

APPENDICES

The documents that follow were sent or received by the Standing Committee on Ethics and Conflict of Interest for Senators, its predecessor committee or the intersessional authority. No changes have been made other than the redaction of certain personal information as indicated. No translation is official unless specifically indicated. A particular document may appear more than once if it was included in correspondence from more than one source.

Senate Ethics Officer



Conseiller sénatorial en éthique

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June 20, 2019

The Honourable Raynell Andreychuk, Chair
The Honourable, Serge Joyal, P.C., Deputy Chair
Standing Committee on Ethics and Conflict of Interest for Senators
c/o Blair Armitage, Committee Clerk
XX
The Senate of Canada
Ottawa, ON Xx

Dear Senators:

Subject: Report concerning Senator Beyak's Participation in Educational Programs

This letter pertains to your Committee's Fifth report entitled *Consideration of an Inquiry Report from the Senate Ethics Officer* tabled in the Senate on April 30, 2019 and adopted on May 9, 2019. The third recommendation of your Committee's report stated that I was to monitor and report to your Committee, within 15 days of Senator Beyak's participation in the required educational programs, with respect to Senator Beyak's attendance and performance in these programs.

Please find enclosed the requested report.

Sincerely,

Pierre Legault
Senate Ethics Officer

cc. The Honourable Lynn Beyak

Encl. (1)

Report of the Senate Ethics Officer Concerning Senator Beyak's Training on Indigenous Affairs

On May 9, 2019, the Senate adopted the Fifth Report of the Standing Committee on Ethics and Conflict of Interest for Senators, entitled *Consideration of an Inquiry Report from the Senate Ethics Officer* and tabled in the Senate on April 30, 2019. The Fifth Report considered the Senate Ethics Officer's *Inquiry Report under the Ethics and Conflict of Interest Code for Senators concerning Senator Lynn Beyak*, dated March 19, 2019.

The Fifth Report includes the following recommendation:

Recommendation 3:

That, within 30 days of the adoption of this report, Senator Beyak attend, at her own expense, educational programs related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations that are pre-approved by the Senate Ethics Officer, and that the Senate Ethics Officer monitor Senator Beyak's participation in the educational programs mentioned above and report, within 15 days of her completing them, to the committee with respect to Senator Beyak's attendance and performance at the educational programs;

And that the committee cause this report of the Senate Ethics Officer to be posted on its website upon its receipt.

I pre-approved a 4 to 8 hour online course given by Indigenous Awareness Canada and entitled "201 Indigenous Awareness Certification". The goal of this course was to build effective and positive relationships with Indigenous people. It focused on racism towards Indigenous People and included topics such as Myths & Misconceptions, Indigenous Peoples, Residential Schools, Chronology and Current Realities.

The Committee instructed me to report on Senator Beyak's attendance. I am satisfied that she completed the course online on May 19, 2019 since she received a Certificate of Completion (Annex 1). However, given that this was an online course, it was not possible to assess her performance.

I also pre-approved Cycle 1 of the Indigenous Cultural Competency Training given by the Ontario Federation of Indigenous Friendship Centres (the OFIFC). This is a one day (7 hours) in-person training course, which took place on June 6, 2019 in Toronto. According to the website of the OFIFC, Cycle 1 focused on the early relationship in Canada with Indigenous people, intergenerational trauma and an introduction to the OFIFC's relationship framework. This course is described as strengthening cultural awareness, informing relationship building and enhancing organizational programs and policies. The learning outcomes of this Cycle are described as follows:

- An examination of how Indigenous/non-Indigenous relationships have been impacted by historical events and how the relationship can be re-framed today;

- An introduction to policies and legislation that have impacted Indigenous communities; and
- An introduction to a framework that enhances the relationship development with Indigenous people.

I have received confirmation from the OFIFC that Senator Beyak attended the training and completed it. With respect to the Committee's instruction that I report on her performance, please see the attached letter (Annex 2).

I am of the opinion that in completing these two courses by June 6, 2019, Senator Beyak has attended the training required by the Senate "related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations" and it was completed within the timeframe imposed, i.e., before the expiration of 30 days after the adoption of the Fifth Report.

In addition to the above training, Senator Beyak has informed me that she has also committed to attend, at her own expense, Cycles 2 and 3 of the Indigenous Cultural Competency Training provided by the OFIFC. Cycles 2 and 3 were not available to Senator Beyak within the 30 days that she was allotted in order to complete her training; however, she is expected to complete these last two cycles prior to August 31, 2019. I have attached a description and the learning outcomes of Cycles 2 and 3 (Annex 3).

Having said that, with this report, I trust that I have fulfilled my responsibilities as outlined in the Committee's Fifth Report.

Pierre Legault
Senate Ethics Officer

June 20, 2019

ANNEX 1



Indigenous Awareness Canada

The Indigenous Awareness Training Company

Certificate of Completion **Indigenous Awareness Certification**

This certificate documents that

Lynn Beyak

has successfully completed *201 Indigenous Awareness Certification*
and is hereby certified by Indigenous Awareness Canada.

May 19, 2019

Date of Completion

Robert Laboucane

Robert Laboucane, President

ANNEX 2



OFIFC

Atikokan Native Friendship Centre
Barrie Native Friendship Centre
Can-Am Indian Friendship Centre of Windsor
Dryden Native Friendship Centre
Fort Erie Native Friendship Centre
Georgian Bay Native Friendship Centre (Midland)
Hamilton Regional Indian Centre
Indian Friendship Centre (Sault Ste. Marie)
Ininew Friendship Centre (Cochrane)
Kapusking Indian Friendship Centre
M'Wikwedong Native Cultural Resource Centre (Owen Sound)
N'Amerind Friendship Centre (London)
N'Swakamok Native Friendship Centre (Sudbury)
Ne-Chee Friendship Centre (Kenora)
Niagara Regional Native Centre (Niagara-on-the-Lake)
Nishnawbe-Gamik Friendship Centre (Sioux Lookout)
Nogojwanong Friendship Centre (Peterborough)
North Bay Indigenous Friendship Centre
Odawa Native Friendship Centre (Ottawa)
Parry Sound Friendship Centre
Peel Aboriginal Network (Mississauga)
Red Lake Indian Friendship Centre
Sarnia-Lambton Native Friendship Centre
Thunder Bay Indigenous Friendship Centre
Thunderbird Friendship Centre (Geraldton)
Timmins Native Friendship Centre (Timmins & Moosonee)
Toronto Council Fire Native Cultural Centre
United Native Friendship Centre (Fort Frances)

Ontario Federation of Indigenous Friendship Centres

219 Front Street East, Toronto, Ontario, Canada M5E 1F8
T: Toll-Free F

June 18, 2019

Pierre Legault
Senate Ethics Officer
Office of the Senate Ethics Officer
XXX
XXX
XXX

Dear Pierre Legault:

I am writing to follow up regarding the training offered to Ms. Beyak in accordance to the letter of agreement signed by Ms. Beyak and dated May 23, 2019. The Ontario Federation of Indigenous Friendship Centres (OFIFC) agreed to the delivery of Indigenous Cultural Competency Training, cycles 1-3, to Ms. Beyak which commenced on June 6, 2019 and is expected to complete prior to August 31, 2019.

One of the goals of the training is to assist participants with understanding the factual history and experience of Indigenous Peoples in Canada with the hopes of increasing their ability to recognise and appropriately respond to racial bias. The training offers ample opportunity for engagement through discussion and experiential learning exercises. This learning process provides an indication of each participant's level of understanding of the curriculum and relevancy in how each could implement the knowledge into their personal and professional decision making.

Although Ms. Beyak did attend the full day session, it is evident through her engagement that continued training is required. At this time, I do not feel Ms. Beyak's

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June 18, 2019
Pierre Legault

participation in cycle 1 was successful in cultivating a new awareness or understanding of the impact her actions, and inaction, as a Senator has had on the Canadian public and more specifically, Indigenous Peoples

We will honour the agreement and provide cycle 2 and 3 to Ms. Beyak prior to August 31, 2019. If you require detailed information, please do not hesitate to contact me at [redacted] or via phone at [redacted] extension [redacted]

Sincerely,



Terrellyn Fearn
Training Director

ANNEX 3

Course Curriculum for Cycles Two and Three of the Indigenous Cultural Competency Training (ICCT) provided by the Ontario Federation of Indigenous Friendship Centres (the OFIFC)

ICCT Cycle Two

As a continuum of learning we build on from the first level, the historical narrative and exploring more recent efforts to re-frame the relationship between Indigenous and non-Indigenous peoples. Specific content includes: the “White paper” and the response from Indigenous people, amendments to the Indian Act, the Royal Commission on Aboriginal Peoples, the United Nations Declaration on the Rights of Indigenous Peoples, Canada’s apology to Residential School Survivors, and the lawsuit for the 60’s Scoop.

Learning Outcomes

- Understand more recent events and how they work to address, or fail to address, historic trauma within Indigenous communities;
- Identify implications and impacts of discriminatory Legislation on Indigenous communities;
- Learn trauma informed approaches to enhance organizational communication;
- Come to know the resiliency of Indigenous peoples and their respective ‘culture’;
- Development of specific action items that focus on Relationship Building and Respect.

ICCT Cycle Three

In continuing the learning from the previous 2 cycles, the third cycle takes a more in-depth look at historic and modern day treaties, sovereignty, and how it relates to Indigenous self-governance and ways of knowing, connectedness to communities and everyday good living. We also look at the Truth and Reconciliation Commission and work towards identifying healthy communication and knowledge exchange amongst Indigenous organisations and non-Indigenous organisations.

Learning Outcomes

- Provide learners with a more in-depth understanding of and making of the historic and modern day treaties and the impacts it has had on Indigenous Peoples;
- Recognise and understand Indigenous self-governance and the relation to culture;
- Understand the Truth and Reconciliation Commission and the call to action that apply specific to your division;
- Review organisational policies, practices and priorities in response to the call to action.

SENATE



SÉNAT

STANDING COMMITTEE ON ETHICS AND
CONFLICT OF INTEREST FOR SENATORS

CANADA

COMITÉ PERMANENT SUR L'ÉTHIQUE ET LES
CONFLITS D'INTÉRÊTS DES SÉNATEURS

Le français suit

Tuesday, July 23, 2019

Pierre Legault
Senate Ethics Officer
XXX Ottawa, ON
XXX

Mr. Legault:

Thank you for your letter of June 20, 2019 regarding the Standing Committee on Ethics and Conflict of Interest for Senators' Fifth Report and the recommendation therein that Senator Beyak, during her suspension from the Senate, undertake education "related to racism towards Indigenous people in Canada and the history of Crown-Indigenous Relations that are pre-approved by the Senate Ethics Officer" and that "the Senate Ethics Officer monitor Senator Beyak's participation in the educational programs mentioned above and report, within 15 days of her completing them, to the committee [...]".

The committee notes that Senator Beyak has participated in two pre-approved courses, specifically the online training offered by Indigenous Awareness Canada and Cycle 1 of the Indigenous Cultural Competency Training from the Ontario Federation of Indigenous Friendship Centres (OFIFC). We understand that Senator Beyak has committed to attending Cycles 2 and 3 of the program offered by OFIFC and will complete them before August 31, 2019.

In light of this commitment, the committee looks to you, as the SEO to continue your monitoring role in accordance with the recommendation and to report to the committee regarding Senator Beyak's participation in Cycles 2 and 3 of the OFIFC program. The committee is of the view that this monitoring is particularly important given the observation of OFIFC's Training Director regarding Senator Beyak's participation in cycle 1 that she did not "feel it was successful in cultivating a new awareness or understanding of the impact her actions".

Accordingly, the committee looks forward to hearing from you in this regard.

Sincerely,

Hon. Raynell Andreychuk, Chair

Hon. Serge Joyal, P.C., Deputy Chair

cc. The Honourable Lynn Beyak, Senator

Senate Ethics Officer



Conseiller sénatorial en éthique

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October 8, 2019

The Honourable Serge Joyal, P.C., Chair
Intersessional Authority on Ethics and Conflict of Interest for Senators
c/o Mr. Blair Armitage, Committee Clerk
XXX
The Senate of Canada
Ottawa, ON K1A 0A4

Dear Senator:

Re: Training on Indigenous Issues for Senator Lynn Beyak

This letter is in relation to your letter to me of July 23, 2019, in which you asked me to continue to monitor Senator Beyak's educational training on Indigenous issues, specifically her training in relation to cycles 2 and 3 of the program offered by Ontario Federation of Indigenous Friendship Centres (OFIFC) in accordance with the Fifth Report of the Standing Committee on Conflict of Interest for Senators.

I wish to inform you at this time that the training of cycles 2 and 3, which had been scheduled to take place on August 26 and 27, 2019, did not take place as was planned. I was informed of this by the instructor of the courses and Senator Beyak. I have received Senator Beyak's explanation in writing but am waiting for an explanation from OFIFC. I had been informed that I would receive a written response from OFIFC by the week of September 9, 2019, but did not. I have pressed OFIFC several times for a response, and was recently informed by OFIFC that its organization had gone through some internal changes in September, and that I would not receive a response before the end of this month. Once I receive it, I will forward both pieces of correspondence to your Committee for your consideration.

Sincerely,

Pierre Legault

cc. The Honourable Lynn Beyak, Senator



OFIFC

Atikokan Native Friendship Centre
Barrie Native Friendship Centre
Can-Am Indian Friendship Centre of Windsor
Dryden Native Friendship Centre
Fort Erie Native Friendship Centre
Georgian Bay Native Friendship Centre (Midland)
Hamilton Regional Indian Centre
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N Swakamok Native Friendship Centre (Sudbury)
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Nishnawbe-Gamik Friendship Centre (Sioux Lookout)
Nogojwanong Friendship Centre (Peterborough)
North Bay Indigenous Friendship Centre
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Thunder Bay Indigenous Friendship Centre
Thunderbird Friendship Centre (Geraldton)
Timmins Native Friendship Centre (Timmins & Moosonee)
Toronto Council Fire Native Cultural Centre
United Native Friendship Centre (Fort Frances)

www.ofifc.org

Ontario Federation of
Indigenous Friendship Centres
219 Front Street East, Toronto, Ontario, Canada M5A 1E8
T: • • Toll-Free: • F:

October 16, 2019

Pierre Legault
Senate Ethics Officer
Office of the Senate Ethics Officer
XXX
XXX

Dear Pierre Legault:

The Ontario Federation of Indigenous Friendship Centres (OFIFC) hosted Senator Lynn Beyak twice between June and August of 2019 for Indigenous Cultural Competency Training (ICCT). The OFIFC agreed to provide Cycles 1, 2, and 3 of our ICCT curricula to the Senator.

