

DIE Board Respondent Application

Submission Date

2019-03-10 00:03:05

Name

Michelle Kim

E-mail

[REDACTED]

Phone Number

[REDACTED]

DIE Board hearing 2018-10
Applicant: Deirdra Cutarm

Anticipated Witnesses (if any):

Emma Ripka
Reed Larsen

Signature

A handwritten signature in black ink, appearing to be 'MK', written over a horizontal line.

File upload

[DIE BOARD Response Michelle Kim.pdf](#)



University of Alberta Students' Union

BYLAW COMMITTEE

Chair: Michelle Kim

March 9 2019

To: Discipline, Interpretation, and Enforcement (DIE) Board
University of Alberta Students' Union

From: Michelle Kim, Chair of Bylaw Committee 2018-2019

Dear DIE Board,

I am submitting this written response regarding hearing application Submitted on March 7th 2019 (Hearing 2018-10).

I would like to first respond to the inquiry about the **Student Legal Services Plebiscite**. Bylaw 6100, Bylaw respecting Dedicated Fee Units were mentioned in the inquiry. The only Bylaw that Bylaw committee have to meet pertaining to this bylaw is the section 4, pertaining to the review of the DFU.

Bylaw 6100:

4 Review

1. Dedicated Fee Units shall be re-evaluated by plebiscite at least every five (5) years.
2. The plebiscite question shall be drafted in the same manner as the original petition question, as outlined in Section 3.5 of this bylaw
3. If a Dedicated Fee Unit fails to submit the proposed question by November 15, Bylaw committee will assume responsibility for drafting the plebiscite question.
4. Bylaw Committee shall submit an approved plebiscite question to Students' Council for ratification by December 1.
5. Upon ratification by Students' Council, the chair of Bylaw Committee shall notify the Chief Returning Officer of the approved plebiscite question.
 - a. A representative from the board of the Dedicated Fee Unit, or designate, as outlined in the Bylaw 6000 Schedule shall be required to fulfill the role of side manager for the yes side of the plebiscite.
 - b. The Chief Returning Officer shall put out a call for the side manager of the no side of the plebiscite in accordance with Bylaw 2200.

6. Dedicated Fee Units may be amended or abolished only by:
 - a. a joint resolution of Students' Council and one other body, specified in the schedule; or
 - b. Referendum.
7. Dedicated Fee Units that wish to raise their fee beyond CPI must first hold a Referendum as per Section 3 of this bylaw.

Bylaw committee did not receive proposed question by November 15th therefore (6100 4.3), Bylaw committee took the responsibility of drafting the question.

The inquiry talks about Bylaw 6100 section 3, however, it only pertains to the creation of DFU not the review of the question. The only section that we need to meet is section 4.2, which states that the plebiscite question shall be **drafted in the same manner as the original petition question**. It is also mentioned that councilor Cutarm was unable to find the original question to compare but states that it doesn't satisfy, pertaining again to Section 3 (which is the creation of the DFU not the Review).

Following upon the review process bylaw committee have inquired our Discover Governance office to gave us the question from last time which is following (email response attached below as attachment 1)

"Would you be willing to contribute \$0.50 per term to student Legal Services (a free legal clinic operated by law students) so that they can continue to provide free legal assistance and public legal education to the students at the University of Alberta and the community at large."

We were also informed that there was a steady increase with CPI so the fee should read: "\$0.75"

Based on the previous question, this year's question was drafted as

"Would you be willing to contribute \$0.75 per term to student Legal Services (a free legal clinic operated by law students) so that they can continue to provide free legal assistance and public legal education to the students at the University of Alberta and the community at large."

I would like to argue that this questions is identical to the previous question and with the information we have about SLS (without any additional submission), Bylaw committee believed it is the best practice to keep the questions the same.

Then, this motion passed through bylaw committee and ratified by Students council then we have informed this year's Chief Returning Officer.

In regards to the **Aboriginal Students' Council (ASC) Referendum Question**, I would like to first clarify the misunderstanding here. Bylaw 6100 is the process to create a petition question not a referendum or plebiscite. Bylaw 2200 is the bylaw which is pertaining to Plebiscites and Referenda of the Students' Union. All the necessary information for Bylaw committee to review and council to review the question for the ballot was presented according to the process.

