Recommendations from the Ombudsperson following the receipt of two complaints from two students on the implementation of the U-Pass at the University of Ottawa

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Nature of the complaints

Two complaints were received as follows:

1) A student residing in the Province of Québec within the territory served by the STO has complained that the University of Ottawa is denying him a benefit based on his place of residence. He considers the U-pass to be a benefit offered to some at the expense of others. Although the resolution for the U-pass may have been passed by the Students Associations, in virtue of its enforcement by the University it becomes, by extension, University policy as well. So long as the University continues the U-Pass for Ontario students without subsidizing Québec students who must pay more for the same transit service, there will continue to be unfairness.

2) The second complaint was filed by a student who resides in Montréal and drives to her courses on campus. In her case, she is not exempted from the U-Pass and considers it unfair to be forced to purchase a pass even though she does not reside in the area served by OCTranspo, and the likelihood that she will use the services is nil.

Information taken into consideration

- SFUO representative informed me that as per Ontario Government regulations (source: Operating Funds Distribution Manual) the Student Association may ask the University to levy incidental fees as part of tuition fees following a vote by referendum. Universities in Ontario are not allowed to charge non-academic fees (incidental fees).
- Both the SFUO and the GSAED held a second referendum on the U-Pass in spring 2010 and the majority of voters were favourable.
- The referendum question was: «Are you in favour of contributing $145.00 per semester per full-time student for the creation of a mandatory U-pass program?» The Student Associations edited the original question to add «mandatory».
- The participation rate for both associations and results are as follows: (approximate numbers)
  SFUO: 21.7% participation rate, 63.4% in favour
  GSAED: 9% participation rate, 72% in favour
• To inform the students of the referendum, both associations used posters, class presentations, information on their website and an email was sent to all students to inform them of the vote and how to do so. Referendum committees, independent of the executives of the associations, conducted the campaign.

• The Students Associations have the responsibility to oversee the referendum and that includes an interest in the formulation of the question. A referendum is conducted as a result of the initiative of a student who obtains 1500 signatures on his proposal. In the event of a favourable result (as was the case for this issue) the Student Associations are then mandated to adopt a resolution and implement the program within the limits of the exact question asked at a referendum. This means that they have no authority to continue with the program if the cost of the U-Pass is increased.

• The University was asked to levy the U-Pass fees as part of tuition fees and agreed to do so.

• A Universal Transit Pass Agreement (U-Pass pilot program) was signed between the City of Ottawa Transit Services, the University of Ottawa, and both the SFUO and GSAED in August 2010.

• The Agreement identifies both the University and the Student Associations as OC Transpo’s authorized limited and non-exclusive agent on a gratuitous basis; the University accepted to perform acts for or on behalf of the Student Associations, namely collecting the fees as part of tuition and transferring them to the student associations to enable them to act as authorized agents of OC Transpo. Other than collecting the fees as part of the tuition, the University does not administer any other aspect of the U-Pass program.

• Participation is mandatory for all eligible full-time students, including students residing outside the OC Transpo territory. Some exemptions were negotiated and are found in Schedule A of the Agreement.

• Students residing in the territory served by the STO are specifically exempted from the mandatory bus pass and may not purchase one either because the STO and OC Transpo have a reciprocal agreement preventing them of selling bus passes to each other’s clients.

• OC Transpo views that students that are driving to the University from outside the OC Transpo territory should stop at a Park N Ride facility. If you are driving from Montréal arriving on the 417, there are no such facilities easily accessible on your way.

• STO and OC Transpo access policies are still in effect enabling U-Pass students to use the STO service with some limitations during peak morning periods.
STO did propose to offer the U-Pass for an additional $65.00 per semester; however because of the structure of the referendum it was impossible to accept this offer.