Our training is informed by the Royal Commission on Aboriginal People's findings and the recent Truth and Reconciliation Commission's Calls to Action. It provides an opportunity for governments, municipalities, public and private organisations and agencies to build knowledge, skills, attitudes, and values that are essential to developing and maintaining a positive and productive relationship with Indigenous people. Our ICCT curricula is provided in a safe learning environment, tailored to the needs of specific learners, and utilises an in-person delivery model, which is not part of online curricula offered elsewhere.

We expect training participants to be committed and willing to learn, as they engage in developing knowledge and skills that can change their attitudes and values. One of the key learning outcomes of the ICCT curricula are for learners to better understand Indigenous social, cultural and political realities, both historically and contemporarily.

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By contributing to understandings, the OFIFC supports trainees to be better equipped to establish, develop, and maintain positive relationships with Indigenous people, communities, and organisations.

Senator Lynn Beyak participated in Cycle 1 of our Indigenous Cultural Competency Training on June 6, 2019. All participants were asked to complete a pre-evaluation, which gauges the learning knowledge and understanding prior to the training. Senator Beyak indicated she has taken part in 9 – 15 hours of previous training related to Indigenous Cultural Competency. She also identified that she neither agreed nor disagreed with the statement that Indigenous/non-Indigenous relationships have been impacted by historical events. The Senator identified herself as Métis and consistently referred to her Indigeneity throughout the Cycle 1. Senator Beyak explained that her Métis identity resulted from her family's adoption of an Indigenous child (her adopted sister). The Senator's understanding and presentation of her Métis identity were flagged as a concern by the trainers delivering the ICCT and by other participants.

During the Cycle 1 training, the Senator participated only minimally. When she did contribute, her comments were resistant to the training content such as, "there is no racism in the northern areas of Ontario where I live". She did not participate in large group discussions on topics including: the *Indian Act*, Indian Residential Schools, and the reserve system. Senator Beyak's post evaluation identified that only 21 – 41% of the information was new to her. When asked "how might you use the learning in your work/life?", the Senator provided a vague response where she shared, "evaluate the impact for intentions". During an opportunity to share self-reflections, the Senator expressed that she was appreciative of the kindness demonstrated by the Trainers and other participants sharing, "we were getting to know the 'real' her, not the 'her' that is portrayed in the media".

Senator Beyak's consistent lack of participation and engagement with the content offered during the training is a concern to the OFIFC. The Senator was not invested in conversations, indifferent to the content of the training, and observably disengaged from discussions on how to work towards reconciliation and building healthy urban Indigenous communities. Comments that she offered during the training and her reflections after the course demonstrated that she does not understand Indigenous realities or shared Indigenous and non-Indigenous relationships.

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Perhaps most concerning was the Senator's lack of understanding about basic Canadian history. Based on this assessment, the OFIFC confirms that Senator Beyak was not successful in completing the requirements of our training.

Following Cycle 1, the OFIFC adapted Cycle 2 and 3 for the Senator to have more dedicated learning supports. This included changing the OFIFC's delivery model of ICCT from a large group to a small group delivery. The aim was to create a space for Senator Beyak to be meaningfully engaged and invested in the training.

The OFIFC hosted Senator Beyak again on August 26, 2019 to participate in an adapted version of Cycles 2 and 3 of the training. The training was offered in a safe environment where two OFIFC Trainers worked directly with the Senator. As the conversation started, Senator Beyak elaborated on the reasons for her participation in the course. The Senator shared that she wanted to ensure that the "tax dollars" were spent appropriately. Senator Beyak continued by noting that she wanted to be able to give back to First Nation communities to address viable drinking water and appropriate housing as this, "would address the high rates of youth suicide". The Senator's comments flagged for the Trainers that she is not demonstrating accountability for the behaviours and conduct that resulted in her being in the training.

When the OFIFC Trainers attempted to engage her in a conversation about events and factors that contributed to intergenerational trauma experienced by Indigenous people, Senator Beyak did not see it necessary to understand this historical context. She stated that she wanted to "move forward" and not be "stuck in the past". The Senator also noted that taxpayer dollars are being "wasted" by having statues removed and streets renamed because "actions like that do not contribute to reconciliation". When asked to elaborate on her statements, the Senator said that "60% of what we do for Indigenous people is not working. We need to quit talking and do something for people. It's not about the past, it's about getting decent living conditions and not removing statues."

When the OFIFC Trainers attempted to discuss the White Paper of 1969, the Citizen's Plus of 1970, and the *Indian Act*, Senator Beyak stated, "you want to focus on the past and the trauma, I want to focus on today and the infrastructure". When we attempted to explain the complex intersections between colonisation, dispossession, intergenerational trauma, poverty, and racism, Senator Beyak responded, "History has nothing to do with racism. It's about what your people are doing to your own people".

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Senator Beyak then repeated what she said during Cycle 1, that racism does not exist in her home area of Dryden, Ontario. The OFIFC provided an example of an experience of racism shared by an OFIFC staff member. The story shared was about a male family member who booked a hotel room, provided the reference when he arrived at the hotel, and was asked to leave.

The story also included details about how the family member had long hair and darker skin to show how racism involves profiling. Senator Beyak's response to the story was inappropriate and disrespectful including, "was his hair dirty? Did he look grubby or threatening?" suggesting that the man could have been denied access to his room based on his appearance. The OFIFC Trainers went on to explain that the hotel staff's behavior was indicative of racism and violated basic human rights. The Senator stated that she has turned people away for having piercings and dirty hair from her own business.

The resistance and problematic comments of the Senator made it apparent that continuing the training session was futile. Senator Beyak was not only explicitly unwilling to engage with the content of the training, but also persistent in her overtly biased views, prejudiced opinions, and insolent behaviors. Senator Beyak also alluded that the training is irrelevant because she will be reinstated anyway. The Senator's inflexibility and conduct made the learning environment unsafe and she was asked to leave the OFIFC premises, which she welcomed.

To summarise, Senator Beyak attended a full day session on ICCT Cycle 1 where she did not successfully complete the course. She also participated in a 1.5 hour small group discussion on concepts covered in our ICCT Cycle 2. The Senator's behavior resulted in her being asked to leave so she did not complete Cycle 2 or begin Cycle 3 content that the OFIFC had adapted for her.

In our assessment, Senator Beyak is not interested in confronting her ill-informed understandings of the contemporary realities of Indigenous people in Canada. The Senator is also not open to learning about Canadian history, Canadian current policies impacting Indigenous people, nor is she willing to contemplate our shared future, inspired by the spirit of Reconciliation.

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October 18, 2019
Pierre Legault

If you have any questions, please do not hesitate to contact me at .

Sincerely,



Nicole Meawasige
Training Coordinator

cc.: Sylvia Maracle, Executive Director
Tracy Syrette, Corporate Services Director

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Senate Ethics Officer



Conseiller sénatorial en éthique

October 22, 2019

The Honourable Serge Joyal, P.C., Chair
Intersectoral Authority on Ethics and Conflict of Interest for Senators
c/o Mr. Blair Armitage, Committee Clerk
XXX
The Senate of Canada
Ottawa, ON K1A 0A4

Dear Senator:

Re: Training for Senator Lynn Beyak (Cycles 2 and 3, OFIFC)

This is further to my letter to you dated October 8, 2019.

As you know, in response to my report of June 20, 2019, the *Standing Committee on Ethics and Conflict of Interest for Senators* (the Committee) wrote to me on July 23 instructing me to monitor and report to the Committee regarding Senator Beyak's participation in Cycles 2 and 3 of the program offered by the Ontario Federation of Indigenous Friendship Centre (OFIFC), in accordance with the Fifth Report of the Standing Committee on Conflict of Interest for Senators.

On October 8, 2019, I informed you by letter that the training in relation to Cycles 2 and 3, which had been scheduled to take place on August 26 and 27, 2019, did not take place as planned. I also informed you that, while I had received a written explanation from Senator Beyak, I was still waiting to receive a written explanation from OFIFC. I have now received OFIFC's written explanation.

Hence, with respect to the Committee's instruction that I report on Senator Beyak participation in Cycles 2 and 3 of the OFIFC program, please find enclosed three documents. The first is Senator Beyak's written explanation sent by email to me on August 28, 2019. The second is a further explanation by Senator Beyak contained in an email to me dated August 29, 2019. Please note that this e-mail contains third-party protected information unrelated to the case at hand. The third is OFIFC's letter on this matter, dated October 16, 2019, and received after close of business on October 18, 2019.

I am not aware of any additional training other than the training already reported on.

Sincerely,

A handwritten signature in blue ink, consisting of a large, stylized 'P' followed by a horizontal line and a small crossbar.

Pierre Legault

cc. The Honourable Lynn Beyak

Encl. (3)

Legault, Pierre

From: Lynn Beyak <[REDACTED]>
Sent: Wednesday, August 28, 2019 12:30 PM
To: Legault, Pierre
Subject: Unprofessional

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Pierre,

As you know from my August 20th email to you, Terrellyn confirmed Training for Cycle 2 and 3 with the option to add the MMIWG inquiry report and condense the program into one day if I agreed, and I did.

The purpose of this email is to advise you the pre-approved training agreed to for Cycle 2 and 3 at the friendship centre on Front St in Toronto for August 26 and 27, did not take place.

As soon as Terrellyn confirmed the details, I planned the costly trip to Toronto at my own expense for the sole purpose of attending that training. Outlays include the four hour drive from Dryden to Thunder Bay and back, a return Air Canada flight, transportation in Toronto, and my own personal time and effort.

On August 26 I arrived at 8:45am and as scheduled signed in at 9am. There was no one else present and no apparent training. Instead of being taken to the conference room with others, as I was for Cycle 1, I was taken to Terrellyn's office where I was told the curriculum as indicated was not available to me, and would I consider other options.

Full details of our discussion are available when I meet with you, or in a separate email.

The unprofessionalism, and lack of common scheduling courtesy are not only appalling, but disappointing, and I am not impressed. In light of the sporadic emails from them over the past few weeks, this result is not surprising and I cannot help but question their agenda.

There was no charge for Cycle 2 and 3. If Terrellyn writes to me, I will share the information with you and if she corresponds with you I would appreciate the same.

Hope your week is great.

Sincerely
Lynn

Legault, Pierre

From: Lynn Beyak <[REDACTED]>
Sent: Thursday, August 29, 2019 9:26 AM
To: Legault, Pierre
Subject: Training Meeting Details - August 26, 2019, Friendship Centre, Front Street, Toronto

Follow Up Flag: Follow up
Flag Status: Flagged

Dear Pierre,

Please let me know if there is anything further you need.

Monday morning, August 26th, 2019, I attended at the friendship centre in Toronto on Front Street, at 9am as previously scheduled.

The receptionist's relative, [REDACTED] lives in Dryden and works at our friendship centre. It's a small world sometimes. We had a nice chat about the joys of living in northwestern Ontario.

No one else was present and there was no apparent training activity. In Cycle 1 Terrellyn took me to a small conference room for the training with eleven other people. This time a lady took me to Terrellyn's office and left us alone.

We discussed our summers and [REDACTED]. I told her of friends who had done the same in baseball, with very good outcomes.

Terrellyn asked about the relevance to the Senate, of the components of Cycle 2 and Cycle 3 and I advised her they have been very pertinent to Senate work in 2019, and I was looking forward to further detail in the courses, the "White Paper" in my speeches, the response from Indigenous people, amendments to the Indian Act, the Royal Commission on Aboriginal Peoples, the United Nations Declaration on the Rights of Indigenous Peoples, Canada's apology to Residential School Survivors, the lawsuit for the 60's Scoop, historic and modern day treaties, and the TRC inquiry report.

Terrellyn told me the curriculum was not finalized as yet, to include the MMIWG inquiry, and wanted to consider a different curriculum instead. She asked if I knew about the meaning of white privilege and if we could focus on that and how the negative image I was portraying of Indigenous people could be turned instead to reconciliation. We were both speaking amicably, and I disagreed that I was portraying a negative image, with my very positive and uplifting website, only a different image than hers. Allowing so many Indigenous people to live in squalor in a great nation like Canada, and seen regularly on the nightly news, is a negative image. The August 2018 Angus Reid poll of Canadians, Indigenous and non alike, confirms that 60% believe what government is doing is not working.

Nicole then joined us and Terrellyn told her of the white privilege suggestion for training. I asked both of them what parts of Cycles 2 or 3 training had any reference to "white privilege" and what kind of discussion would ensue. I have a written copy of Treaty 3 for my region and have read others online, and there is no mention of white privilege anywhere, that I know of. The treaties were negotiated in good faith by the English and French and the Chiefs of the day who all wanted the best for the future of their people. Reserves were to be phased out over time and all would live together in the prosperous new industrialized world. The history of Chief Joseph Brant is a superb example of the reasoning of the day, and the belief by all concerned in the keen intelligence and learning ability of Indigenous people. The Chiefs expounded on the tools to be used to make their people all they could be, including education and representation one day, in the Canadian government, quoted later by Chief Dan George. Government representatives agreed. History shows us that many people chose to leave the reserves, at that time, with their own non Indigenous partners.

Terrallyn jumped up and went to the board where she hastily drew a sweeping blue arc and jabbed a multitude of blue dots beneath. She said the blue arc indicated white privilege and the English and French takeover of their many Indigenous nations, represented by the blue dots, to get the land and resources they wanted, to use for their own gain. Then they created the Indian Act to keep Indigenous people confined and controlled. I explained that while I accept her understanding of history, mine is different and since we are both well-informed, and neither one of us was there, we would have to agree to disagree.