Bylaw 2200 states:

6 Plebiscite and Referendum Initiation

1. Where a member wishes to initiate a plebiscite or referendum via petition, that member shall submit to the C.R.O.:
 - a. the intent of the question;
 - b. whether the question is a plebiscite or a referendum;
 - c. the name, faculty, and student identification of that member;
 - d. a twenty-five dollar (\$25.00) deposit in the form of cash or a certified cheque or money order payable to the Students' Union.
2. Upon receipt of a submission meeting the requirements set out in Section 6 (1), the C.R.O. shall immediately forward the intent of the question to the Bylaw Committee.
3. The Bylaw Committee shall approve within fourteen (14) days from receiving the intent of the question from the C.R.O., a petition question which:
 - a. fully reflects the intent submitted by the member;
 - b. if carried and acted upon, would not violate any Students' Union bylaws or any federal or provincial law;
4. Students' Council shall, at the meeting following the drafting of the petition question by the Bylaw Committee as set out in Section 6(3), approve a question which meets the criteria set out in Section 6(3) unless the question would cause Students' Council to breach its fiduciary responsibility to the Students' Union.
5. Sections 6(2) and 6(3) notwithstanding, where it is not possible for the Bylaw Committee or Students' Council to approve a petition question which meets the criteria set out in Section 6(4), neither the Bylaw Committee or Students' Council shall approve such a question.
6. Students' Council shall have the authority to call a plebiscite or referendum without a petition.
7. Prior to being approved by Council all plebiscite and referendum questions must be drafted by the Bylaw Committee.

According to bylaw **2200 6.6 Students Council have the authority to call a plebiscite or referendum question and only limitation was that these plebiscite or referendum must be drafted by the Bylaw Committee.**

These questions have been reviewed by bylaw committee and supported by the students council and all necessary information to review the question for the ballot were presented according to the process outlined above. Bylaw committee have received the ASC DFU Model (Attachment 2) and the President of ASC (Katherine Belcourt) was also present in

order to provide us with further answers. (Attachment 2: ASC DFU Model & Attachment 3: Bylaw Committee meeting Minutes, November 22 2018). The vote from the Students' Council was casted with understanding that the question did not have a petition and there is no separate motion needed for that process, hence the claims from the applicant does not stand. Students' Council have the authority to approve the question and these questions did not breach our fiducial responsibilities or the law.

I believe the main challenge was that there was misunderstanding of bylaw 6100 as the bylaw to create referendum or plebiscite when it is the process to create a petition question. Bylaw 2200 has been fulfilled and the records can be found for November 27th 2018 and December 11th 2018 minutes.

Regards,

Michelle Kim

Bylaw Committee Chair 2018-2019

Attachment 1:

Michelle Kim <jeonghui@ualberta.ca>

Re: DFU Reporting
6 messages

Thu, Nov 22, 2018 at 5:20 PM

Hi Andrew,

Your DFU reporting has been approved, and you can pickup your cheque from SUB 6-06 9:00-5:00 week days.

Also, it just occurred to me that your DFU is up for [renewal](#), and timelines are pretty tight. As per bylaw 6100 [section 4](#), you need to have provided a question to Bylaw Committee by November 15th, and have it ultimately approved by Council by December 1st.

There is a clause in this bylaw that states if that is not done by you, then Bylaw Committee assumes that responsibility, which we can do. **If you give me your approval,** we can take care of it by passing a motion that allows you to go to plebiscite in March using the same question as last time.

If you have any questions, feel free to call me after 12:30 tomorrow, or reach me via email.

Cheers,

On Mon, Nov 19, 2018 at 10:50 AM Emma Ripk
Thanks, I'll add this to this week's agenda.

On Fri, Nov 16, 2018 at 11:07 AM Andrew Dir
Sorry for the delay. Please see the attached

Andrew Dirgo

Student Legal Services of Edmonton
Executive Coordinator 2018

On Wed, Nov 14, 2016 at 5:28 PM Emma Ripka [mailto:emma.ripka@gmail.com] wrote:
Hi Andrew,

Thanks for

Thanks for sending this over. Do you happen to have a copy of your audited financial statements?

