

**BYLAW
COMMITTEE**

Wednesday, June 27, 2018

6:00 PM

SUB 0-55

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.

AGENDA (BC-2018-03)

2018-03/1 INTRODUCTION

2018-03/1a Call to Order

2018-03/1b Approval of Agenda

2018-03/1c Approval of Minutes

2018-03/1d Chair's Business

2018-03/2 QUESTION/DISCUSSION PERIOD

2018-03/2a Consequences when bylaws are broken

2018-03/3 COMMITTEE BUSINESS

2018-03/3a DIE- Board Ruling

See BC-2018-03.02.

2018-03/3b Bill #1- First Reading

2018-03/3c **THIBAUDEAU MOVES to approve First principles of bill #2: Bylaw 100 attendance regulations.**

1. In August of 2017, then-speaker of Students' council Saadiq Sumar called for a DIE board interpretation of bylaw 100 surrounding section 7: start-up, and section 21: attendance regulations.
2. Sumar was asking for an interpretation of when the introductory Council meeting could occur, and if it could occur prior to May 1st. In

addition, Sumar was also seeking clarification as to if the start-up meeting should be considered for councillor attendance regulations.

3. DIE board found the following:

“The questions that were asked of this Panel, and our answers to them, are as follows:

1. Do both the introductory meeting and the first meeting of Council need to occur before May 7? What are the consequences if this does not happen? Can the first meeting occur before May 1?

Both the introductory meeting and the first meeting of Council need to occur before May 7. The first meeting can occur before May 1 in certain circumstances. If the first meeting is held after May 7 and if an application that is brought under section 29 of Bylaw 1500 postdates the first meeting, then there is no consequence to the Students' Union or Students' Council. However, DIE Board may be able to force the meeting to take place if the application that is brought under section 29 of Bylaw 1500 is submitted before the first meeting takes place.

2. Is the introductory meeting counted towards councillor attendance for the Spring/Summer term?

This meeting is unique to this term. The introductory meeting does not count towards councillor attendance for any trimester, as interpreted from the Bylaws. In the event that the first meeting (and indeed, any meeting) occurs before May 1, then that meeting will also not count towards councillor attendance for any trimester. “

4. The recommendation was made that Council bylaws should be updated to include this interpretation. Section 7 of Bylaw 100 was amended to instate the start up meeting shall occur anytime in April, and that the first official meeting of council shall occur before May 15th. Section 21, attendance regulations were not amended so that the introductory meeting should not count towards

5. Councillors are still students and are often in the middle of exam periods when the start up meeting occurs. In order to accomodate them, the start-up meeting

shall occur even earlier, while classes are still in session, to accommodate their schedules.

6. In accordance with the recommendations from DIE board, Bylaw 100, section 21 shall be updated so that the introductory meeting of council, occurring prior to a council's official term begins, shall no longer be included in attendance regulations.

2018-03/4 **INFORMATION ITEMS**

2018-03/4a BC-2018-02-M, *June 6, 2018*

See BC-2018-03.01.

2018-03/4b DIE- Board Ruling

See BC-2018-03.02.

2018-03/5 **ADJOURNMENT**

2018-03/5a **Next Meeting:** Wednesday, July 4, 2018 @ 5:00PM in SUB 0-55.



University of Alberta Students' Union

BYLAW COMMITTEE

Wednesday, June 6, 2018

5:00 PM

SUB 6-06

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

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ATTENDANCE

NAME	PROXY	PRESENT	SUBMISSION OF WRITTEN FEEDBACK (IF ABSENT)
Tahra Haddouche Jenson	(Jesse Benoit)	Y	
Michelle Kim		Y	
Rowan Ley		Y	
Stephen Raitz		Y	
Emma Ripka	(President Reed Larsen)	Y	
Nathan Sunday		Y	
Jimmy Thibaudeau		Y	

Note: Councillor Ley arrived slightly after the first three motions, hence the varying numbers.

AGENDA (BC-2018-02)

2018-02/1 **INTRODUCTION**

2018-02/1a **Call to Order**

Meeting called to order at 5.09 PM by Chair KIM

2018-02/1b **Approval of Agenda**

THIBAudeau/BENOIT MOVE to approve the agenda.

6/0/0

CARRIED.

2018-02/1c Approval of Minutes

RAITZ/THIBAudeau MOVE to approve the agenda.

4/0/2

CARRIED.

President Larsen and Jesse Benoit abstains.