I fully respect their view which is also the view of 12 Indigenous Senators, but everything I do in the Senate is for a wiser use of tax dollars, and while I appreciate their work and the work of others on reconciliation and the TRC report, I am focussed on the present, not the past, and the inadequate infrastructure, boil water advisories, mold, disease, and fire traps. The hopelessness and despair such squalor brings, and also portrays to Canadians, and to the rest of the world, is unacceptable.

We continued our discussion and they both asked me more about my Indigenous family, friends and associates, and we discussed my region. Nicole then told of a trip to Dryden with her husband and said they were refused a room she had booked and confirmed because his dark skin and long dark hair were "threatening"...her word. I asked her how he was "threatening"....had he been on the road for days, dirty hair and unkempt or somehow dangerous looking ? She was upset that dirty hair would matter, but said no, just that he was dark skinned, not white. I don't even know if he is Indigenous, as many races have dark skin and she did not elaborate. I fail to see how that would be threatening to a desk clerk in Dryden. I told her I didn't doubt her word, but am incredulous, as I have never encountered that in the 50 years I've lived in my region. Terrellyn said she felt I was doubting Nicole's word, who then said I had no similar experiences because I am white privileged. I disagree. If that were the case, Nicole looks as white privileged as I do with her lovely auburn hair and flawless skin, so her presence with her husband would have been reassuring. Some of the desk clerks at the hotels are Indigenous. Many of our citizens are Indigenous. Each year we welcome large Indigenous sports tournaments from across the northwest.

Skin colour is not always the issue when people are intimidated, as seen by the recent murders in British Columbia allegedly by two tall, white youth. I gave other examples of white vagrants, extremists and misfits in every walk of life, which launched us into a discussion of human rights for employment, whether dirty or clean, as opposed to customer rights and employer rights. It was amicable, but obvious, we would never agree.

There are 12 Indigenous Senators advocating for the TRC report, emotions, feelings, and mental health.

I asked Terrellyn and Nicole to consider one Senator with a different point of view and the rights of my group of successful and contented shamans, elders, chiefs, students, teachers, doctors, lawyers, grassroots, journalists, academics, and other professionals who want more dollars spent now, on infrastructure, a future of education, jobs, and prosperity, and fewer dollars spent on the past. They want meaningful employment, not just more talk about it. That observation offended the ladies who justified their jobs on reconciliation, although I had not asked them to. I only asked for the same courtesy for my supporters, to be allowed to pursue dollars, allocated more to the infrastructure side, and less to the past. As I have said from the start, good news stories do not excuse or mitigate the bad ones in any way, but all sides need to be heard.

At the end of an hour and a half discussion, we parted cordially and I assume Terrellyn will write to you. I called her extension while still at the centre, as I forgot to give her my payment cheques, and she said there would be no fees.

Everyone had agreed that I would be taking Cycle 2 and 3 on Monday and maybe Tuesday, with perhaps some content around the MMIWG inquiry report added.

Terrallyn refused to give me that training, as agreed to, and this outcome is not my responsibility in any way. I attended at the allotted time to do the specific curriculum outlined in the training course. She decided to change it the day I attended, and started a disagreement with me.

Hopefully her account and mine will have enough common ground, telling all sides of our discussion, to enable you to write a comprehensive and satisfactory report to the ethics committee.

Sincerely,
Lynn



OFIFC

Atikokan Native Friendship Centre
Barrie Native Friendship Centre
Can-Am Indian Friendship Centre of Windsor
Dryden Native Friendship Centre
Fort Erie Native Friendship Centre
Georgian Bay Native Friendship Centre (Midland)
Hamilton Regional Indian Centre
Indian Friendship Centre (Sault Ste. Marie)
Ininew Friendship Centre (Cochrane)
Kapuskasing Indian Friendship Centre
M'Wikwedong Native Cultural Resource Centre (Owen Sound)
N'Amerrind Friendship Centre (London)
N'Swakamok Native Friendship Centre (Sudbury)
Ne-Chee Friendship Centre (Kenora)
Niagara Regional Native Centre (Niagara-on-the-Lake)
Nishnawbe-Gamik Friendship Centre (Sioux Lookout)
Nogojwanong Friendship Centre (Peterborough)
North Bay Indigenous Friendship Centre
Odawa Native Friendship Centre (Ottawa)
Parry Sound Friendship Centre
Peel Aboriginal Network (Mississauga)
Red Lake Indian Friendship Centre
Sarnia-Lambton Native Friendship Centre
Thunder Bay Indigenous Friendship Centre
Thunderbird Friendship Centre (Geraldton)
Timmins Native Friendship Centre (Timmins & Moosonee)
Toronto Council Fire Native Cultural Centre
United Native Friendship Centre (Fort Frances)

www.ofifc.org

Ontario Federation of
Indigenous Friendship Centres
219 Front Street East, Toronto, Ontario, Canada M5A 1E8
T: (416) 593-1111 • Toll-Free: 1-800-387-3871 • F: (416) 593-1112

October 16, 2019

Pierre Legault
Senate Ethics Officer
Office of the Senate Ethics Officer
XXX
Ottawa, ON K1P 5B4

Dear Pierre Legault:

The Ontario Federation of Indigenous Friendship Centres (OFIFC) hosted Senator Lynn Beyak twice between June and August of 2019 for Indigenous Cultural Competency Training (ICCT). The OFIFC agreed to provide Cycles 1, 2, and 3 of our ICCT curricula to the Senator.

Our training is informed by the Royal Commission on Aboriginal People's findings and the recent Truth and Reconciliation Commission's Calls to Action. It provides an opportunity for governments, municipalities, public and private organisations and agencies to build knowledge, skills, attitudes, and values that are essential to developing and maintaining a positive and productive relationship with Indigenous people. Our ICCT curricula is provided in a safe learning environment, tailored to the needs of specific learners, and utilises an in-person delivery model, which is not part of online curricula offered elsewhere.

We expect training participants to be committed and willing to learn, as they engage in developing knowledge and skills that can change their attitudes and values. One of the key learning outcomes of the ICCT curricula are for learners to better understand Indigenous social, cultural and political realities, both historically and contemporarily.

.../2

By contributing to understandings, the OFIFC supports trainees to be better equipped to establish, develop, and maintain positive relationships with Indigenous people, communities, and organisations.

Senator Lynn Beyak participated in Cycle 1 of our Indigenous Cultural Competency Training on June 6, 2019. All participants were asked to complete a pre-evaluation, which gauges the learning knowledge and understanding prior to the training. Senator Beyak indicated she has taken part in 9 – 15 hours of previous training related to Indigenous Cultural Competency. She also identified that she neither agreed nor disagreed with the statement that Indigenous/non-Indigenous relationships have been impacted by historical events. The Senator identified herself as Métis and consistently referred to her Indigeneity throughout the Cycle 1. Senator Beyak explained that her Métis identity resulted from her family's adoption of an Indigenous child (her adopted sister). The Senator's understanding and presentation of her Métis identity were flagged as a concern by the trainers delivering the ICCT and by other participants.

During the Cycle 1 training, the Senator participated only minimally. When she did contribute, her comments were resistant to the training content such as, "there is no racism in the northern areas of Ontario where I live". She did not participate in large group discussions on topics including: the *Indian Act*, Indian Residential Schools, and the reserve system. Senator Beyak's post evaluation identified that only 21 – 41% of the information was new to her. When asked "how might you use the learning in your work/life?", the Senator provided a vague response where she shared, "evaluate the impact for intentions". During an opportunity to share self-reflections, the Senator expressed that she was appreciative of the kindness demonstrated by the Trainers and other participants sharing, "we were getting to know the 'real' her, not the 'her' that is portrayed in the media".

Senator Beyak's consistent lack of participation and engagement with the content offered during the training is a concern to the OFIFC. The Senator was not invested in conversations, indifferent to the content of the training, and observably disengaged from discussions on how to work towards reconciliation and building healthy urban Indigenous communities. Comments that she offered during the training and her reflections after the course demonstrated that she does not understand Indigenous realities or shared Indigenous and non-Indigenous relationships.

.../3

Perhaps most concerning was the Senator's lack of understanding about basic Canadian history. Based on this assessment, the OFIFC confirms that Senator Beyak was not successful in completing the requirements of our training.

Following Cycle 1, the OFIFC adapted Cycle 2 and 3 for the Senator to have more dedicated learning supports. This included changing the OFIFC's delivery model of ICCT from a large group to a small group delivery. The aim was to create a space for Senator Beyak to be meaningfully engaged and invested in the training.

The OFIFC hosted Senator Beyak again on August 26, 2019 to participate in an adapted version of Cycles 2 and 3 of the training. The training was offered in a safe environment where two OFIFC Trainers worked directly with the Senator. As the conversation started, Senator Beyak elaborated on the reasons for her participation in the course. The Senator shared that she wanted to ensure that the "tax dollars" were spent appropriately. Senator Beyak continued by noting that she wanted to be able to give back to First Nation communities to address viable drinking water and appropriate housing as this, "would address the high rates of youth suicide". The Senator's comments flagged for the Trainers that she is not demonstrating accountability for the behaviours and conduct that resulted in her being in the training.

When the OFIFC Trainers attempted to engage her in a conversation about events and factors that contributed to intergenerational trauma experienced by Indigenous people, Senator Beyak did not see it necessary to understand this historical context. She stated that she wanted to "move forward" and not be "stuck in the past". The Senator also noted that taxpayer dollars are being "wasted" by having statues removed and streets renamed because "actions like that do not contribute to reconciliation". When asked to elaborate on her statements, the Senator said that "60% of what we do for Indigenous people is not working. We need to quit talking and do something for people. It's not about the past, it's about getting decent living conditions and not removing statues."

When the OFIFC Trainers attempted to discuss the White Paper of 1969, the Citizen's Plus of 1970, and the *Indian Act*, Senator Beyak stated, "you want to focus on the past and the trauma, I want to focus on today and the infrastructure". When we attempted to explain the complex intersections between colonisation, dispossession, intergenerational trauma, poverty, and racism, Senator Beyak responded, "History has nothing to do with racism. It's about what your people are doing to your own people".

Senator Beyak then repeated what she said during Cycle 1, that racism does not exist in her home area of Dryden, Ontario. The OFIFC provided an example of an experience of racism shared by an OFIFC staff member. The story shared was about a male family member who booked a hotel room, provided the reference when he arrived at the hotel, and was asked to leave.

The story also included details about how the family member had long hair and darker-skin to show how racism involves profiling. Senator Beyak's response to the story was inappropriate and disrespectful including, "was his hair dirty? Did he look grubby or threatening?" suggesting that the man could have been denied access to his room based on his appearance. The OFIFC Trainers went on to explain that the hotel staff's behavior was indicative of racism and violated basic human rights. The Senator stated that she has turned people away for having piercings and dirty hair from her own business.

The resistance and problematic comments of the Senator made it apparent that continuing the training session was futile. Senator Beyak was not only explicitly unwilling to engage with the content of the training, but also persistent in her overtly biased views, prejudiced opinions, and insolent behaviors. Senator Beyak also alluded that the training is irrelevant because she will be reinstated anyway. The Senator's inflexibility and conduct made the learning environment unsafe and she was asked to leave the OFIFC premises, which she welcomed.

To summarise, Senator Beyak attended a full day session on ICCT Cycle 1 where she did not successfully complete the course. She also participated in a 1.5 hour small group discussion on concepts covered in our ICCT Cycle 2. The Senator's behavior resulted in her being asked to leave so she did not complete Cycle 2 or begin Cycle 3 content that the OFIFC had adapted for her.

In our assessment, Senator Beyak is not interested in confronting her ill-informed understandings of the contemporary realities of Indigenous people in Canada. The Senator is also not open to learning about Canadian history, Canadian current policies impacting Indigenous people, nor is she willing to contemplate our shared future, inspired by the spirit of Reconciliation.

Page 5
October 18, 2019
Pierre Legault

If you have any questions, please do not hesitate to contact me at .

Sincerely,



Nicole Meawasige
Training Coordinator

cc.: Sylvia Maracle, Executive Director
Tracy Syrette, Corporate Services Director

BAYNE
SELLAR
ERTEL
CARTER



BARRISTERS, SOLICITORS

November 1, 2019.

The Honourable Serge Joyal, P.C., Chair
Intersessional Authority on Ethics and Conflict of Interest for Senators
c/o Mr. Blair Armitage, Committee Clerk
XXX
The Senate of Canada
Ottawa, ON, XXX

Dear Senator:

Re: FIFTH REPORT of the Standing Committee on Ethics and Conflict of Interest for Senators

I write now on behalf of Senator Lynn Beyak in respect of The Standing Committee's 5 Recommendations relating to her breach of sections 7-1 and 7-2 of the Ethics and Conflict of Interest Code for Senators. The 5 Recommendations were described by the Committee as "appropriate remedial measures or sanctions to be imposed on Senator Beyak based on the findings of the Senate Ethics Officer."

Recommendation 1 states as follows:

"That, unless Senator Beyak has removed from her website the five letters that the Senate Ethics Officer has identified as containing racist content, the Senate Administration be directed to immediately remove the letters."

All five letters have been removed from Senator Beyak's website and will not at any time be reposted to the site.

Recommendation 2 states as follows:

"That Senator Lynn Beyak be suspended for the duration of the current Parliament, until such time as this suspension is rescinded pursuant to rule 5-5(i),

* DONALD B. BAYNE	* RODNEY G. SELLAR	* MARK ERTEL	* IAN CARTER
KIRSTIN MACRAE	MEAGHAN THOMAS	MICHELLE O'DOHERTY	JON DOODY
			JACOB LECAULT

and such suspension shall have the following conditions:

- a) Senator Beyak, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional or living allowance;
- b) Senator Beyak's right to the use of Senate resources, including funds, goods, services, premises, moving and transportation, travel and telecommunication expenses, shall be suspended for the duration of her suspension;
- c) Senator Beyak shall not receive any other benefit from the Senate during the duration of her suspension; and
- d) Notwithstanding paragraphs a), b) and c), during the period of her suspension, Senator Beyak shall have normal access to Senate resources necessary to continue life, health and dental insurance coverage;

That the *Standing Committee on Internal Economy, Budgets and Administration* take any action, as it considers appropriate, pertaining to the management of the office and personnel of Senator Beyak during the duration of her suspension."

Senator Beyak has served her suspension in full without incident and in accordance with the Recommendation.