Cheers,

On Mon, Nov 5, 2018 at 9:07 AM Andrew Dirgo [REDACTED] wrote:
Good Morning,

I'm the current Executive Coordinator of Student Legal Services. Please find the attached financial information, prepared by our accountant, for our DFU report. I apologize that it's only two days before your November 7th meeting.

Let me know if you require any additional information.

Thanks,
Andrew Dirgo

Student Legal Services of Edmonton
Executive Coordinator 2018

Emma Ripka
Vice President Operations & Finance
 University of Alberta Students' Union
 2-900 Students' Union Building | Edmonton, AB | T6G 2J7
 780.492.4241 | Twitter: @uasupfinance
We would like to respectfully acknowledge that our University and our Students' Union are located on Treaty 6 Territory.

Emma Ripka

To: Rebecca Taylor
Cc: "Michelle (Jeon

Hi Rebecca,

Michelle and I would like to put a motion on the late adds for Council tomorrow to get the SLS DFU renewal question approved. Bylaw 6100 section 4.3 says that Bylaw Com needs to take on this responsibility if the DFU doesn't draft a question by Nov 15th. Can you tell us what the motion should be or what the question from last time was please?

Cheers,
[Quoted text hidden]

Rebecca Taylor

To: Emma Ripka
Cc: "Michelle (Jeong-Ho) Kim" Manpreet Grewal

The question last time was:

*Would you be willing to contribute \$0.50 per term to student Legal Services (a free legal clinic operated by law students) so that they can continue to provide free legal assistance and public legal education to the students at the University of Alberta and the community at large."

They've been steadily increasing with CPI though, so the fee should read: "\$0.75"

Rebecca
[Quoted text hidden]

Rebecca Taylor
Discover Governance Manager | DIE Board Registrar
University of Alberta Students' Union

SUB 6-24 | 780-492-6675
governance@su.ualberta.ca

We would like to acknowledge that we are located in ᐱᓄᑦᕈᕐᕋᑦᕐᕋᑦ (Amiskwaciwâskahikan) on Treaty 6 Territory, the traditional lands of First Nations and the homeland of the Métis nation. Specifically, we respectfully acknowledge that the University is located on unlawfully stolen and unceded Papaschase Cree territory.



*Aboriginal Student Council
2-20 North Power Plant
University of Alberta
Edmonton, AB T6G 2E8
acouncil@ualberta.ca*

PREAMBLE

As per Bylaw 6100, the Aboriginal Student Council (hereafter, "ASC") submits to the Bylaw Committee—through the main office of the Students' Union (hereafter, "SU")—a proposal for the creation of a Dedicated Fee Unit (hereafter, "DFU").

The following proposal fulfils the minimum outline requirements, set out in subsection 3(3) of Bylaw 6100. Moreover, a brief description of ASC will be provided in order to necessitate the context needed for the DFU.

INTRODUCTION

Originally called the Native Student Club, ASC was established in the 1990s to foster and empower the growing number of Aboriginal students attending the University of Alberta. Since then, ASC has continued to represent and advocate for Aboriginal students. The goal of ASC is to improve the lives and studies of Aboriginal students and foster healthy relationships both inside and outside of the Indigenous community. ASC seeks to create a safe and welcoming space to reaffirm and foster balance in spiritual, mental, physical, and emotional health through the promotion of culture, politics, academics, athletics, and other interpersonal interests.

The Executive of ASC are an all-Aboriginal group of students who are passionate about Aboriginal student representation and community on Campus. Currently, the Executive is made up of:

Katherine Belcourt (Kapawe'no First Nation), President.
Ariyanna Calihoo (Alexander First Nation), Vice President Internal
Nathan Sunday (Goodfish Lake First Nation), Vice President Finance
Breanna Makokis (Saddle Lake Cree Nation), Vice President Internal
Kirsten Webster (Métis), Vice President External

ASC proudly acts as a facilitator at the University, offering a number of cultural events for both Aboriginal and non-Aboriginal students throughout the year. In addition, ASC plays a strong role in advocating for Aboriginal students to both the University administration and the Students' Union.



