Board of Directors and shall be counted towards the quorum.

2.3. **RESPONSIBILITIES OF DIRECTORS.** Members of the Board of Directors shall:

- a) attend all meetings of the Board of Directors;
- b) attend all General Assemblies; and
- c) sit on at least one (1) committee that requires the participation of a Director.

2.4. **ATTENDANCE.** If a Director has an unavoidable personal, academic, or other conflict that prevents them from attending a meeting of the Board of Directors, they must send regrets to the Chair before the meeting begins.

2.5. **FAILURE TO NOTIFY IN ABSENCE.** Failure to send regrets to the Chair for two (2) meetings, even if they are not consecutive, shall be considered delinquency of duties and shall be grounds for removal in accordance with the Constitution.

2.6. **EXERCISE OF VOTING RIGHTS.** Directors may not vote in absence, except in the case of a resolution in writing outside of a meeting or where they participate in a meeting of the Board of Directors by way of technical means in accordance with the Constitution.

2.6.1. Directors may not transfer their voting rights to any other person or body.

2.6.2. Directors shall not exercise their voting rights while impaired by drugs or alcohol.

### 3. MEETINGS OF THE BOARD OF DIRECTORS

3.1. **FREQUENCY OF REGULAR MEETINGS.** The Board of Directors shall meet at least as often as monthly during the academic year.

3.2. **STANDING RULES.** The Board of Directors may, by a two-thirds ( $\frac{2}{3}$ ) vote, adopt, amend, or repeal standing rules to supplement standard procedural rules.

**Comment [ES20]:** These are standing rules specifically for Board meetings (not Legislative Council)

3.3. **REQUEST FOR ROLL CALL.** The vote on any substantive motion must be taken by roll call at the request of a single member of the Board of Directors, unless the Board of Directors resolves to take the vote by ballot.

3.3.1. The voting record for any vote taken by roll call shall be included in the minutes.

3.4. **CONFIDENTIAL SESSION.** The Board of Directors may, by a two-thirds ( $\frac{2}{3}$ ) vote, resolve to enter a confidential session. No individual who is not a member of the Board of Directors may be present during a confidential session, unless the Board of Directors approves of their presence by a two-thirds ( $\frac{2}{3}$ ) vote and the individual has signed a confidentiality agreement.

3.5. **PARTICIPATION OF MEMBERS.** Any Member shall have the right to attend a meeting of the Board of Directors as a member of the gallery, with the exception of confidential sessions.

3.5.1. Unless the Board of Directors decides otherwise by majority vote, members of the gallery may address the Board of Directors when recognized by the Chair, but may not speak more than twice to the same question.

3.6. **BILINGUALISM.** All Directors and members of the gallery may participate in business of the Board of Directors in English or French.

3.7. **RESOLUTION IN WRITING OUTSIDE OF MEETING.** To be valid, a resolution in writing considered outside of a meeting of the Board of Directors shall require the approval and signature, physical or electronic, of two-thirds ( $\frac{2}{3}$ ) of all Directors.

3.8. **FREEDOM OF INFORMATION.** All minutes and documents of the Board of Directors shall be public documents, except for minutes and documents of confidential sessions.



## Clarifications:

- Currently, as a result of last year's governance restructuring, the Board of Directors is largely unregulated; the goal of this motion is to limit the power of the unelected Board to act unilaterally vis-a-vis the Legislative Council, given that it should primarily be responsible for overseeing legal, financial, and operational matters of the Society.
- The Legislative Council already is, and always has been, responsible for passing formal Policies and Plans of the Society as well as making amendments to governance documents other than the Constitution. All of our [current policies](#) except one were enacted by the Legislative Council.
- All Legislative Council decisions must technically be ratified by the Board of Directors, hence the current wording of "proposing" Policies as used in the Internal Regulations. However, this motion will prevent the Board from adopting Policies and Plans unilaterally or from overturning Council resolutions without consultation.
- There is no change to the General Assembly's power to adopt Policies and other mandates. Furthermore, resolutions of the General Assembly must still go to online ratification for approval (this is not the same as a referendum, which can still be initiated by either council or student petition and is primarily used for changes to student fees).
- Referenda are rarely used to adopt Policies or Plans because these typically require deliberation and potential amendment.
- Judicial Board opinions and decisions must always be ratified by the Board of Directors, given our status as a corporation under the *Companies Act*.
- The only formal role of the J-Board in the Equity Policy is as an appeal body for the complaints process ([Section 13 of the current](#)

[policy](#)), as well as in the interpretation of the Society's governance documents in general. The Legislative Council is actually responsible for overseeing the implementation of the Equity Policy, such as for ratifying the recommendations from a formal investigation ([Section 11.4 of the current policy](#)).

- The Legislative Council, Executive Committee, and all other governance bodies of the Society remain bound by the SSMU Constitution, Internal Regulations, Policies and Plans. The J-Board is not the sole arbiter of these documents.
- This motion does not represent a change in workload to any governance body, including Council, the Board, the GA, or the J-Board.