2018-02/1d Chair's Business

SUMMARY OF DISCUSSION

KIM:

For the Bylaw Committee, we will have to review all the SU bylaws annually. So we will have to divide them into specific sections, one for each member.

Traditionally we split the Bylaws into 3-4 bylaws per member.

THIBAudeau:

President Larsen, when you were in Bylaw, did you review all the Bylaws for editorial changes?

PRESIDENT LARSEN:

You can. It's good to do an overview. We picked a couple of strategic things to scan for like gender language, days and time. We tried to do an editorial breakdown such to keep the writing style consistent.

KIM:

Okay. So would you all prefer us splitting it into six sections and then us reviewing it each time and if there are any editorial changes, we can bring it up in the next meeting?

RAITZ:

How many Bylaws are there?

KIM:

About 20 sections and a few with subsections. Since there are 20 sections and BYLAW 2200 and 2300 are the longer ones, one person can do those two sections and we can divide the rest of the 18 section. Having said that, if there are no specific sections the Councillors would like to take, I will assign them accordingly,

in an excel sheet and if there are certain sections you want to work, I will just give them to you?

Everyone agreed.

RAITZ:

Are we looking for just editorial changes in these sections?

KIM:

Yes, like President Larsen said, we will scan over gender language, order, time and other minor editorial things. While reading the Bylaws if there is any major issues, then of course we can bring it up here.

THIBAUDEAU:

One thing I would suggest anyone who is doing Bylaw 100 is to make sure you have any time kept aside to review it as it is a longer section and was entirely written last year.

SUNDAY:

I would add that Councillor Belcourt and I are doing a rewrite to BYLAW 100 so I am not sure it would be worth someone's time to review it, if it maybe subject to change.

KIM:

I was actually wondering if I could assign the Bylaw 100 under you Councillor Sunday since you have worked through it and since you mentioned there would be a lot of change that will be expected.

SUNDAY:

Okay.

KIM: Okay. We are supposed to go into Question/Discussion period but I feel like it would be more fitted after the Committee Business. Is everyone okay with changing the Standing Orders so that the Questions/Discussion period is at the last?

Everyone agreed.

KIM/SUNDAY MOVE to amend the Standing Order to have the Question and Discussion Period after the Committee Business.

6/0/0

CARRIED

2018-02/2

QUESTION/DISCUSSION PERIOD

Note: This item was moved to after Committee Business and should be kept as such for future Bylaw Meetings (see above).

No questions were asked.

2018-02/3 **COMMITTEE BUSINESS**

2018-02/3a **THIBAUDEAU/KIM MOVES** to approve the first reading of Bill #1, on the recommendation of Bylaw committee, on the following first principles:

1. Bylaw 600 is the bylaw respecting Students' Union bilingualism.
2. Within bylaw 600, there is a clause for 'delays of implementation' which allows for the development of a sustainable model for translation, as well as an initial translation that "shall be performed by no later than April 30, 2018."
3. As of the current date, this deadline has passed. There is currently a process of translation written into operating procedures, but no initial translation has been performed. Considering the importance of translating our policies and bylaws into French, the deadline should be extended in order to ensure the initial translation will be done during this council's term.
4. Bylaw 600 shall be amended to remove the current deadline of April 30, 2018, as well as the clause for establishing a sustainable method of translation. The initial translation clause shall remain, and the initial translation of SU Bylaw and Political policies shall be performed by no later than April 30, 2019.

SUMMARY OF DISCUSSION

THIBAUDEAU:

So for the First Principles we are trying to make sure we understand the intent of what we want to change and then bring that forward to Council where we debate it. That will then guide the exact wording, so the wording isn't as important in the first reading as it is in the second reading which is the finalized version. Within this particular Bylaw on bilingualism, there is a delay in implementation on when all the Bilingual translations are going to be made thereafter because we want to make sure we get the initial translations done. The first deadline for that was April 30th of this year and since there has been on initial translations done, we are going to have to either extend the deadline or get rid of the clause. I would

suggest we extend the deadline because I feel the initial translation is a very important work to do and we want to make sure it gets done in a timely manner. The first suggestion I had here was to extend the deadline to April 2019. Beyond that I also had some discussions with a few people over the weekend which I would like to bring forward to the Bylaw committee. VP Brown suggested we move the deadline to two years from now, April 20th 2020 to ensure we can find the right people for the job and that it gets done very methodically and is weighed out such that there are as few mistakes as possible. I've also heard suggestions that we should move the responsibility of getting these initial translations away from CAC and move it towards to the Committees themselves so that the Chair of Bylaw will be responsible for communicating with the Marketing office and VP OPs to ensure these translations are executed in a timely manner. Likewise the Chair of Policy would do the same with the policies. I would like to hear what this Committee has to say.

