

DIE Board Hearing Application 2018

Submission Date	2019-03-07 22:13:43
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This application is for a:	DIE Board Hearing
Reason	

March 7th, 2019

I am submitting this application to the Discipline, Interpretation, and Enforcement Board to ask if they can rule on whether the Students' Union has breached their bylaws in allowing both the Student Legal Services plebiscite question and the Aboriginal Students' Council referendum question on to this year's general election.

First, in regards to the Student Legal Services plebiscite: As required by Students' Union Bylaw 6100 4.11

, any dedicated fee unit receiving funds from students must go through a mandatory review by plebiscite at least every five years and the plebiscite question must be drafted in the same manner as the original question as outlined in Bylaw 6100 3.5. If the dedicated fee unit does not submit the proposed question by November 15, Bylaw Committee will assume the responsibility to draft the plebiscite question who must submit the question to Students' Council for ratification by December 1 and upon ratification by Students' Council, the Chair of Bylaw Committee shall notify the Chief Returning Officer of the approved plebiscite question who will place it on the ballot of the next general election.

Student Legal Services did not submit a plebiscite question so Bylaw Committee assumed responsibility for doing so and brought it to Council for approval on November 27th2

. While I was unable to find the original question to compare, the question as written did satisfy Bylaw 6100 3.5 (a) and (b) in that it addressed the purpose of the fee and the amount per student, per term. However every requirement under 3.5 (c) through (h) were missing. And unlike other plebiscites in recent years in addition to the CJSR-FM plebiscite question which was approved at that same Council meeting, the SLS question was not accompanied by any supplemental information to address the composition of the board, how the fee is administered to part time, Augustana and off-campus students, applicable to spring and summer terms, etc. After Council voted to approve the plebiscite question, it was communicated to the CRO the plebiscite question was approved and it was subsequently added to the ballot.

I believe there were multiple legislative hurdles that there were inappropriately cleared; Bylaw Committee, assuming responsibility for drafting the plebiscite question in the absence of a submission by SLS, drafted a question that was missing all required components under Bylaw 6100 4.2 and subsequently 3.5. While I cannot find meeting minutes where that question was actually approved in committee, it was presented to Council who also failed to notice the question was missing the required information and ratified it anyway. And the Chief Returning Officer who without verifying that the question ratified by Council met all the requirements and was therefore valid as a plebiscite initiated by Students' Council under Bylaw 2200 5.1, added it to the ballot erroneously anyway.

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<https://www.su.ualberta.ca/legislation/wiki/Bylaw:6100#Review>

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<https://www.su.ualberta.ca/media/uploads/assets/CouncilVotes/SC-2018-14-VP-20181127.pdf>

Second, in regards to the Aboriginal Student Council referendum: The ASC intended to create a new dedicated fee unit in accordance with Bylaw 6100 Section 3. As required by 3.2, the ASC submitted to the main office of the Students' Union before the November 15th deadline and it was forwarded to Bylaw Committee who discussed the proposal at their November 22nd 3meeting. The proposal contained all required information in 3.3 and Bylaw Committee approved the proposal, tasking one of its members to draft a petition question. This question was brought back to Bylaw Committee on December 6

th4 . While it contained most of the information required by 3.5, it was missing the entirety of parts (c) and (d), part of (e) by omitting part-time and Augustana students, and (h) because the proposal included the potential renovation of a University-owned building. Even without all of the required information, Bylaw Committee approved the petition question and sent it to Students' Council who ratified the petition question at their December 11th 5meeting. This petition question was mistaken for a referendum question and the Chair of Bylaw Committee sent the petition question to the CRO at the same time as the CJSR-FM and SLS plebiscite questions for inclusion on this year's ballot.