Recommendation 3 states as follows:

"That within 30 days of the adoption of this report, Senator Beyak attend, at her own expense, educational programs related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations that are pre-approved by the Senate Ethics Officer, and that the Senate Ethics Officer monitor Senator Beyak's participation in the educational programs mentioned above and report, within 15 days of her completing them, to the committee with respect to Senator Beyak's attendance and performance at the educational programs."

The Committee's Fifth Report (and its Recommendations) was adopted by the Senate on May 9, 2019. By its express terms Recommendation 3 requires that any and all training be "pre-approved" by the Senate Ethics Officer. In addition, in his letter to Senator Beyak dated ~~October 8, 2019~~ ^{May 9, 2019} (enclosed as Appendix A) the Senate Ethics Officer confirms this fact: "In other words, recommendation #3 requires that I approve the educational program...".

As confirmed in the written report to the Standing Committee of Senate Ethics Officer Pierre Legault dated June 20, 2019, Senator Beyak fully complied with Recommendation 3's requirement to attend at her own expense and within 30 days of May 9, 2019, the educational programs "pre-approved" by the Senate Ethics Officer. Senator Beyak attended and "successfully completed" the "Indigenous Awareness Certification" program as confirmed by the Certificate of Completion (enclosed herewith as Appendix B) provided by Indigenous Awareness Canada ("The Indigenous Awareness Training Company"). Senate Ethics Officer Legault, in his June 20th report to the Committee, confirms both that he approved this "4 to 8-hour online course" geared toward building "effective and positive relationships with Indigenous people", and that Senator Beyak completed the course on May 19, 2019.

The Senate Ethics Officer also pre-approved "Cycle 1 of the Indigenous Cultural Competency Training given by the Ontario Federation of Indigenous Friendship Centres (the OFIFC). This is a one-day (7 hours) in-person training course, which took place on June 6, 2019 in Toronto." In his report to the Committee dated June 20, 2019, the Senate Ethics Officer detailed the nature of this training and reported that "I have received confirmation from the OFIFC that Senator Beyak attended the training and completed it. With respect to the Committee's instruction that I report on her performance, please see the attached letter (Annex 2)." Annex 2, a June 18, 2019 letter from OFIFC (signed by Terrellyn Fearn, Training Director), stated that Senator Beyak did attend the full-day session but that, in Ms. Fearn's opinion, "continued training is required". Ms. Fearn suggested that such additional training was expected to be completed prior to August 31, 2019.

Senate Ethics Officer Legault stated that, in his view, and while he was aware that Ms. Fearn wanted to continue training in future months, Senator Beyak had already satisfied Recommendation 3. He reported that "I am of the opinion that in completing these two courses by June 6, 2019, Senator Beyak has attended the training required by the Senate 'related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations' and it was completed within the timeframe imposed, i.e., before the expiration of 30 days after the adoption of the Fifth Report."

By the date of the Senate Ethics Officer's June 20, 2019 report to the Standing Committee therefore, Senator Beyak had already attended two separate and distinct training sessions, completing both. She did so at her own expense, as required. The in-person OFIFC session required her to drive four hours to Thunder Bay from Dryden, Ontario (and back) and to fly from Thunder Bay to Toronto and return. The air fare cost was \$800.00 and the mileage totalled 800 kms. In addition, Cycle 1 required Senator Beyak to pay \$700.00 to the OFIFC. The online

training was provided at a cost of \$128.00. By June 6, 2019, Senator Beyak believed she had, in good faith, completed Recommendation 3's express requirement. The Senate Ethics Officer agreed.

Nevertheless, as a further show of good faith, Senator Beyak voluntarily agreed to additional, continued training with the OFIFC in future months. This was training in addition to that previously "pre-approved" by the Senate Ethics Officer. The Senate Ethics Officer stated in his June 20th report, while he was of the opinion that Senator Beyak had already satisfied Recommendation 3, that "In addition to the above training, Senator Beyak has informed me that she has also committed to attend, at her own expense, Cycles 2 and 3 of the Indigenous Cultural Competency Training provided by the OFIFC." The Senate Ethics Officer attached "a description and the learning outcomes of Cycles 2 and 3" to his June 20th report. That description, entitled "Course Curriculum for Cycles Two and Three" is enclosed with this correspondence (as Appendix C) and is important. It is the very curriculum that the Senate Ethics Officer then "pre-approved" for future training.

For the proposed August 26, 2019 Cycles 2 and 3 training session, Senator Beyak again had to drive the four hours to Thunder Bay and incur return air fare to Toronto. She attended on the 26th at 8:45 a.m. having agreed to the training curriculum described. The Curriculum for the 26th should have included the following: "ICCT Cycle Two: Specific content includes: The 'White paper and the response from Indigenous people, amendments to the *Indian Act*, The Royal Commission on Aboriginal Peoples, the United Nations Declaration on the Rights of Indigenous Peoples, Canada's Apology to Residential School Survivors, and the lawsuit for the 60's Scoop. ICCT Cycle Three: In continuing the learning from the previous 2 cycles, the third cycle takes a more in-depth look at historic and modern day treaties, sovereignty, and how it relates to indigenous self-governance and ways of knowing, connectedness to communities and everyday good living. We also look at the Truth and Reconciliation Commission and work towards identifying healthy communication and knowledge exchange amongst Indigenous organisations and non-Indigenous organisations." This is the OFIFC's own description of Cycles 2 and 3. This is what the Senate Ethics Officer pre-approved.

However, contrary to the training curriculum to which Senator Beyak had agreed and contrary to the Senate Ethics Officer's pre-approved training curriculum, on August 26th Senator Beyak was advised that the curriculum training as described to her and approved by the Senate Ethics Officer would not take place. There had been no prior notice in the months between June 6th and August 26th from the OFIFC that Cycles 2 and 3 would not in fact be offered to Senator

Beyak as promised. In fact, in a telephone conversation on August 20, 2019, Senator Beyak was told by Terrellyn Fearn that the curriculum for Cycles 2 and 3 would be as described and was asked if material for the MMIWG Inquiry could also be added. Senator Beyak agreed.

Upon arrival on August 26th, Senator Beyak was eagerly anticipating the Cycle 2 and 3 training because the curriculum she had been assured would form the training connected directly to subject-matters with which the Senate was expecting to be dealing. When she arrived, Senator Beyak noticed that, unlike the Cycle 1 training, no professional trainers were in attendance (Ms. Fearn and Nicole Meawasige had merely sat in with the group participants while trainers conducted the Cycle 1 session). Ms. Meawasige was not present at 9:00 a.m. and did not arrive for 20 to 30 minutes.

At the outset, Ms. Fearn advised Senator Beyak that “they” (the OFIFC) did not have Cycles 2 and 3 ready for Senator Beyak and it would not be offered to her. When Senator Beyak protested that it was the Cycle 2 and 3 curriculum to which she had agreed and which the Senator Ethics Officer had “pre-approved”, Ms. Fearn instead proposed a one-on-one “conversation” about “white privilege”. Senator Beyak was taken aback and disagreed that that was an appropriate way to proceed. She expressed her disagreement politely and amicably. She had travelled at her expense a long way, and in good faith reliance upon the curriculum content promised for Cycles 2 and 3.

The October 16, 2019 letter from the OFIFC (this time signed by Ms. Meawasige) to Senate Ethics Officer Legault does not address at all the reasons for the failure to provide to Senator Beyak the agreed-upon and “pre-approved” curriculum on August 26th. Instead it purports to re-write negatively about Cycle 1, when Ms. Fearn had already described it in correspondence dated June 18th. Then it suggests that what was offered on the 26th was “an adapted version of Cycles 2 and 3 of the training”. No “adapted version” was ever pre-approved by the Senate Ethics Officer. An unstructured “conversation” about “white privilege” is not the pre-approved curriculum. The simple fact is that the OFIFC was obviously unprepared on August 26th to provide and failed to provide the curriculum promised and agreed upon. This was the responsibility of the OFIFC, not Senator Beyak.

In addition, however, the letter of October 16th suggests that Senator Beyak was “insolent” and “was asked to leave” as her conduct “made the learning environment unsafe”. These statements are untrue. Anyone who knows Senator Beyak and her polite manner would immediately be suspicious of such an accusation.

The history of contacts between the Senate Ethics Officer and the OFIFC reveals repeated efforts by the Senate Ethics Officer to get timely and pertinent responses from them. As of October 8th, 2019, for example, the Senate Ethics Officer advised the Committee (in his June 20th report) that, in respect of the Cycles 2 and 3 training that “did not take place as planned” (i.e. as he had pre-approved), he had received a written explanation from Senator Beyak but “was still waiting to receive a written explanation from OFIFC.” In his letter dated October 8, 2019 to the Committee, the Senate Ethics Officer stated, “I have pressed OFIFC several times for a response, and was recently informed by OFIFC that its organization had gone through some internal changes in September, and that I would not receive a response before the end of this month.” The email chain between the Senate Ethics Officer and Senator Beyak – dated August 29, September 9 and 11, 2019 (which is enclosed as Appendix D) - reveals that as of September 11, the Senate Ethics Officer stated, “Like you, I do hope we hear from Ms. Fearn. In fact, I have asked her for an explanation. I have not received anything yet.” On September 27th the Senate Ethics Officer again emailed Senator Beyak (enclosed as Appendix E) saying, “I still have not received any explanation from Ms. Fearn despite several attempts on my part to get some.” The Senate Ethics Officer’s frustration with the OFIFC’s disorganization and unprofessional delay is obvious.

In sum, then, Senator Beyak completed all pre-approved training that was offered to her. Additional pre-approved training the OFIFC failed to provide. Instead, they have provided a dilatory personal attack on Senator Beyak but not the training that had been promised and pre-approved. Recommendation 3 has been fulfilled to the satisfaction of the Senate Ethics Officer as his June 20th report states. Through no fault of Senator Beyak, and despite her costly efforts to travel long distances to attend for training, OFIFC on August 26th failed to provide the training that was promised and that the Senate Ethics Officer had pre-approved as required by the explicit terms of Recommendation 3.

As further proof of her good faith and notwithstanding that the Senate Ethics Officer has confirmed in writing that “Senator Beyak has attended the training required by the Senate”, Senator Beyak remains willing to attend yet a further, professional, training program pre-approved by the Senate Ethics Officer should this Honourable Committee, in all the circumstances, recommend this. Given the serious factual discord between Senator Beyak and the OFIFC, it is respectfully submitted that the OFIFC should not be the ones to provide such training. It would also be helpful to all concerned to have the Senate Ethics Officer present at any such future training to have an independent assessment of the respective performance of Senator Beyak, the trainer(s), and assurance that the training was what was pre-approved by the Senate Ethics Officer.

Recommendation 4 states:

“That, within 30 days of the adoption of this report, Senator Beyak be provided a briefing by the Clerk of the Senate regarding her role and responsibilities as a senator, including relevant rights, rules and privileges – and limitations thereupon; such briefing may be provided by conference call or by video conference call, at the Senate’s expense.”

As confirmed by the May 30, 2019 correspondence (enclosed herewith as Appendix F) to Senator Beyak from Richard Denis, Interim Clerk of the Senate and Clerk of the Parliaments, and Chief Legislative Services Officer (enclosed herewith), Senator Beyak attended upon and received the briefing from the Clerk of the Senate as required by this Recommendation.

Recommendation 5 states:

“That Senator Beyak apologize to the Senate in writing through a letter addressed to all senators and deposited with the Clerk of the Senate and who will cause such letter

- (a) to be published in the *Journals of the Senate* either:
 - (i) on the next sitting day after the apology is received, or
 - (ii) for the last sitting day if received between the adjournment of the Senate and the prorogation or dissolution of Parliament; and
- (b) to be made publicly available on the appropriate portion of the Senate’s website.”

Enclosed herewith (Appendix G) is Senator Beyak’s signed apology in writing through a letter addressed to all Senators for her breaches of sections 7-1 and 7-2 of the Code. This letter Senator Beyak will deposit promptly with the Clerk of the Senate in order that it may be published in the *Journals of the Senate* and be made publicly available on the Senate’s website, in compliance with Recommendation 5.

In conclusion, it is respectfully submitted to the Standing Committee that the Senate Ethics Officer, together with the documents appended hereto, has confirmed in writing compliance with all Recommendations 1 through 5 of the Fifth Report. Senator Beyak should be permitted to return to the Senate when Parliament resumes as her suspension has been served and she

complied fully and in good faith with its terms. If, in the unfortunate circumstance of the failure of OFIFC to provide the pre-approved curriculum of Cycles 2 and 3 of further training on August 26th, the Committee wishes to recommend another training session, Senator Beyak is willing to undertake that. Such further training should not interfere with her return to the Senate. If such a recommendation is made, it is requested that all the effort and expense incurred by Senator Beyak in connection with attending in Toronto for August 26th be taken into account by the Committee as a matter of fairness.

Senator Beyak awaits the Committee's prompt response.

Yours very truly,

BAYNE, SELLAR, ERTEL, CARTER



Donald B. Bayne

/gk

APPENDIX A

SENATE
ETHICS OFFICER



CONSEILLER
SÉNATORIAL EN ÉTHIQUE

*Protected
Confidential Information*

May 9, 2019

The Honourable Lynn Beyak
XXX
The Senate of Canada Ottawa, ON
K1A 0A4

Dear Senator Beyak:

Educational Program

This letter is pertaining to the fact that, today, the Senate adopted the Fifth Report of the Standing Senate Committee on Conflict of Interest for Senators, tabled in the Senate on Tuesday, April 30, 2019. As such, it has accepted the recommendations of the Committee.

Recommendation 3 of that Report reads, in part, as follows:

That, within 30 days of the adoption of this report, Senator Beyak attend, at her own expense, educational programs related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations that are pre-approved by the Senate Ethics Officer, and that the Senate Ethics Officer monitor Senator Beyak's participation in the educational programs mentioned above and report, within 15 days of her completing them, to the committee with respect to Senator Beyak's attendance and performance at the educational programs;

In other words, recommendation #3 requires that I approve the educational program referred to above before you enroll in it and that I am required to monitor your participation therein and report to the Committee within 15 days of your completion of it.