SUNDAY:

Personally, I am against this. I don't believe it is good governance practice for any kind of government to contravene in its own laws and change it instead of doing something to fix that. To me, this Bylaw should be in place so that Students' Council is bound by them rather than change them whenever they like. Aswell, I can see that if we extend this to 2019, we will have the exact conversation where we talk about extending it to 2020 and so on. Aswell, I would like to make a motion to table item 8a until the DIE Board hearing on the Students Council regarding the Bylaw is resolved. I understand that we should be as methodical as possible but these are initial translations and I see no reason why it couldn't have been done by now.

RAITZ:

So what would be the next step in this interim?

SUNDAY:

Well, we will see what the DIE board says but my course of action would be immediately get the SU to start work on this.

RAITZ:

So how do we get that work done because I am assuming it would be CAC that would do this.

THIBAUDEAU:

I do agree with Councillor Sunday on tabling this motion if there is a DIE board ruling going on right now regarding this and wait until the next meeting but at the same time I feel there is an underlying cause for why this hasn't gotten done and that should be discussed here. One of the main things that there is still some debate on who should be doing these translations. Right now the SU operating

policy dictates that it has to be done by a Professional Translating Service. That is time consuming and comes with monetary concerns. There has also been talk of perhaps working with IDFHC to get some students to translate but again there have been some SU members who are very opposed to that.

PRESIDENT LARSEN:

I have a couple of options for everyone to consider. One is that there are things being discussed in the DIE board hearing aren't necessarily a part of the Bylaw. So there are things that could be done without changing the delay on implementation portion of the Bylaw. Another option is that there is a portion in the operating policy that sees the Executive Committee set up another Committee with at least three members from Campus Saint Jean and then begin on the initial process. This process happened two years ago, I actually don't know what happened to the committee but the other option is for the Students' Council to mandate a Standing Committee in their next meeting to get it done, so we can put that into process immediately. This could be a recommendation of Bylaw that the Standing Committee gets made. If we start it now, we could have it created by the Summer's end, within two council meetings. All of that aside, we could try finding some sort of a translational service which is Professional but not over expensive. I am trying to think of where the budget line would be, but it would be with Discover Governance. I think the biggest challenge here is that we have very fluid Bylaws. I would say Operationalizing it so that there is an end goal and this committee can consistently meet every year at the beginning of the Council year and reviewing in place last year's translations and that would be their job for a few months. And that would be a good place for an Operating Committee of Council which I believe there is room for within the current Bylaw 100 structure.

LEY:

Just in reference to what Councillor THIBAudeau said earlier about the Professional service, I do know that MLCS offers a certificate for translation in French so a possible compromise might be contacting students who have this certificate. It would probably be a lot easier and faster than dealing with a Professional service.

KIM:

That is a great suggestion. If we are thinking of starting a committee with members from Campus St. Jean students, doesn't it have to be through the Senior Marketing Manager, who recommends the translators?

PRESIDENT LARSEN:

Not necessarily, I think we could quite reasonably call this an Operational

Committee of Council. It is more accountable than just Executives doing it.

SUNDAY:

I like what President Larsen said as I think there should be an Operating Committee of some sort. The quickest way, and I am not sure if this is correct, would be to strike an AD HOC Committee at the Council meeting coming up that could do these initial translations as well as create Standing Orders for an Operational Committee. We can give them the Summer and then in September we will have an Operating Committee in place.

BENOIT:

I think we should go with contacting Professionals because in the past we got students to do it and nothing happened and when I tried to ask questions no one knew what was happening. I'd rather see something professionally done than giving students responsibility for it.

PRESIDENT LARSEN:

For the sake of the motion, I think we are getting into a more Operational debate, so Chair back to the First reading itself, I am fairly comfortable that we can do some re-wording with the Councillor's consent. We can strike out the 4 just because of the DIE board hearing and we can add in the improvements that the Councillor mentioned earlier in regards to switching it to Bylaw and operationalizing of such Committee.

KIM:

And for the student hire, we are looking for students with the certificate correct?

PRESIDENT LARSEN:

Yes, but that is out of the scope of this discussion but definitely great feedback.

SUNDAY:

I would again like to motion to table item 3a until the DIE board hearing is resolved as out of the four points, two of these are about the delay in translation.

PRESIDENT LARSEN:

For everyone's benefit do you mind if I read out the current DIE board hearing application?