The comparative cost of bus passes between the STO and OC Transpo is as follows and shows a substantial advantage for users of the U-Pass:

- U-Pass: two semesters = $290.00
- STO two semesters = $462.00, or higher
- The difference = $172.00, or higher

There are a total of 5646 full-time and part-time students whose residence is in Québec, 1683 of whom reside outside the STO territory. Only full-time students are required to pay for the U-Pass.

U-Pass holders can use the STO services with some limitations during peak morning periods.

Analysis

It is difficult to compare the University of Ottawa U-Pass program with the experiences of other Canadian universities who have implemented similar programs, because none have the unique characteristics of serving a community bordering two provinces and two municipalities and whose student population use two different public transportation service providers. The challenge of negotiating a single U-Pass in this context has proven impossible, and I think that it is not likely to become any easier.

The participation rate on the referendum was very low; few students actually voted in spite of the communication efforts of both associations including an email sent to students to inform them on how to vote.

The question posed in the referendum has the advantage of being very concise. I believe that the Student Associations expected that students having access to sufficient sources of information (for instance information on websites), would be able to understand the implications of the question and vote well informed. I think it was the responsibility of each student to examine this question closely and also to vote. I also think that the efforts of the Students Associations to reach the student population were adequate and while it is unfortunate that the participation rate was so low, the Associations followed the prescribed process to be authorized to charge incidental fees.

However I am concerned that the process of a referendum does not provide sufficient voice to minorities, in this instance the Quebec students who reside outside the STO.
Even if they voted in similar proportion to the majority population, and perhaps if they voted in larger numbers, they would still have a significant smaller weight in influencing the outcome.

The result is that U-Pass users have received a large reduction in their transportation costs, approximately $296.00 for two semesters, which is being significantly financed by non-users. I think that the Student Associations and the University have a responsibility to pay special attention to the impact of endorsing universal type programs such as U-Pass where a significant number of contributors will not have a reasonable opportunity to use the service. There is a difference in my mind between the situations of students who live near or on campus who may not use the U-Pass to get to the University but who have a reasonable opportunity to use it for other reasons and the situation of students who reside outside the OC Transpo territory.

As far as those students who reside on the STO territory is concerned, it is not the responsibility of the University, as the complainant suggested, to compensate them for the difference between a U-Pass and an OC-Transpo pass ($172.00). There is a process for this student to propose a remedy to the discrepancies; he would need to make a proposal and seek 1500 signatures for a referendum to take place, for instance proposing to charge more to all students to equalize the cost of a bus pass whether you buy it from OC Transpo or from the STO. However because the student is part of a minority, it would be difficult for him to obtain 1500 signatures and their overall impact on the final results would probably be insufficient. For this reason, I think it will be necessary for the Student Associations and the University to pay particular attention to how the interests and needs of this student population will be considered in the overall universal program. It would appear necessary to negotiate a separate arrangement with the STO.

**Recommendations:**

1) Given the complexity of negotiating a single U-Pass between two different service providers, two municipalities in two different provinces, it is recommended that the Student Associations with the support of the University, approach the STO with the goal of negotiating an agreement to procure a U-Pass for Quebec residents within the STO territory. The proposed agreement should then be put to a vote by referendum for Québec STO residents only.

2) Given that the small minority of students residing in Québec but outside the STO territory could not, by virtue of their small number, have a reasonable
expectation of influencing the overall vote, and given that they are unlikely to use the U-Pass, they should be given the option to opt-out of the program or should be exempted. It seems unreasonable to expect these students to support the public transportation costs of other students. Alternatively, if it is impossible to negotiate their exemptions from the universal program with OC Transpo, an increase in the cost of the U-Pass for all users should be considered to offset the financial burden on these students and provide for reimbursement upon request.

3) It is recommended that any future referendum on the issue of the U-Pass specify clearly the categories of students that would be exempted.

4) The University of Ottawa officials should take into consideration the impact of a further resolution concerning the U-Pass on the Québec students residing outside the OCTranspo territory in deciding on whether to agree to levy the incidental fees as part of tuition fees, and should provide support in negotiating a separate agreement with the STO.