In order to approve such a program, I will need you to provide me with some information concerning this matter, namely:

- the names of the programs you are considering,
- the names of the organizations that offer them,
- the names of the instructors and their qualifications,
- the curriculum/agenda for the programs, and
- the method of evaluating performance.

Could you please provide this information as soon as possible.

Thank you for your continued cooperation in this matter.

Sincerely,

A handwritten signature in black ink, consisting of a large, stylized 'P' followed by a horizontal line and a small vertical stroke.

Me Pierre Legault



Indigenous Awareness Canada

The Indigenous Awareness Training Company

Certificate of Completion **Indigenous Awareness Certification**

This certificate documents that

Lynn Beyak

has successfully completed *201 Indigenous Awareness Certification*
and is hereby certified by Indigenous Awareness Canada.

May 19, 2019

Date of Completion

Robert Laboucane
Robert Laboucane, President

APPENDIX C

Course Curriculum for Cycles Two and Three of the Indigenous Cultural Competency Training (ICCT) provided by the Ontario Federation of Indigenous Friendship Centres (the OFIFC)

ICCT Cycle Two

As a continuum of learning we build on from the first level, the historical narrative and exploring more recent efforts to re-frame the relationship between Indigenous and non-Indigenous peoples. Specific content includes: the “White paper” and the response from Indigenous people, amendments to the Indian Act, the Royal Commission on Aboriginal Peoples, the United Nations Declaration on the Rights of Indigenous Peoples, Canada’s apology to Residential School Survivors, and the lawsuit for the 60’s Scoop.

Learning Outcomes

- Understand more recent events and how they work to address, or fail to address, historic trauma within Indigenous communities;
- Identify implications and impacts of discriminatory Legislation on Indigenous communities;
- Learn trauma informed approaches to enhance organizational communication;
- Come to know the resiliency of Indigenous peoples and their respective ‘culture’;
- Development of specific action items that focus on Relationship Building and Respect.

ICCT Cycle Three

In continuing the learning from the previous 2 cycles, the third cycle takes a more in-depth look at historic and modern day treaties, sovereignty, and how it relates to Indigenous self-governance and ways of knowing, connectedness to communities and everyday good living. We also look at the Truth and Reconciliation Commission and work towards identifying healthy communication and knowledge exchange amongst Indigenous organisations and non-Indigenous organisations.

Learning Outcomes

- Provide learners with a more in-depth understanding of and making of the historic and modern day treaties and the impacts it has had on Indigenous Peoples;
- Recognise and understand Indigenous self-governance and the relation to culture;
- Understand the Truth and Reconciliation Commission and the call to action that apply specific to your division;
- Review organisational policies, practices and priorities in response to the call to action.

APPENDIX D

From: Legault, Pierre [mailto:
Sent: September-11-19 10:06 AM
To: 'Lynn Beyak'
Subject: Training Meeting Details - August 26, 2019, Friendship Centre, Front Street, Toronto

Dear Senator Beyak,

Like you, I do hope we hear from Mrs. Fearn. In fact, I have asked her for an explanation. I have not received anything yet.

Best regards,

Me Pierre Legault



Senate Ethics Officer/Conseiller sénatorial en éthique

Tel/Tél. : | Fax/Téléc.

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système.

From: Lynn Beyak

Sent: Monday, September 09, 2019 9:20 AM

To: Legault, Pierre <----->

Subject: RE: Training Meeting Details - August 26, 2019, Friendship Centre, Front Street, Toronto

Dear Pierre,

I hope you had a nice weekend, enjoying the last few weeks of a summer that seemed to pass much too quickly.

As I wrote on August 28th, and must reiterate, I found the actions of the trainers at the friendship centre, up to and including the scheduled training days, to be unprofessional and inconsiderate. The trip was very costly.

It appears they were deliberately misleading, confirming the curriculum and training, in a phone call on August 20th, details of which I emailed to you, just four days before my flight. I hope we hear something from them.

Terrellyn and the ethics committee have copied me in the past and I assume that practice will continue. In case they do not, if you hear anything from Terrellyn, the friendship centre or the committee, I would appreciate a copy and an opportunity for inclusion and input.

Thank you again for everything.

Sincerely,

Lynn

Hon. Lynn Beyak
Senate of Canada

From: Legault, Pierre [[mailto:](#)]
Sent: August-29-19 10:21 AM
To: 'Lynn Beyak'
Subject: RE: Training Meeting Details - August 26, 2019, Friendship Centre, Front Street, Toronto

Dear Senator Beyak,

Thank you for your e-mail and for your description of the events of August 26, 2019. I will get back to you if I have any question.

Best regards,

Me Pierre Legault



Senate Ethics Officer/Conseiller sénatorial en éthique

Tel/Tél. :

| Fax/Téléc

APPENDIX E

From: Legault, Pierre [[mailto:](#) _____]

Sent: September-27-19 12:00 PM

To: 'Lynn Beyak'

Subject: RE: Training Meeting Details - August 26, 2019, Friendship Centre, Front Street, Toronto

Dear Senator Beyak,

Thank you for sharing the link to CTV News with me. As an independent officer, I have no involvement in what is happening in the Senate. So, I have no idea nor information about what is going on. The one thing I may suggest is that, if you so wish, you contact the Committee to express your concerns.

I still have not received any explanation from Mrs. Fearn despite several attempts on my part to get some.

Best regards,

Me Pierre Legault

Senate Ethics Officer/Conseiller sénatorial en éthique

Tel/Tél.: _____ | Fax/Téléc. _____

APPENDIX F



SENATE Richard Denis Interim Clerk of the Senate and Clerk of the Parliaments, and Chief Legislative Services Officer CANADA	SÉNAT Richard Denis Greffier du Sénat et Greffier des Parlements intérimaire, et Dirigeant principal des services législatifs CANADA
--	--

PERSONAL AND CONFIDENTIAL

May 30, 2019

The Honourable Senator Lynn Beyak
Senate of Canada
Ontario

Dear Senator Beyak,

Further to our briefing today and pursuant to recommendation 4 of the fifth report of the Standing Committee on Ethics and Conflict of Interest for Senators, please find attached a document that outlines your role and responsibilities as a senator, as well as relevant right, rules and privileges and limitations thereupon.

For your information, I will send a letter to the chair of the Standing Committee on Ethics and Conflict of Interest for Senators confirming that you have received the briefing today, within 30 days of the adoption of the report by the Senate on May 9th, 2019.

If you have any questions or require any further information after today's briefing, please do not hesitate to contact me.

Sincerely yours,

Richard Denis
Interim Clerk of the Senate and Clerk of the
Parliaments, and Chief Legislative Services
Officer

The Senate and the role and responsibilities of a senator

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The Role of the Senate

The Senate plays a fundamental role in Canada's constitutional democracy and has done so since Confederation. As noted by the Supreme Court, "The Senate is one of Canada's foundational political institutions. It lies at the heart of the agreements that gave birth to the Canadian federation".¹ Under the *Constitution Act, 1867*, the Senate and House of Commons – together with the Queen – form the Parliament of Canada.² The various functions and role of the Senate are described in the sections that follow.

¹ *Reference re Senate Reform*, 2014 SCC 32 at 15.

² *Constitution Act, 1867*, s. 17: There shall be One Parliament for Canada, consisting of the Queen, an Upper House styled the Senate, and the House of Commons.

Constitutional Functions

Under section 91 of the *Constitution Act, 1867*, the Senate is tasked with providing its “Advice and Consent”, along with the House of Commons, for the creation of “Laws for the Peace, Order, and good Government of Canada”.

This brief description is the distillation of considerable deliberation among the fathers of Confederation about the role the Senate should play. It was firmly held that the Senate should not serve as a rival to the House of Commons, obstructing its work or even overpowering it. Instead, as described by Sir John A. MacDonald, the Senate should be a body “calmly considering the legislation initiated by the popular branch, and preventing any hasty or ill-considered legislation which may come from that body, but... never set[ting] itself in opposition against the deliberate and understood wishes of the people”.³

To ensure that the Senate could play this complementary role, the *Constitution Act, 1867* also outlines the Senate’s basic characteristics, including its composition, its privileges, the manner under which senators are appointed, and the scope of its legislative powers – limited in large part by section 53, which assigns the power to appropriate revenues or raise taxes by legislation to the House of Commons.

The Senate’s role in Canada’s constitutional architecture has also been elaborated upon and developed since Confederation. Its composition has expanded to allow representation for new provinces and territories; its features have been entrenched via the amending formulae in the *Constitution Act, 1982*. The Supreme Court has also elaborated on the Senate’s role as a representative of regional and minority interests, as will be discussed further below.

In essence, the Senate serves as a complementary legislative body to the elected House of Commons in providing sober second thought. In that role, the Senate proposes, reviews and amends legislation that may become law.

Parliament of Canada Act

While the *Constitution Act, 1867* provides the basic structure of the Senate and its operation, necessary precision and development comes from the *Parliament of Canada Act, R.S.C. 1985, c. P-1* (the PCA). As noted in *Senate Procedure in Practice*, four parts of the PCA pertain to the Senate’s structure, administration, and powers:

- *Part I: Senate and House of Commons*: Addresses the demise of the Crown, parliamentary privilege, the publication of proceedings, and the administration of oaths and affirmations.
- *Part II: Senate*: Addresses the powers of the Senate, assigns powers to the Standing Committee on Internal Economy, Budgets and Administration, creates the Senate Ethics Officer, and provides for the allowances of senators and expenditures for the service of the Senate.

³ John A. Macdonald, Province of Canada, Legislative Assembly, *Parliamentary Debates on the Subject of the Confederation of the British North American Provinces*, 3rd Sess., 8th Prov. Parl. (the “1865 Debates”), February 6, 1865, at p. 37.

- *Part IV: Remuneration of Parliamentarians*: Provides for the remuneration of members of the Senate and the House of Commons.
- *Part V: General*: Provides that the administration of the Library of Parliament is vested under the authority of the Speakers of the Senate and the House of Commons assisted by the Standing Joint Committee on the Library of Parliament.⁴

Jurisprudence on the Role of the Senate

The Supreme Court of Canada has carefully considered the nature, purposes and origins of the Senate and its place within Canada's constitutional democracy. In 1980, the Court rendered its opinion in *Re: Authority of Parliament in Relation to the Upper House*, [1980] 1 SCR 54 and concluded that Parliament cannot unilaterally make alterations to the Senate that would affect "the fundamental features, or essential characteristics, given to the Senate as a means of ensuring regional and provincial representation in the federal legislative process" or that would affect its function as a house of sober second thought.

More recently, in *Reference Re Senate Reform*, 2014 SCC 32, the Court considered the amending formulae necessary to achieve various senate reform proposals and, in so doing, developed a view of the Senate within the "architecture" of the Constitution. In the Court's estimation, the Senate plays a number of important roles, including: as a complementary legislative body of sober second thought (paragraph 54); as an independent entity that could "canvass dispassionately the measures of the House of Commons" (paragraph 57); and as a space for the voices of Canada's regions (paragraph 15) and under-represented ethnic, gender, religious and linguistic minorities and Aboriginal groups (paragraph 16).

The Role of Senators

Appointment and Obligations

Senators are summoned to the Senate by the Governor General in the Queen's name. By convention, the Governor General summons Senators on the advice of the Prime Minister. While the Prime Minister has few external constraints on how he or she decides on appointments, section 22 of the *Constitution Act, 1867* does require that the composition of the Senate be divided so that each region of the country has senatorial representation.

To be eligible for appointment to the Senate, a person must meet the following requirements:

- be 30 years of age or older;
- be a Canadian citizen;
- own real property worth at least four thousand dollars in the province they were appointed to represent;
- possess a net worth of at least four thousand dollars; and

⁴ Senate of Canada, *Senate Procedure in Practice*, 2015, pp. 12-13.

- be a resident in the province or territory they are to represent (in the case of Quebec, the person must be both resident and own real property in a specific area within that province – Quebec senators are appointed to represent specific areas, rather than the province as a whole).⁵

Senators may remain in office until they reach the age of 75, resign voluntarily, or are disqualified.⁶ Senators may also be suspended from the Senate or provided a leave of absence under *the Rules of the Senate* (Rules).

A senator's primary obligation under the *Constitution Act, 1867* is to attend a sitting of the Senate at least once in two consecutive sessions of Parliament.⁷ Rule 15-1(1) of the Rules reiterates this obligation by requiring senators to attend the Senate "when it is in session for the purposes of advising and assisting in the affairs of Canada, laying aside all difficulties and excuses to do so", though Rule 15-1(3) provides exceptions for public or official business, illness, or for a set number of personal days.

Should a senator not attend at least once in two consecutive sessions, his or her place shall become vacant.⁸ A senator might otherwise be disqualified, per section 31 of the *Constitution Act, 1867*:

- "If he [or she] takes an Oath or makes a Declaration or Acknowledgment of Allegiance, Obedience, or Adherence to a Foreign Power, or does an Act whereby he [or she] becomes a Subject or Citizen, or entitled to the Rights or Privileges of a Subject or Citizen, of a Foreign Power";
- "If he [or she] is adjudged Bankrupt or Insolvent, or applies for the Benefit of any Law relating to Insolvent Debtors, or becomes a public Defaulter";
- If he [or she] is attainted of Treason or convicted of Felony or of any infamous Crime"; or
- "If he [or she] ceases to be qualified in respect of Property or of Residence".

The *Constitution Act, 1867* requires a senator to swear allegiance to be "faithful to Her Majesty" as well as to declare that the qualifications for office are met.⁹ The *Rules of the Senate* further requires that the declaration of qualification be renewed with the Clerk at the beginning of each Parliament:

15-6. (1) Every Senator shall file with the Clerk a renewed Declaration of Qualification within the first 20 sitting days of the first session of each Parliament. The declaration shall be in the form prescribed in the fifth schedule of the *Constitution Act, 1867*.

The summons of a senator also includes Her Majesty's command:

KNOW YOU, that as well for the especial trust and confidence We have manifested in you, as for the purpose of obtaining your advice and assistance in all weighty and arduous affairs which may the State and Defence of Canada concern,

⁵ *Ibid.*, p. 8.

⁶ *Ibid.*, p. 9

⁷ S. 31(1).

⁸ *Ibid.*

⁹ *Constitution Act, 1867*, fifth schedule.