In their proposal, the ASC made reference to Section 3(10) of Bylaw 6100 which states that Students' Union services or operations may request that Council may consider a proposed question for a new DFU without conducting a petition subject to certain conditions, however the ASC is ineligible to use this exception for two reasons: the ASC is a registered student group on campus and is neither a Students' Union service or operation, and the petition question drafted by Bylaw Committee was missing some of the required information to satisfy section 3.5 which means 3.10(b) was unfulfilled and 3.10(c) would be impossible to fulfill as they are not part of the Students' Union. Bylaw 22006

6.6 does state that Students' Council shall have

the authority to call a plebiscite or referendum without a petition, but at no time since the introduction of the initial proposal was that line invoked or even referenced nor were any motions explicitly granting an exception to the petition process ever moved or approved by Council. Therefore, the ASC would then be subject to Bylaw 2200 Section 7.2 which reads “Where a valid petition bearing the names, signatures, and student identification numbers of at least fifteen percent (15%) of the total membership of the Students' Union as of February 1 of that academic year requesting a referendum on a given Students' Council-approved question is submitted to the C.R.O., then a referendum shall be held on that question as set out in Section 6, provided that the names, signatures, and student identification numbers were all collected within ninety (90) days of submission of the petition.” No petition was circulated which fell well short of the 15% required to be considered a valid petition, however the CRO accepted the petition question from the Chair of Bylaw Committee as the referendum question and included it on the ballot.

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- [https://www.su.ualberta.ca/media/uploads/assets/Committees Bylaw/BC-2018-11-M.pdf](https://www.su.ualberta.ca/media/uploads/assets/Committees%20Bylaw/BC-2018-11-M.pdf)
- 4
- [https://www.su.ualberta.ca/media/uploads/assets/Committees Bylaw/BC-2018-12-M%20.pdf](https://www.su.ualberta.ca/media/uploads/assets/Committees%20Bylaw/BC-2018-12-M%20.pdf)
- 5
- <https://www.su.ualberta.ca/media/uploads/assets/CouncilOrderPapers/SC-2018-15-VP-20181211.pdf>
- 6
- [https://www.su.ualberta.ca/legislation/wiki/Bylaw:2200#Plebiscite and Referendum Initiation](https://www.su.ualberta.ca/legislation/wiki/Bylaw:2200#Plebiscite%20and%20Referendum%20Initiation)

Again, I believe there were multiple hurdles here that were inappropriately cleared; the petition question did not contain all of the required information yet passed through both Bylaw Committee and Students' Council anyway. A valid petition was not submitted as required to have the referendum question added to the ballot, and a motion granting an explicit exemption to the petition process was not granted (see motion 2016-16/8d7). Therefore I feel as if the ASC referendum question was added to the general election ballot erroneously as well. If this was earlier in the year and there would be more time to correct these errors, I feel like both questions could be declared ineligible to be placed on the general election ballot. But as all of these mistakes were not caught until just recently after voting has already started, I feel it would be inappropriate to punish both Student Legal Services and Aboriginal Student Council by invalidating or voiding the results of their plebiscite and referendum votes, when they entrusted Bylaw Committee, Students' Council and the Chief Returning Officer to ensure that they would do what needed to be done properly. However both cases share enough similarities to show a repeated pattern of either unfamiliarity with the legislation to which they work under, or a complete indifference for following that legislation. In either case, this shows a complete and utter disregard for the undergraduate student population who elected our representatives to ensure everything is done right and not what is easy. So even if the plebiscite and referendum results are allowed to stand, I still feel that the members of the Bylaw Committee, the members of Students' Council and the Chief Returning Officer all need to be held accountable and/or reprimanded somehow for their flagrant negligence in regards to adhering to our bylaws all of the time and not just went it is convenient for them.

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- <https://www.su.ualberta.ca/media/uploads/assets/CouncilVotes/SC-2016-16-VP-20161206.pdf>

Proposed Respondent	Ilyas Gora, Chief Returning Officer
	Michelle Kim, Bylaw Committee Chair
	Jonathan Barraclough, Speaker
Anticipated Witness	Levi Flaman, Board of Governors Representative
Signature	