*Aboriginal Student Council
2-20 North Power Plant
University of Alberta
Edmonton, AB T6G 2E8
acouncil@ualberta.ca*

In regard to the structure of ASC, the organization is in a distinct position as *both* a student group and a part of the Dean of Students portfolio. This has allowed us to work with both the Students' Union (and student groups), as well as First Peoples House, to offer a variety of programs/services for non-Aboriginal and Aboriginal students alike.

DEDICATED FEE UNIT PROPOSAL

The following is ASC's proposal for the creation of a DFU, and as such, outlines the following information:

- a. The purpose of the fee;
- b. The amount, per student, per term of the fee;
- c. Whether students are able to opt out of the fee;
- d. How the fee is administered to part-time students, Augustana, and off-campus students;
- e. Whether or not the fee applies to the Spring and Summer terms; and
- f. Any other requirements specific to the type of fee being proposed.

A. Purpose of the fee.

The purpose of the proposed DFU is to support and expand on current services/programs offered by ASC. Specifically, funds generated from the DFU would go towards:

- Increased cultural supports and events offered to students. Specifically, this fee will assist ASC in offering a wider variety of cultural and social events, including offering First Nations, Metis, and Inuit ceremony.
- Operational costs relating to, but not excluding, building maintenance and upkeep.
- The establishment of Aboriginal-specific academic- and community-based awards.
- The subsidization of childcare for University of Alberta undergraduate students who parent.
- Increasing educational opportunities for non-Aboriginal students to learn about First Nations, Metis, and Inuit history.
- Increasing partnerships with both internal and external groups to co-host Aboriginal-led events at the University of Alberta.



*Aboriginal Student Council
2-20 North Power Plant
University of Alberta
Edmonton, AB T6G 2E8
acouncil@ualberta.ca*

B. The amount, per student, per term, of the fee.

ASC proposes the establishment of a \$1.00 fee per student. The fee will be administered on a trimester-based, with the fee applying to the Fall, Winter, and Spring/Summer terms.

C. Whether students are able to opt out of the fee.

Students *will* have the option to opt out of the fee.

D. How the fee is administered to part-time students, Augustana, and off-campus students.

The fee will be administered to part-time students at a reduced rate of \$0.50 per term. The fee will apply to off-campus students, but *not* to Augustana students.

E. Whether or not the fee applies to the spring and summer terms.

The fee will apply to the spring and summer terms.

F. Any the requirements specific to the type of fee being proposed.

At this time, there are no other specific requirements involved in the type of fee being proposed



*Aboriginal Student Council
2-20 North Power Plant
University of Alberta
Edmonton, AB T6G 2E8
acouncil@ualberta.ca*

CONCLUSION

Thank you members of Bylaw Committee and Vice President Bhatnagar for reviewing and deliberating ASC's proposal. Should you have any comments, questions, or concerns, please do not hesitate to reach out to us. We look forward to speaking with you and the Students' Union.

Sincerely,

Katherine Belcourt
President



University of Alberta Students' Union

BYLAW COMMITTEE

Thursday, November 22, 2018

4:00 PM

SUB 6-06

We would like to respectfully acknowledge that our University and our Students' Union are located on Treaty 6 Territory.

We are grateful to be on Cree, Dene, Saulteaux, Métis, Blackfoot, and Nakota Sioux territory; specifically the ancestral space of the Papaschase Cree. These Nations are our family, friends, faculty, staff, students, and peers. As members of the

University of Alberta Students' Union we honour the nation-to-nation treaty relationship. We aspire for our learning, research, teaching, and governance to acknowledge and work towards the decolonization of Indigenous knowledges and traditions.

NAME	PROXY	PRESENT	SUBMISSION OF WRITTEN FEEDBACK (IF ABSENT)
Michelle Kim (Chair)		Y	
Rowan Ley		Y	
Emma Ripka		Y	
Nathan Sunday		Y	
Robert Bilak		Y	
Amlan Bose		N	
Luke Statt		Y	
Kathrine Belcourt		Y	

MINUTES (BC-2018-11)

2018-11/1 INTRODUCTION

2018-11/1a Call to Order

KIM: Called to order at 4:06pm.