We have thought fit to summon you to the Senate of Canada. AND WE do command you, that all difficulties and excuses whatsoever laying aside, you be and appear for the purposes aforesaid, in the Senate of Canada at all times whensoever and wheresoever Our Parliament may be in Canada convoked and holden, and this you are in no wise to omit.

This command, read to each new senator upon their presentation to the Senate, instructs them to attend meetings of the Senate to fulfill their functions.

Legislating, debating, and holding the government to account

Bills must be passed in identical form by both the Senate and House of Commons in order to become law. Accordingly, a significant portion of the Senate's schedule involves the work of reviewing, amending, and voting on legislation both in the Chamber and in various committees.

As discussed above, the *Constitution Act, 1867* restricts the introduction of legislative measures that appropriate government funds or raise revenues to the House of Commons. For this reason, most bills come to the Senate after their passage in the House, at which point senators, typically through specialized committees, scrutinize those bills, debate their merit, and propose amendments. While rare, Senate committees – or the Senate – may reject legislation received from the Commons. Senate committees may also indicate their "observations" in reports produced alongside legislation.

There are two types of bills of note that senators may propose: Senate public bills and private bills. Senate public bills afford individual senators the opportunity to advance causes of particular import or interest to them and to initiate debate in the Chamber on such matters. Typically during each Parliament several Senate Public Bills are passed by the Senate and the House and become law. Private bills, by contrast, address the specific interests of individuals or entities and must begin with a petition from the party or parties concerned. Though generally rare, such bills have been exclusively introduced in the Senate for the past several decades and constitute a significant portion of non-government Senate bills that receive Royal Assent.

Beyond the scrutiny that the Senate applies to a government's legislative agenda, it can also play a significant oversight function. The scrutiny of government spending, for example, takes several forms, including through the examination of departmental estimates in committee. In particular, the Senate Standing Committee on National Finance examines almost all government expenditures for each fiscal year. Further, senators may question ministers and officials about departmental spending plans before other committees or during Question Period. If projected spending appears excessive, committees may propose the reduction or elimination of specific expenditures.

As well, the Senate participates in the work of the Standing Joint Committee for the Scrutiny of Regulations, which reviews regulations and other statutory instruments to see whether they meet certain legal and procedural criteria.

Lastly, the Senate is well-equipped to independently investigate and deliberate on matters of public policy. Senators can, for example, commence inquiries, or debates in the Chamber on topics they consider

important, and Senate committees can undertake in-depth studies regardless of whether there is pending legislation before them.

The Rules of the Senate

The Rules of the Senate

The practices and procedures of the Senate are governed and guided by several different authorities – from the *Constitution Act, 1867*, to Speaker's rulings, to parliamentary conventions and authorities that predate Confederation. That said, the majority of Senate business is conducted under the framework of the *Rules of the Senate*. All senators are required to follow the *Rules of the Senate* and may face serious consequences for any breach.

The Senate adopted its first Rules shortly after 1867 and they have been regularly updated ever since. They outline how Senate proceedings – both in Chamber and in committees – unfold, including debates, voting, and the raising of points of order or questions of privilege. Since they establish the accepted practices of the Chamber and its Committees, any changes need to be approved by the Senate itself. They are often the product of recommendations from the Standing Committee on Rules, Procedures and the Rights of Parliament.

While the *Rules of the Senate* intend to provide as comprehensive a framework as possible for Senate procedure, there are undoubtedly instances where they are either silent or run contrary to the Senate's preferred course of action. Rule 1-1(2) establishes that, in cases not provided for in the *Rules*, reference may be made, with necessary adjustments, to "the practices of the Senate, its committees and the House of Commons." This rule also allows for reference to the practices of equivalent bodies as required. Further, as the Senate is the master of its own proceedings, it can vote, with leave, to suspend or supersede provisions of the *Rules* or normal practice.

The Rules – while mostly governing the procedural operations of the Senate and its committees – place constraints upon senators. For example, Rule 6-2 generally prohibits a senator from speaking more than once in any debate and Rule 6-13(1) deems "personal, sharp or taxing speeches" to be unparliamentary and therefore out of order. As well, the Rules place requirements upon senators, such as the obligation to renew their declaration of qualification each Parliament (Rule 15-6) and to refrain from speaking or voting if they have a declared private interest in the matter then before the Senate or committee (Rule 15-7(2)).

Failure to abide by the Rules may result in points of order or questions of privilege being raised. The Speaker may find that the Rules have been broken and, subject to appeal to the whole Senate, put a stop to some action (such as a Senator attempting to speak more than once to an item) or invalidate some previous action (such as a vote by a Senator who had a private interest in a matter). Further consequences may be considered by the Senate depending on the nature of the breach, which could include sanctions such as the potential suspension of a senator or finding that he or she is in contempt.

The Senate Administrative Rules

The Senate Administrative Rules (Intrasen link) were approved by the Senate in May 2004 and govern the institution's administrative practices, particularly around the allocation and use of resources by Senators. They are administered and interpreted primarily by the Standing Committee on Internal Economy, Budgets and Administration and are supplemented by policies, guidelines, opinions, directives, forms and practices adopted or implemented by the Senate, the Standing Committee, or other competent authorities.

Privileges and Limitations

Parliamentary Privilege

As defined by Erskine May, parliamentary privilege "is the sum of certain rights enjoyed by each House collectively ... and by Members of each House individually, without which they could not discharge their functions, and which exceed those possessed by other bodies or individuals".¹⁰

Parliamentary privileges can be both collective (enjoyed by the Senate as a body) and individual. Per *Senate Procedure in Practice*, the main collective rights the belong to the Senate are as follows:

- the regulation of its proceedings or deliberations, which includes the right to exclude strangers, to debate behind closed doors, and to control publication of debates and proceedings;
- the power to discipline or punish breaches of privilege or contempt;
- the maintenance of the attendance and service of its members;
- the authority to institute inquiries, to summon witnesses and demand papers;
- the administration of oaths to witnesses; and
- the publication and distribution of papers free from civil liability (defamation).¹¹

As for individual rights, they include the following:

- freedom of speech in Parliament and its committees;
- freedom from arrest in civil cases;
- exemption from jury duty and from appearance as a witness in a court case; and
- freedom from obstruction and intimidation.¹²

Importantly, parliamentary privilege, where it applies, immunizes the activities or actions of the Senate or of individual senators from the ordinary application of the law, as its purpose is to ensure that Parliament can operate without undue interference or obstruction as it engages in its constitutionally

¹⁰ *Erskine May's Treatise on the Law, Privileges, Proceedings and Usage of Parliament*, 24th ed., edited by Sir M. Jack (London: LexisNexis: 2011), p. 203.

¹¹ *Senate Procedure in Practice*, p. 225.

¹² *Ibid.*, p. 226.

provided role. Because of this immunity, however, courts have limited its application to situations in which its absolutely necessary for the functioning of the legislature.¹³

It should be clarified that parliamentary privilege does not mean Senators or Members of the House of Commons are free to conduct themselves however they wish. The legislature may put considerable limits on legislators – these limitations may be procedural in nature (such as how long one may speak to a bill or on what committees one may sit) – as well as substantive (including limitations on participation and voting in debates in certain circumstances as well as limitations on the content of speeches, such as restrictions on unparliamentary language).

As an exercise of parliamentary privilege, legislatures have the exclusive authority to discipline their members, including through imposing serious sanctions “both as punishment for misbehaviour and as a means of ensuring compliance with its internal rules”.¹⁴ Further, as recently confirmed by the Alberta Court of Appeal, “Legislative Assembly may limit its members’ exercise of free speech as part of its own parliamentary privilege”.¹⁵

The Ethics and Conflict of Interest Code for Senators

The *Ethics and Conflict of Interest Code for Senators* (the *Code*) was originally adopted by the Senate on May 18, 2005, and has since been amended in 2008, in 2012 and twice in 2014. The *Code* sets out the rules of conduct for senators as well as a process for the disclosure of private interests. The *Code* is administered and interpreted by the Senate Ethics Officer, operating under the general direction of the Standing Committee on Ethics and Conflict of Interest for Senators. It states that senators “shall uphold the highest standards of dignity inherent to the position of senator” and that senators must perform their “parliamentary duties and functions with dignity, honour and integrity.” Where the Senate Ethics Officer concludes that a particular senator has not complied with his or her obligations under the *Code*, they inform the Committee, which in turn makes a recommendation to the Senate as a whole on whether disciplinary action is warranted; only the Senate as a whole can discipline its members as an exercise of parliamentary privilege.

Under section 49(4) of the *Code*, the remedial measures or sanctions that may be recommended by the committee and imposed by the Senate include:

- (a) the return of any gift or other benefit;
- (b) any remedial measure;
- (c) the reduction or removal of access to Senate resources;
- (d) the removal of assignments, duties or powers conferred by the Senate;
- (e) a limitation on the right to speak or vote;
- (f) an invitation or order to apologize;
- (g) a censure, admonition or reprimand; or
- (h) a suspension.

¹³ For the Supreme Court’s most recent discussion of necessity in the context of parliamentary privilege, see *Chagnon v. Syndicat de la fonction publique et parapublique du Québec*, 2018 SCC 39.

¹⁴ *Harvey v. New Brunswick (Attorney General)*, [1996] 2 S.C.R. 876.

¹⁵ *McIver v Alberta (Ethics Commissioner)*, 2018 ABQB 240.

It should be noted that a sanction recommended by the committee need not expressly fall in the committee's mandate. For example, the reference in paragraph (c) to access to resources would normally be a matter for the Committee on Internal Economy, Budgets and Administration, and the question of assignments – in paragraph (d) – reflect, in part, committee assignments normally within the purview of the committee of selection. However, given the great importance the Senate has placed on ensuring compliance with the Code, the committee is permitted to look beyond its borders to recommend the most appropriate sanction for the Chamber's consideration and may thus recommend any sanction within the Senate's authority.

Other Limitations

Outside of the scope of parliamentary privilege, which attaches only to the actions of senators in the context of their parliamentary functions, it is important to note that senators are generally subject to statutory law. In particular, senators are "public office holders" for the purposes of the *Lobbying Act*, R.S.C. 1985, c. 44 and could be subject to specific offences under the *Criminal Code*, R.S.C. 1985, c. C-46 such as frauds on the government (s. 121), selling or purchasing office (s. 124), and influencing or negotiating appointments or dealings in offices (s. 125).

As well, the Senate may place restrictions on the conduct of its members through other instruments. For example, the institution has adopted certain policies aimed at reducing harassment in the workplace that may allow for the sanctioning of Senators who engage in inappropriate conduct.

Further, the Senate has control over the use of resources by senators. In particular, the *Parliament of Canada Act* provides that the Committee on Internal Economy, Budgets, and Administration (CIBA) – subject to the direction and control of the Senate – has "exclusive authority to determine whether any previous, current or proposed use by a senator of any funds, goods, services or premises made available to that senator for the carrying out of parliamentary functions is or was proper, given the discharge of the parliamentary functions of senators".¹⁶ That committee, therefore, may order the repayment of improper expenses or dictate restrictions on the use of certain resources by Senators. These types of limitations – and sanctions for their violation – were recently confirmed by the Federal Court of Appeal as being a valid exercise of parliamentary privilege.¹⁷

CIBA may also enact policies that serve to limit senators. For example, in 2017 CIBA adopted the *Senators' Office Management Policy*, which, among other things, places certain rules on travel and other expenses by senators and their employees, and limits senators' abilities to enter into contracts worth more than \$2,500. A violation of this policy may be addressed by CIBA, which can decide that certain expenses need to be repaid to the Senate. Importantly, under the *Senate Administrative Rules*, "If a person is indebted to the Senate, the Senate may retain the outstanding amount by way of a deduction or set-off of funds that is or may become payable to that person by the Senate in accordance with law".¹⁸

¹⁶ PCA, s 19.6.

¹⁷ *Canada (Board of Internal Economy) v. Boulterice*, 2019 FCA 33 at 101.

¹⁸ SARs, Chapter 3:04, s 4.

APPENDIX G

TO ALL SENATORS

The Senate Ethics Officer, in his report of March 19, 2019, found me in breach of section 7.1 and 7.2 of the Code of Ethics and Conflict of Interest for Senators and for that I sincerely apologize to all Senators.

A handwritten signature in cursive script that reads "Hon. Lynn Beyak". The signature is written in black ink and is positioned above the printed name.

Hon. Lynn Beyak,
Senate of Canada

BAYNE
SELLAR
ERTEL
CARTER

BSB

BARRISTERS, SOLICITORS

November 4, 2019.

The Honourable Serge Joyal, P.C., Chair
Intersectoral Authority on Ethics and Conflict of Interest for Senators

XXX 2 B
The Senate of Canada
Ottawa, ON, K1A 0A4

Dear Senator:

**Re: FIFTH REPORT of the Standing Committee on Ethics and Conflict of Interest for
Senators**

My November 1st letter to you has two references that I would like to correct. The first is at the bottom of page 2. The second last line begins with the reference to "October 8". That date should have actually read May 9, which is the date of the letter under Appendix A. The second correction is on page 7 under Recommendation 4 where I included a superfluous "enclosed herewith".

I enclose the corrected letter with this correspondence. You have all of the Appendices which were already forwarded.

Yours very truly,

BAYNE, SELLAR, ERTEL, CARTER


Donald B. Bayne

/gk

TEL.

FAX

• DONALD B. BAYNE
KIRSTIN MACRAE

• RODNEY G. SELLAR
MEAGHAN THOMAS

• MARK ERTEL
MICHELLE O'DOHERTY
ION DOODY

• IAN CARTER
JACOB LEGAULT

* CERTIFIED BY THE LAW SOCIETY AS A SPECIALIST IN CRIMINAL LITIGATION

BAYNE
SELLAR
ERTEL
CARTER

BSB

BARRISTERS, SOLICITORS

November 4, 2019.