KIM:

It will be great if you read it out.

PRESIDENT LARSEN:

(Read out Councillor Sunday's DIE Board Hearing application before speaking,

see SU website for DIE Board hearings/applications)

I can answer the first part for you Councillor Sunday, which is DIE board can recommend any course of action for itself or for this board to fulfill its mandate so DIE board will come back with an answer as to what that is. For the second one I don't know the answer,, there can be an historical precedent but we can wait and find out.

SUNDAY/PRESIDENT LARSEN MOVES to table item 3a until the DIE board hearing is resolved.

6/1/0
CARRIED
(Councillor Thibaudeau votes against)

KIM:
So this motion passes. We are going to table item 3a until we hear back from DIE board.

2018-02/4 INFORMATION ITEMS

2018-02/4a BC-2018-01-M, *May 22, 2018*

See BC-2018-02.01.

2018-02/5 ADJOURNMENT

Meeting adjourned by Chair Kim at 5.34pm

2018-02/5a **Next Meeting:** Wednesday, June 20, 2018 @ 5:00PM in SUB 0-55.

SUMMARY OF MOTIONS

MOTION	VOTES
THIBAUDEAU/BENOIT MOVE to approve the agenda.	6/0/0 CARRIED
RAITZ/THIBAUDEAU MOVE to approve the	4/0/2

<p>agenda.</p>	<p>CARRIED President Larsen and Jesse Benoit abstains.</p>
<p>KIM/SUNDAY MOVE to amend the Standing Order to have the Question and Discussion Period after the Committee Business.</p>	<p>6/0/0 CARRIED</p>
<p>SUNDAY/PRESIDENT LARSEN MOVES to table item 3a until the DIE board hearing is resolved.</p>	<p>6/1/0 CARRIED Councillor Thibaudeau votes against</p>

DIE BOARD RULING 2018-02

Hearing Details:

Style of Cause: *Sunday v Students' Council (Speaker)*

Hearing Date: June 19, 2018

DIE Board Panel Members: Landon Haynes, Associate Chief Tribune (Chair)

Christian Zukowski, Tribune

Shridhar Patel, Tribune

Appearing for the Applicant: None

Appearing for the Respondent: Jonathan Barraclough, Students' Council Speaker

Reed Larsen, Students' Union President

Intervener(s): None

The DIE Board is unanimous in the following decision.

FACTS

[1] On June 11, 2018, Councilor Nathan Sunday of the University of Alberta Students' Union (SU) submitted a complaint under Bylaw 1500, section 3(1)(a), in regards to the contravention of Students' Union legislation by Students' Council. Specifically, it was alleged that Students' Council is currently in contravention of Bylaw 600, section 5(2) which states:

5 Delay of Implementation

1. Implementation of this Bylaw shall be delayed until the following is accomplished:
 - a. a sustainable method of translation is established; and
 - b. an initial translation of Bylaw and Political Policy is performed.
2. The sustainable method of translation shall be established and an initial translation of Bylaws and Political Policies shall be performed by no later than April 30, 2018.

[2] Mr. Sunday was absent from the hearing, but this Panel decided to proceed with the hearing on the basis that the respondent conceded that Students' Council is in violation of Bylaw 600, Section 5(2).

[3] In light of this concession, Speaker Barraclough and President Larsen presented ways in which Council might resolve this bylaw contravention, including the creation of an operational committee tasked with the continued translation of bylaws.

[4] It was stated that part of the cause for this Bylaw contravention might lie in the fact that responsibility for Bylaw translation was divided between multiple committees of Council, a finding that this Panel accepts.

ISSUES

[5] As per Section 5(2) of Bylaw 600, "[t]he sustainable method of translation shall be established and an initial translation of Bylaws and Political Policies shall be performed by no later than April 30, 2018." Mr. Sunday has argued that the Students' Council is in contravention of this Bylaw, as there has been no initial translation of either Bylaws or Political Policies. In this context, Councilor Sunday requested a remedy for this alleged contravention. We have identified the following issues as needing resolution:

1. *Is the Students' Council in contravention of Section 5(2) of Bylaw 600 as alleged by Councilor Sunday?*
2. *In the event that the Students' Union is in contravention of its own Bylaws, is there any enforcement mechanism to ensure compliance; and*
3. *If the Students' Union is in contravention of its own Bylaws, does it have the power and authority to make changes to the Bylaw(s) to ensure it is no longer being contravened? Or must it resolve the contravention prior to any changes?*
4. *If the Students' Council is in contravention of Section 5(2) of Bylaw 600, what should be the appropriate remedy?*

ANALYSIS

1. Is the Students' Council in contravention of Section 5(2) of Bylaw 600 as alleged by Councilor Sunday?

[6] The current date being June 19, 2018, and with there having been no evidence presented before us that a "sustainable method of translation" has been established and "an initial translation of Bylaws and Political Policies" has been performed, we conclude that Students' Council is in contravention of Section 5(2) of Bylaw 600. This contravention has been conceded by Speaker Barraclough and President Larsen.