2018-11/1b Approval of Agenda

SUNDAY/KIM MOVED to amend the agenda by rearranging items *2018-11/3a* and *2018-11/3b* in reverse order.

6/0/0 - CARRIED.

LEY/RIPKA MOVED to approve the agenda as amended.
6/0/0 - CARRIED.

2018-11/1c Approval of Minutes

LEY/BILAK MOVED to approve the minutes of *BC-2018-10-M* with corrections to the incorrectly listed Committee membership.
5/0/1 - CARRIED.

2018-11/1d Chair's Business

KIM: Established that the Committee will have to follow-up with the review of DIE Board Ruling 2018-07 on *Monda v Students' Council*.

LEY: Confirmed that he completed the Bill 5 Second Principles but they require review from other interested members of Council. Determined to bring them forward at the next meeting.

KIM: Reaffirmed that members may submit agenda items to effect reform at any time.

2018-11/2 QUESTION/DISCUSSION PERIOD

KIM: Inquired into the timeline for the implementation and/or consideration of Bourgeois's referendum reform as in *2018-10/2a*.

RIPKA: Responded that they are not rushing the item. Anticipated further consultation on the issue. Determined to follow-up with Kim.

2018-11/3 COMMITTEE BUSINESS

2018-11/3a Aboriginal Student Council to pursue a DFU model

KIM/RIPKA MOVED to approve the Aboriginal Student Council's Dedicated Fee Unit model proposal.

SUNDAY: Noted that the proposal reflects the new standard as per bylaw requirements. Identified that, if approved, Bylaw Committee will create a referendum question for this DFU.

KIM: Established that this proposal must satisfy Bylaw 6100 §3.3. Confirmed that it satisfies §3.3a as it notes that "the purpose of the DFU is to start/expand on current services and programmes offered by ASC" by funding items such as increased cultural supports and events, operational costs including building maintenance, Aboriginal community awards, substituted childcare, increased educational opportunities, and strengthening internal and external collaborations. Inquired into the nature of the building repair.

BELCOURT: Responded that ASC is located in the Old Power Plant building which has problems with flooring and water quality. Noted that these funds would render the space more functional and welcoming.

SUNDAY: Noted that the building is owned by the University but has not been renovated due to the deferred maintenance. Considered that ASC, with its own funds, may complete renovations in order to better serve students.

BILAK: Inquired into the proposal as it relates to the subsidised childcare for undergraduate students.

BELCOURT: Responded that funds would act as an award to support those students who have difficulty attending classes because of their childcare costs.

SUNDAY: Clarified that students would apply for this fund through a process alike to that for other awards or emergency funding. Noted that applications would be assessed.

KIM: Suggested childcare subsidies for students should extend beyond this ASC fund.

SUNDAY: Noted that the child care subsidies would be provided on an ongoing basis.

BELCOURT: Considered that this fund could assist those who do not otherwise have government subsidies.

KIM: Confirmed that the proposal satisfies §3.3a. Identified that the proposal must satisfy §3.3b. Noted that the proposal suggests a \$1 fee administered on a trimesterly basis in Fall, Winter, and Spring.

RIPKA: Proposed tying the fee to the Consumer Price Index in order to ensure growth with inflation.

SUNDAY: Determined to act on Ripka's proposal.

LEY: Inquired into the renewal period.

KIM: Responded that renewals occur every five-years.

KIM: Confirmed that the proposal satisfies §3.3b. Identified that the proposal must satisfy §3.3c.

SUNDAY: Noted that the proposal provides for an opt-out period of at least a month in which students can opt out in-person or online.

KIM: Confirmed that the proposal satisfies §3.3c. Identified that the proposal must

satisfy §3.3d. Noted that the proposal provides for a reduced fee for part-time students at 5 cents per term. Noted that the proposal applies to off-Campus but not Augustana students. Confirmed that the proposal satisfies §3.3d-f and can, therefore, be approved. Confirmed that there are no problems associated with the proposal in relation to §7 and §8.