The Honorable Serge Joyal P.C., Chair
Intersessional Authority on Ethics and Conflict of Interest for Senators
c/o Mr. Bair Armitage Committee Clerk

XXX

The Senate of Canada
Ottawa, ON, K1A 0A4

Dear Senator:

Re: FIFTH REPORT of the Standing Committee on Ethics and Conflict of Interest for Senators

I write now on behalf of Senator Lynn Beyak in respect of The Standing Committee's 5 Recommendations relating to her breach of sections 7-1 and 7-2 of the Ethics and Conflict of Interest Code for Senators. The 5 Recommendations were described by the Committee as "appropriate remedial measures or sanctions to be imposed on Senator Beyak based on the findings of the Senate Ethics Officer."

Recommendation 1 states as follows:

"That, unless Senator Beyak has removed from her website the five letters that the Senate Ethics Officer has identified as containing racist content, the Senate Administration be directed to immediately remove the letters."

All five letters have been removed from Senator Beyak's website and will not at any time be reposted to the site.

Recommendation 2 states as follows:

"That Senator Lynn Beyak be suspended for the duration of the current Parliament, until such time as this suspension is rescinded pursuant to rule 5-5(i),

JE

• TJ

200-0000 • FAX: 200-

• DONALD B. BAYNE

• RODNEY G. SELLAR

• MARK ERTEL

• IAN CARTER

KIRSTIN MACRAE

MEAGHAN THOMAS

MICHELLE O'DOHERTY

JON DOODY

JACOB LEGAULT

and such suspension shall have the following conditions:

- a) Senator Beyak, while under suspension, shall not receive any remuneration or reimbursement of expenses from the Senate, including any sessional or living allowance;
- b) Senator Beyak's right to the use of Senate resources, including funds, goods, services, premises, moving and transportation, travel and telecommunication expenses, shall be suspended for the duration of her suspension;
- c) Senator Beyak shall not receive any other benefit from the Senate during the duration of her suspension; and
- d) Notwithstanding paragraphs a), b) and c), during the period of her suspension, Senator Beyak shall have normal access to Senate resources necessary to continue life, health and dental insurance coverage;

That the *Standing Committee on Internal Economy, Budgets and Administration* take any action, as it considers appropriate, pertaining to the management of the office and personnel of Senator Beyak during the duration of her suspension."

Senator Beyak has served her suspension in full without incident and in accordance with the Recommendation.

Recommendation 3 states as follows:

"That within 30 days of the adoption of this report, Senator Beyak attend, at her own expense, educational programs related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations that are pre-approved by the Senate Ethics Officer, and that the Senate Ethics Officer monitor Senator Beyak's participation in the educational programs mentioned above and report, within 15 days of her completing them, to the committee with respect to Senator Beyak's attendance and performance at the educational programs."

The Committee's Fifth Report (and its Recommendations) was adopted by the Senate on May 9, 2019. By its express terms Recommendation 3 requires that any and all training be "pre-approved" by the Senate Ethics Officer. In addition, in his letter to Senator Beyak dated May 9, 2019 (enclosed as Appendix A) the Senate Ethics Officer confirms this fact: "In other words, recommendation #3 requires that I approve the educational program...".

As confirmed in the written report to the Standing Committee of Senate Ethics Officer Pierre Legault dated June 20, 2019, Senator Beyak fully complied with Recommendation 3's requirement to attend at her own expense and within 30 days of May 9, 2019, the educational programs "pre-approved" by the Senate Ethics Officer. Senator Beyak attended and "successfully completed" the "Indigenous Awareness Certification" program as confirmed by the Certificate of Completion (enclosed herewith as Appendix B) provided by Indigenous Awareness Canada ("The Indigenous Awareness Training Company"). Senate Ethics Officer Legault, in his June 20th report to the Committee, confirms both that he approved this "4 to 8-hour online course" geared toward building "effective and positive relationships with Indigenous people", and that Senator Beyak completed the course on May 19, 2019.

The Senate Ethics Officer also pre-approved "Cycle 1 of the Indigenous Cultural Competency Training given by the Ontario Federation of Indigenous Friendship Centres (the OFIFC). This is a one-day (7 hours) in-person training course, which took place on June 6, 2019 in Toronto." In his report to the Committee dated June 20, 2019, the Senate Ethics Officer detailed the nature of this training and reported that "I have received confirmation from the OFIFC that Senator Beyak attended the training and completed it. With respect to the Committee's instruction that I report on her performance, please see the attached letter (Annex 2)." Annex 2, a June 18, 2019 letter from OFIFC (signed by Terrellyn Fearn, Training Director), stated that Senator Beyak did attend the full-day session but that, in Ms. Fearn's opinion, "continued training is required". Ms. Fearn suggested that such additional training was expected to be completed prior to August 31, 2019.

Senate Ethics Officer Legault stated that, in his view, and while he was aware that Ms. Fearn wanted to continue training in future months, Senator Beyak had already satisfied Recommendation 3. He reported that "I am of the opinion that in completing these two courses by June 6, 2019, Senator Beyak has attended the training required by the Senate 'related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations' and it was completed within the timeframe imposed, i.e., before the expiration of 30 days after the adoption of the Fifth Report."

By the date of the Senate Ethics Officer's June 20, 2019 report to the Standing Committee therefore, Senator Beyak had already attended two separate and distinct training sessions, completing both. She did so at her own expense, as required. The in-person OFIFC session required her to drive four hours to Thunder Bay from Dryden, Ontario (and back) and to fly from Thunder Bay to Toronto and return. The air fare cost was \$800.00 and the mileage totalled 800 kms. In addition, Cycle 1 required Senator Beyak to pay \$700.00 to the OFIFC. The online

training was provided at a cost of \$128.00. By June 6, 2019, Senator Beyak believed she had, in good faith, completed Recommendation 3's express requirement. The Senate Ethics Officer agreed.

Nevertheless, as a further show of good faith, Senator Beyak voluntarily agreed to additional, continued training with the OFIFC in future months. This was training in addition to that previously "pre-approved" by the Senate Ethics Officer. The Senate Ethics Officer stated in his June 20th report, while he was of the opinion that Senator Beyak had already satisfied Recommendation 3, that "In addition to the above training, Senator Beyak has informed me that she has also committed to attend, at her own expense, Cycles 2 and 3 of the Indigenous Cultural Competency Training provided by the OFIFC." The Senate Ethics Officer attached "a description and the learning outcomes of Cycles 2 and 3" to his June 20th report. That description, entitled "Course Curriculum for Cycles Two and Three" is enclosed with this correspondence (as Appendix C) and is important. It is the very curriculum that the Senate Ethics Officer then "pre-approved" for future training.

For the proposed August 26, 2019 Cycles 2 and 3 training session, Senator Beyak again had to drive the four hours to Thunder Bay and incur return air fare to Toronto. She attended on the 26th at 8:45 a.m. having agreed to the training curriculum described. The Curriculum for the 26th should have included the following: "ICCT Cycle Two: Specific content includes: The 'White paper and the response from Indigenous people, amendments to the *Indian Act*, The Royal Commission on Aboriginal Peoples, the United Nations Declaration on the Rights of Indigenous Peoples, Canada's Apology to Residential School Survivors, and the lawsuit for the 60's Scoop. ICCT Cycle Three: In continuing the learning from the previous 2 cycles, the third cycle takes a more in-depth look at historic and modern day treaties, sovereignty, and how it relates to indigenous self-governance and ways of knowing, connectedness to communities and everyday good living. We also look at the Truth and Reconciliation Commission and work towards identifying healthy communication and knowledge exchange amongst Indigenous organisations and non-Indigenous organisations." This is the OFIFC's own description of Cycles 2 and 3. This is what the Senate Ethics Officer pre-approved.

However, contrary to the training curriculum to which Senator Beyak had agreed and contrary to the Senate Ethics Officer's pre-approved training curriculum, on August 26th Senator Beyak was advised that the curriculum training as described to her and approved by the Senate Ethics Officer would not take place. There had been no prior notice in the months between June 6th and August 26th from the OFIFC that Cycles 2 and 3 would not in fact be offered to Senator

Beyak as promised. In fact, in a telephone conversation on August 20, 2019, Senator Beyak was told by Terrellyn Fearn that the curriculum for Cycles 2 and 3 would be as described and was asked if material for the MMIWG Inquiry could also be added. Senator Beyak agreed.

Upon arrival on August 26th, Senator Beyak was eagerly anticipating the Cycle 2 and 3 training because the curriculum she had been assured would form the training connected directly to subject-matters with which the Senate was expecting to be dealing. When she arrived, Senator Beyak noticed that, unlike the Cycle 1 training, no professional trainers were in attendance (Ms. Fearn and Nicole Meawasige had merely sat in with the group participants while trainers conducted the Cycle 1 session). Ms. Meawasige was not present at 9:00 a.m. and did not arrive for 20 to 30 minutes.

At the outset, Ms. Fearn advised Senator Beyak that “they” (the OFIFC) did not have Cycles 2 and 3 ready for Senator Beyak and it would not be offered to her. When Senator Beyak protested that it was the Cycle 2 and 3 curriculum to which she had agreed and which the Senator Ethics Officer had “pre-approved”, Ms. Fearn instead proposed a one-on-one “conversation” about “white privilege”. Senator Beyak was taken aback and disagreed that that was an appropriate way to proceed. She expressed her disagreement politely and amicably. She had travelled at her expense a long way, and in good faith reliance upon the curriculum content promised for Cycles 2 and 3.

The October 16, 2019 letter from the OFIFC (this time signed by Ms. Meawasige) to Senate Ethics Officer Legault does not address at all the reasons for the failure to provide to Senator Beyak the agreed-upon and “pre-approved” curriculum on August 26th. Instead it purports to re-write negatively about Cycle 1, when Ms. Fearn had already described it in correspondence dated June 18th. Then it suggests that what was offered on the 26th was “an adapted version of Cycles 2 and 3 of the training”. No “adapted version” was ever pre-approved by the Senate Ethics Officer. An unstructured “conversation” about “white privilege” is not the pre-approved curriculum. The simple fact is that the OFIFC was obviously unprepared on August 26th to provide and failed to provide the curriculum promised and agreed upon. This was the responsibility of the OFIFC, not Senator Beyak.

In addition, however, the letter of October 16th suggests that Senator Beyak was “insolent” and “was asked to leave” as her conduct “made the learning environment unsafe”. These statements are untrue. Anyone who knows Senator Beyak and her polite manner would immediately be suspicious of such an accusation.

The history of contacts between the Senate Ethics Officer and the OFIFC reveals repeated efforts by the Senate Ethics Officer to get timely and pertinent responses from them. As of October 8th, 2019, for example, the Senate Ethics Officer advised the Committee (in his June 20th report) that, in respect of the Cycles 2 and 3 training that “did not take place as planned” (i.e. as he had pre-approved), he had received a written explanation from Senator Beyak but “was still waiting to receive a written explanation from OFIFC.” In his letter dated October 8, 2019 to the Committee, the Senate Ethics Officer stated, “I have pressed OFIFC several times for a response, and was recently informed by OFIFC that its organization had gone through some internal changes in September, and that I would not receive a response before the end of this month.” The email chain between the Senate Ethics Officer and Senator Beyak – dated August 29, September 9 and 11, 2019 (which is enclosed as Appendix D) - reveals that as of September 11, the Senate Ethics Officer stated, “Like you, I do hope we hear from Ms. Fearn. In fact, I have asked her for an explanation. I have not received anything yet.” On September 27th the Senate Ethics Officer again emailed Senator Beyak (enclosed as Appendix E) saying, “I still have not received any explanation from Ms. Fearn despite several attempts on my part to get some.” The Senate Ethics Officer’s frustration with the OFIFC’s disorganization and unprofessional delay is obvious.

In sum, then, Senator Beyak completed all pre-approved training that was offered to her. Additional pre-approved training the OFIFC failed to provide. Instead, they have provided a dilatory personal attack on Senator Beyak but not the training that had been promised and pre-approved. Recommendation 3 has been fulfilled to the satisfaction of the Senate Ethics Officer as his June 20th report states. Through no fault of Senator Beyak, and despite her costly efforts to travel long distances to attend for training, OFIFC on August 26th failed to provide the training that was promised and that the Senate Ethics Officer had pre-approved as required by the explicit terms of Recommendation 3.

As further proof of her good faith and notwithstanding that the Senate Ethics Officer has confirmed in writing that “Senator Beyak has attended the training required by the Senate”, Senator Beyak remains willing to attend yet a further, professional, training program pre-approved by the Senate Ethics Officer should this Honourable Committee, in all the circumstances, recommend this. Given the serious factual discord between Senator Beyak and the OFIFC, it is respectfully submitted that the OFIFC should not be the ones to provide such training. It would also be helpful to all concerned to have the Senate Ethics Officer present at any such future training to have an independent assessment of the respective performance of Senator Beyak, the trainer(s), and assurance that the training was what was pre-approved by the Senate Ethics Officer.

Recommendation 4 states:

“That, within 30 days of the adoption of this report, Senator Beyak be provided a briefing by the Clerk of the Senate regarding her role and responsibilities as a senator, including relevant rights, rules and privileges – and limitations thereupon; such briefing may be provided by conference call or by video conference call, at the Senate’s expense.”

As confirmed by the May 30, 2019 correspondence (enclosed herewith as Appendix F) to Senator Beyak from Richard Denis, Interim Clerk of the Senate and Clerk of the Parliaments, and Chief Legislative Services Officer, Senator Beyak attended upon and received the briefing from the Clerk of the Senate as required by this Recommendation.

Recommendation 5 states:

“That Senator Beyak apologize to the Senate in writing through a letter addressed to all senators and deposited with the Clerk of the Senate and who will cause such letter

- (a) to be published in the *Journals of the Senate* either:
 - (i) on the next sitting day after the apology is received, or
 - (ii) for the last sitting day if received between the adjournment of the Senate and the prorogation or dissolution of Parliament; and
- (b) to be made publicly available on the appropriate portion of the Senate’s website.”

Enclosed herewith (Appendix G) is Senator Beyak’s signed apology in writing through a letter addressed to all Senators for her breaches of sections 7-1 and 7-2 of the Code. This letter Senator Beyak will deposit promptly with the Clerk of the Senate in order that it may be published in the *Journals of the Senate* and be made publicly available on the Senate’s website, in compliance with Recommendation 5.