2. In the event that the Students' Union is in contravention of its own Bylaws, is there any enforcement mechanism to ensure compliance?

[7] Within the relevant Bylaws that have been put forward to this Panel, there does not seem to be any general executive or legislative enforcement mechanism to ensure compliance. While individual Bylaws may contain their own enforcement mechanism, there does not seem to be a general procedure. Instead, it appears as if the general enforcement mechanism is judicial in nature. Specifically, Section 29 of Bylaw 1500 specifies that “[i]f the [Discipline, Interpretation, and Enforcement] Board finds that an application for action or application for appeal requires action, the Board may make any order proscribing or prescribing any remedy it considers appropriate and just in the circumstances.”

[8] In the enactment of Bylaw 1500, the SU has decided that the general enforcement of its Bylaws should rest in a separately instituted entity known as the “Discipline, Enforcement, and Interpretation Board.”

[9] The general powers of enforcement of this Board under Section 29 of Bylaw 1500 are plenary. Specifically, this Board “may make **any** order proscribing or prescribing **any** remedy it considered appropriate and just in the circumstances” (emphasis added). It is our opinion therefore that a broad range of remedies can be ordered, from the trivial to the unconventional, so long as the Board considers this remedy to be appropriate and just in the circumstances.

[10] Considering this broad plenary jurisdiction, it is this Panel’s opinion that the DIE Board can order **any** remedy it considers appropriate and just in the circumstances, regarding only those cases that are within the scope of the Board, as set out in Section 3 of Bylaw 1500 (limited only to actions and appeals that (a) initiate a complaint about a contravention of SU legislation; (b) request an interpretation of SU legislation; or (c) appeal rulings made by the Chief Returning Officer during the SU’s general elections). There is no limitation in the scope of the DIE Board as to who may be in contravention of SU Bylaws. Therefore, it is our opinion that the DIE Board can order **any** remedy it considers appropriate and just in the circumstances when Students’ Council itself has contravened the SU Bylaws, to ensure compliance.

[11] In the context of the current complaint, perhaps the most trivial remedy would be for the DIE Board to set a date by which the SU must comply with Bylaw 600. However, the SU set its own date in Section 5(2) of Bylaw 600 which was not abided by. Having the DIE Board set another date a short time into the future may not be very effective due to a proven acquiescence.

[12] Instead, we consider another possible remedy as including ordering the SU to set aside a certain amount of its operating income into a separate bank account where withdraws are to be made only to pay for the translation service. This remedy, in theory, operates to impair the SU’s budget and to enforce the bilingualism that it has otherwise legislated.

[13] Another possible remedy would be to order the Council of the SU to send an email to all members of the Union advertising their failure to comply with Bylaw 600. This remedy could also be ordered in the context of the SU failing to set up a separate bank account, or, indeed, any

other failure to comply with any order of the Board.

[14] In the most extreme of circumstances, it is this Panel's opinion that the DIE Board could order the immediate disbandment of the entire Students' Council and order a new election to be held forthwith, again, so long as it is in the opinion of the Board that this extreme remedy is appropriate and just in the circumstances. We do not comment on the degree that a contravention must be in order to attract such a remedy, only that the DIE Board's broad plenary powers theoretically allows for this remedy, assuming only that the requisite degree of contravention is achievable.

[15] However, all of these possible remedies are up to the Council to ignore, though they could hardly be called "remedies" at such a point. This Board does not have a police service, does not have a prosecutorial team, and does not have a jail in which to send contemptible Executives or Councilors. This Board further has no actual or tangible control over the finances of the SU. Therefore, if Students' Council decides to ignore orders of this Board, that is up to their contemptible conscience.

[16] In such situations, the power of enforcement naturally rests in democracy. It would be in the hands of the Union members to protest at the ballot box to remove a contemptible Students' Council.