KIM: Determined that the Committee must follow §5 after if the proposal is approved.

BILAK: Inquired into whether the proposers of the referendum author the question.

KIM: Responded in the negative.

LEY: Determined to draft the question and work collaboratively with Ripka.

5/0/1 - CARRIED.

2018-11/3b Aboriginal Student Council to pursue a DFU model

KIM MOVES to approve the First Alberta Campus Radio Association plebiscite question, on the recommendation of Bylaw Committee, as attached below. See BC-2018-11.02.

SUNDAY: Inquired into whether FACRA will seek a petition.

RIPKA: Responded that the proposal does not discuss a petition.

KIM: Noted that the question must match the original proposal as in §4.2. Confirmed that the proposal satisfies the conditions as in §3.3. Inquired into whether the fee has always been mandatory.

RIPKA: Responded in the affirmative. Expressed concern that the proposal does not clearly identify the relevant motion.

KIM: Identified the motion as “do you support the continuation of the Dedicated Fee for the CJSR-FM Fund?”.

SUNDAY: Inquired into whether FACRA wishes to receive a plebiscite (non-binding) rather than a referendum (binding).

RIPKA: Responded that they seek a plebiscite.

KIM: Noted that plebiscites are reviewed in relation to Bylaw 2500 for mandatory non-instructional fees.

RIPKA: Identified that the proposal is for a Dedicated Fee Unit, not a mandatory

non-instructional fee and, therefore, Bylaw 6100 applies for a plebiscite question.

RIPKA: Expressed concern that the proposal does not satisfy §4.2 as it does not include the original petition question. Considered that the committee must receive the original question prior to approving the proposal because it cannot assume they are consistent.

SUNDAY: Inquired into which fees are mandatory.

RIPKA: Noted that all fees are mandatory barring APRIG and The Landing.

KIM: Determined to follow-up with Discover Governance to ensure that the proposal satisfies §4.2 and then approve the item in an online vote. Determined, also, to confirm the plebiscite question.

KIM/SUNDAY MOVED to table the item *2018-11/3b* for an online vote.
6/0/0 - CARRIED.

BILAK: Inquired into whether, as per §4.3, the Committee must draft the renewal question for Student Legal Services. Noted that they have sent a question to meet a deadline.

SUNDAY: Inquired into whether other members of Council sit on Student Legal Services.

KIM: Requested that Bilak check the other items upcoming for renewal.

RIPKA: Determined to liaise with Student Legal Services in connection with this renewal question.

KIM: Confirmed that §4.3 confers responsibility to the Committee for drafting the question where it has otherwise not been received by the relevant party. Considered revisiting §4.3 in future.

BILAK: Identified that the Engineering Students Society and Law Student Association have renewal upcoming in the next year.

2018-11/4 INFORMATION ITEMS

2018-11/4a BC-2018-10-M, *November 8, 2018*

See BC-2018-11.01.

2018-11/4b FACRA - Plebiscite Question, 2018

See BC-2018-11.02.

2018-11/5 ADJOURNMENT

KIM: Adjourned the meeting at 4:49pm.

2018-11/5a Next Meeting: Thursday, December 6, 2018 @ 4:00PM in SUB 6-06.

MOTION	VOTES
SUNDAY/KIM MOVED to amend the agenda by rearranging items <i>2018-11/3a</i> and <i>2018-11/3b</i> in reverse order.	6/0/0 - CARRIED.
LEY/RIPKA MOVED to approve the agenda as amended.	6/0/0 - CARRIED.
LEY/BILAK MOVED to approve the minutes of <i>BC-2018-10-M</i> with corrections to the incorrectly listed Committee membership.	5/0/1 - CARRIED.
KIM/RIPKA MOVED to approve the Aboriginal Student Council's Dedicated Fee Unit model proposal.	5/0/1 - CARRIED.
KIM/SUNDAY MOVED to table the item <i>2018-11/3b</i> for an online vote.	6/0/0 - CARRIED.