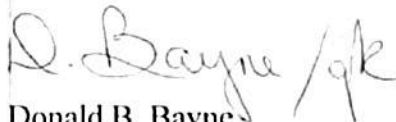
In conclusion, it is respectfully submitted to the Standing Committee that the Senate Ethics Officer, together with the documents appended hereto, has confirmed in writing compliance with all Recommendations 1 through 5 of the Fifth Report. Senator Beyak should be permitted to return to the Senate when Parliament resumes as her suspension has been served and she

complied fully and in good faith with its terms. If, in the unfortunate circumstance of the failure of OFIFC to provide the pre-approved curriculum of Cycles 2 and 3 of further training on August 26th, the Committee wishes to recommend another training session, Senator Beyak is willing to undertake that. Such further training should not interfere with her return to the Senate. If such a recommendation is made, it is requested that all the effort and expense incurred by Senator Beyak in connection with attending in Toronto for August 26th be taken into account by the Committee as a matter of fairness.

Senator Beyak awaits the Committee's prompt response.

Yours very truly,

BAYNE, SELLAR, ERTEL, CARTER


Donald B. Bayne

/gk

Senate Ethics Officer



Conseiller sénatorial en éthique

*Protected
Confidential*

December 9, 2019

The Honourable Serge Joyal, P.C., Chair
Standing Committee on Ethics and Conflict of Interest for Senators
c/o Mr. Blair Armitage, Committee Clerk
XXX
The Senate of Canada
Ottawa ON K1A 0A4

Dear Senator:

*Re: Senator Lynn Beyak – Recommendation 3 of the Fifth Report
of the Standing Committee on Ethics and Conflict of Interest for Senators*

This letter is in response to your request for details concerning the issues that were raised in a letter dated November 1, 2019 from Mr. Donald Bayne, of the law firm Bayne Sellar Ertel Cartier, on behalf of his client, Senator Lynn Beyak, concerning Senator Beyak's compliance with recommendation 3 of the Standing Committee on Ethics and Conflict of Interest for Senators in its Fifth Report to the Senate dated Tuesday, April 30, 2019 (hereafter "the Committee Report").

In his letter, Mr. Bayne refers to some of the other recommendations in the Committee Report; however, your request only concerns recommendation 3 given that this recommendation involves the ongoing involvement of the Senate Ethics Officer. For ease of reference, Recommendation 3 of the Committee Report reads as follows:

Recommendation 3:

That, within 30 days of the adoption of this report, Senator Beyak attend, at her own expense, educational programs related to racism toward Indigenous peoples in Canada and the history of Crown-Indigenous Relations that are pre-approved by the Senate Ethics Officer, and that the Senate Ethics Officer monitor Senator Beyak's participation in the educational programs mentioned above and report, within 15 days of her completing them, to the committee with respect to Senator Beyak's attendance and performance at the educational programs;

And that the committee cause this report of the Senate Ethics Officer to be posted on its website upon its receipt.

As such, it is clear from the above-noted recommendation that the Committee was concerned about two aspects of the training programs that Senator Beyak would be taking: (1) her attendance; and (2) her performance. The reference to performance suggests that the Committee was not only concerned that Senator Beyak attend these programs but was also concerned that she meet their objectives.

Pre-approval by Senate Ethics Officer

Mr. Bayne correctly points out that, under that recommendation, the Senate Ethics Officer is required to “pre-approve” educational programs pertaining to two areas: (1) racism toward Indigenous peoples in Canada and (2) the history of Crown-Indigenous Relations.

I pre-approved two courses as was explained in my report to the Committee of June 20, 2019:

- (1) The first course was a 4 to 8 hour online course given by Indigenous Awareness Canada and entitled “201 Indigenous Awareness Certification”. This course was approved because it focused on racism towards Indigenous People and included topics such as “Myths and Misconceptions”. This was meant to address the first area identified by the Committee in which Senator Beyak required some training, i.e., racism towards Indigenous peoples in Canada.
- (2) The second course that was originally pre-approved was Cycle 2 of the Indigenous Cultural Competency Training provided by the Ontario Federation of Indigenous Friendship Centres (the OFIFC). Cycle 2 was approved because it focused on a deeper examination at “historical narratives and recent efforts to re-frame relations between Indigenous and non-Indigenous Canadians”. The history of Crown-Indigenous Relations was the second area identified by the Committee Report in which Senator Beyak required training. The specific content of this course included: the 1969 White Paper, amendments to the Indian Act, the Royal Commission on Aboriginal Peoples, Canada’s apology to residential school survivors and the Truth and Reconciliation Commission.

Having said that, I was also willing to approve Cycle 1 of the program because it focused on the early relationship in Canada with Indigenous people, intergenerational trauma and an introduction to the OFIFC’s relationship framework. It included an examination of how Indigenous/non-Indigenous relationships have been impacted by historical events and how the relationship can be reframed today as well as an introduction to policies and legislation that have impacted Indigenous communities. This too would have addressed the history of Crown-Indigenous relations as identified by the Committee.

Cycle 2 was originally selected instead of Cycle 1 because the website of the OFIFC indicated that Cycle 1 had already taken place on April 24, 2019. Cycle 2, however, was scheduled to take place on May 22, 2019.

In response to Senator Beyak's request to attend Cycle 2 of the program, Ms. Terrellyn Fearn, the Director of Training at the OFIFC, informed Senator Beyak by email dated May 16, 2019, (a copy of which was provided to the Senate Ethics Officer on May 17, 2019) that: "The OFIFC offers a total of 4 Indigenous Cultural Competency Training Sessions. Cycle 1 to 4 is a graduated format wherein each Cycle builds upon the former and continues to emphasize the rebuilding and strengthening of relationships." Mr. Fearn explained that Senator Beyak would not be permitted to take only one cycle. In other words, in order to take Cycle 2, she would have to first take Cycle 1. However, Ms. Fearn also explained that Cycle 1 training was not available at that time.

On May 22, 2019, I spoke with Ms. Fearn about this matter and, in an effort to accommodate Senator Beyak and the need to complete the training within the required timeframe, Ms. Fearn agreed to provide Senator Beyak with a Cycle 1 training on June 6, 2019 with an internal group of approximately 25 people but only on condition that Senator Beyak agree to also take Cycles 2 and 3 as part of that training. Ms. Fearn insisted on this because, as already noted above, the program was a graduated system that included more than one cycle in order to achieve its goals and objectives. (It should be noted that, though the OFIFC training has 4 cycles, the OFIFC only required Senator Beyak to take the first three.) I advised Senator Beyak that, if she accepted the OFIFC's offer and agreed to take all three of the first cycles of the program, she would have met her obligations to take the required training before the 30 day deadline, though only Cycle 1 would have been provided to her by that time, not Cycles 2 and 3. Senator Beyak accepted the offer for this three-part training and committed to participating in the additional two cycles after the deadline imposed by the Committee. While Senator Beyak voluntarily agreed to do this, she did so because the OFIFC was accommodating her by providing a Cycle 1 training that would otherwise not have been provided and this training was only being provided on condition that Senator Beyak also participate in Cycles 2 and 3.

Attendance by Senator Beyak

In his letter of November 1, 2019, Mr. Bayne notes that I reported the following to the Committee in my report of June 20, 2019: "I am of the opinion that in completing these two courses by June 6, 2019, Senator Beyak has attended the training required by the Senate...and it was completed within the timeframe imposed, i.e., before the expiration of 30 days after the adoption of the Fifth Report."

In that same report, I stated that I was satisfied that Senator Beyak had completed the online course entitled "201 Indigenous Awareness Certification" on May 19, 2019 and, as proof that she had done so, I attached in Annex 1 of my report a copy of the Certificate of Completion related thereto.

With respect to Cycle 1 of the Indigenous Cultural Competency Training, my report of June 20, 2019 also confirmed that Senator Beyak had attended the training and completed it. I had received confirmation from the OFIFC of this. Cycle 1 was a one-day (7 hours) in-person training course which took place on June 6, 2019 in Toronto.

As such, I was of the view that, with the online training course as well as Cycle 1 of the Indigenous Cultural Competency Training, Senator Beyak had complied with the attendance portion of her training on the understanding that she would also complete Cycles 2 and 3 of the latter program since they were a requirement in order to participate in Cycle 1.

In any event, the fact that I addressed the attendance aspect of the Committee's recommendation in my report of June 20, 2019 in no way includes the performance aspect of it, which I reported on separately. With respect to performance, I left that matter to be addressed by the educational institution that was responsible for the delivery of the course in question, as is discussed further below.

Performance by Senator Beyak

As already noted above, in addition to ensuring that Senator Beyak attend the programs pre-approved by me, I was also required to monitor Senator Beyak's participation in these programs and to report to the committee with respect to her performance. Mr. Bayne makes passing reference in his letter to the issue of performance and only when he refers to my report to the Committee dated June 20, 2019.

With regards to the online course, I reported to the Committee that I could not assess Senator Beyak's performance given that it was an online course. However, the Certificate of Completion, a copy of which I provided to the Committee on June 20, 2019, provides: "This certificate documents that Lynn Beyak has successfully completed 201 *Indigenous Awareness Certification...*".

With respect to Cycle 1 of the Indigenous Cultural Competency Training, I was provided with a letter from Ms. Fearn, the Training Director at the OFIFC, dated June 18, 2019, a copy of which was also provided to the Committee on June 20, 2019. In that letter, Ms. Fearn writes: "Although Ms. Beyak did attend the full day session, it is evidence through her engagement that continued training is required. At this time, I do not feel Ms. Beyak's participation in Cycle 1 was successful in cultivating a new awareness or understanding of the impact of her actions, and inaction, as a Senator has had on the Canadian public and more specifically, Indigenous Peoples." She goes on to refer to the fact that Senator Beyak had agreed to participate in Cycles 2 and 3 of the program. In other words, in assessing Senator Beyak's performance in Cycle 1, Ms. Fearn was of the view that Senator Beyak required further training.

You will recall that, in response to my report, the Committee, in a letter dated July 23, 2019, wrote the following: "In light of this commitment [the commitment of Senator Beyak to attend Cycles 2 and 3 of the program offered by the OFIFC], the committee looks to you, as the SEO to continue your monitoring role in accordance with the recommendation and to report to the committee regarding Senator Beyak's participation in Cycles 2 and 3 of the OFIFC program. The committee is of the view that this monitoring is particularly important given the observation of OFIFC's Training Director regarding Senator Beyak's participation in Cycle 1 that she did not "feel it was successful in cultivating a new awareness or understanding of the impact of her actions". This reference to Senator Beyak's performance in Cycle 1 and the expectation that I continue to monitor

the rest of the training suggests that the Committee viewed Cycles 2 and 3 of the program to be important in terms of meeting the objectives of recommendation 3 in its Fifth Report.

Cycles 2 and 3 of the Indigenous Cultural Competency Training

As already noted in my letter to you of October 22, 2019, the training for Cycles 2 and 3 was scheduled to take place on August 26, 2019 and on August 27, 2019.

What transpired after Senator Beyak's arrival at the OFIFC in Toronto on August 26, 2019 was described by both Senator Beyak in her emails to me dated August 28, 2019 and August 29, 2019, as well as in the letter from the OFIFC to me dated October 16, 2019, all of which was provided to you on October 22, 2019. There appear to be different accounts provided by Senator Beyak and by the OFIFC as to what occurred on that day. I was not present and have no further information about this other than on the issue raised by Mr. Bayne in his letter of November 1, 2019 concerning the changes to the curriculum for Cycles 2 and 3.

Mr. Bayne makes reference to what was pre-approved for Cycles 2 and 3 by me. He states that what was offered on August 26th was an adapted version of Cycles 2 and 3. He writes: "At the outset, Ms. Fearn advised Senator Beyak that 'they' (the OFIFC) did not have Cycles 2 and 3 ready for Senator Beyak and it would not be offered to her. When Senator Beyak protested that it was the Cycle 2 and 3 curriculum to which she had agreed and which the Senate Ethics Officer had 'pre-approved', Ms. Fearn instead proposed a one-on-one 'conversation' about 'white privilege'.....An unstructured 'conversation' about 'white privilege' is not the pre-approved curriculum. The simple fact is that the OFIFC was obviously unprepared on August 26th to provide and failed to provide the curriculum promised and agreed upon."

By contrast, and in regards to these curriculum changes, the letter from the OFIFC dated October 16, 2019 provides that: "Senator Beyak was not successful in completing the requirements of the training [for Cycle 1]. Following Cycle 1, the OFIFC adapted Cycle 2 and 3 for the Senator to have more dedicated learning supports. This included changing the OFIFC's delivery model of ICCT [Indigenous Cultural Competency Training] from a large group to a small group delivery. The aim was to create a space for Senator Beyak to be meaningfully engaged and invested in the training." The OFIFC goes on to write that it decided to provide an adapted version of Cycles 2 and 3 of the training for the August 26, 2019 session.

Again, I was not present to witness what actually occurred on August 26th; however, on August 20, 2019, Senator Beyak did advise me, *via* email, that she had had a conversation with Ms. Fearn in which Ms. Fearn had informed her that the training for August 26th was going ahead as planned but that it would probably involve a smaller group and a few additional curriculum items or changes, given the completion of the national inquiry into Missing and Murdered Indigenous Women and Girls, as long as Senator Beyak was agreeable to this. Senator Beyak also advised me that Ms. Fearn told her that there was also a possibility that Cycles 2 and 3 would be combined into one day. Senator Beyak informed me that she told Ms. Fearn that she consented to both of these changes.

Future Training

In his letter of November 1, 2019, Mr. Bayne writes that “Senator Beyak remains willing to attend yet a further, professional, training program pre-approved by the Senate Ethics Officer should this Honourable Committee, in all the circumstances, recommend this.” He goes on to propose that I be present at any such future training in order to have an “independent assessment of the respective performance of Senator Beyak, the trainer (s), and assurance that the training was what was pre-approved by the Senate Ethics Officer”.

It is respectfully submitted that I am not qualified in the area of Indigenous affairs nor am I a qualified educator and, as such, would not be able to assess the performance of Senator Beyak in courses related to this field. The educators and teachers in the field are the experts that are qualified to do this and this task should be left to them. My role in this respect should be limited to providing you with the assessment that the educators and trainers provide to me.

I hope that these additional details are helpful to you in your consideration of this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read 'Pierre Legault', with a stylized flourish above the name.

Pierre Legault