[17] It is also important at this point to discuss the importance of media in a democratic society. As the Supreme Court of Canada has commented, the "freedom of the press and other media is vital to a free society. There can be no doubt, of course, that it comprises the right to disseminate news, information and beliefs" (*CBC v. Lessard*, [1991] 3 SCR 421). The University of Alberta has many media outlets that can, and should, report on contemptible actions (or inactions) of the Executive or Councilors of the SU. This accountability is important for the proper informance of the Union populace, who rightfully hold the democratic power to decide whether or not the Students' Council should be punished at the ballot box.

[18] Finally, to perhaps quell the minds of some that may be concerned about the broad plenary powers of this Board discussed in this ruling, it may be useful to talk briefly about the accountability of this Board.

[19] First, it is important to note that the DIE Board has an appeal process that is meant to rectify errors in fact-finding, interpretation, and/or analysis conducted by a panel. If it is clear and obvious that a DIE Board panel has made an order under Section 29 of Bylaw 1500 that is not appropriate or just in the circumstances, this order can and should be appealed to rectify this inappropriate or unjust order.

[20] Additionally, and while we make no determination on this point, it is possible that this Board is subject to judicial review, whereby decisions of this Board could be brought before the Court of Queen's Bench of Alberta for a determination as to the reasonableness of the Board's decision.

3. *If the Students' Union is in contravention of its own Bylaws, does it have the power and authority to make changes to the Bylaw(s) to ensure it is no longer being contravened? Or must it resolve the contravention prior to any changes?*

[21] As far as this Panel is aware, there is no supreme legislation enacted by the SU that would prevent the SU from legislating changes to the Bylaw(s) to eliminate a potential or reasoned contravention on a go-forward basis (though changes must still generally comply with provincial, federal, and constitutional legislation). Therefore, the SU can apply its usual legislative procedures to make these changes to eliminate any contravention. It is this Panel's opinion that there being a lack of legislation suggesting otherwise, the SU need not resolve a contravention prior to making any changes.

[22] However, *this does not mean that the contravention did not occur*. Even if the SU changed its Bylaws the day after a contravention, the contravention still occurred and it is fully within the right of a member to bring an application to the DIE Board to remedy this contravention, so long as that member has standing under Section 4 of Bylaw 1500. The Bylaws that apply to the contravention are the Bylaws that existed on the day that the contravention occurred. Hence, changing the Bylaws is not an escape from the plenary enforcement powers of the DIE Board.

[23] In the context of Bylaw 600, if Students' Council decided tomorrow to enact a change to its Bylaws such that a "sustainable method of translation shall be established and an initial translation of Bylaws and Political Policies shall be performed by no later than" a date far into the future rather than April 30, 2018, if there was a contravention *today*, then the DIE Board would have jurisdiction to hear an application brought against Students' Council for contravention of Bylaw 600 based on the Bylaws as they existed *today*. Even if a member argues there to have been a contravention far into the past, an application may still be brought, though a remedy ordered may be nominal.

4. *If the Students' Council is in contravention of Section 5(2) of Bylaw 600, what should be the appropriate remedy?*

[24] Having established that Students' Council has contravened Section 5(2) of Bylaw 600, and having described and expanded upon the DIE Board's broad plenary powers of enforcement, what remains to be determined is what this panel should actually decide with regards to the remedy of this contravention.

[25] While we heard from Speaker Barraclough and President Larsen that a plan has been developed on paper to have the initial translation done by the end of the 2018-2019 Academic Year (around April 2019), we find that due to the continued and proven acquiescence from Students' Council to adhere to the April 30, 2018 translation deadline, a further year to comply with Bylaw 600 would not be appropriate and would fly in the face of all Union members who have elected Students' Council to fulfill their legislated mandate. We therefore order that an initial translation of Bylaws and Political Policies shall be performed by no later than September 4, 2018, being the first day of the 2018-2019 Academic Term. The Bylaws that shall be

translated are as they existed on the date this judgment was released, or any such instance of the Bylaws from that date onward.

[26] With regards to the “sustainable method of translation” we order that such a method be established by September 4, 2019, being one year from the date that the initial translation must be completed. We make no ruling with regards to the form or procedure of this sustainable method of translation. However, based on the discussions had during the hearing, we do make the following recommendation.

[27] Regarding the delegation of responsibility for the translation of Bylaw and Political Policy, this Panel would advise Council to centralize the process of translation. As it currently stands, the duty to develop bylaws and political policy rests with the Bylaw and Policy Committees, respectively; the obligation to translate bylaws and policy with the Council Administration Committee; and the power to enlist translation services with the Executive Committee. This division of responsibility creates a lack of accountability and a disconnect in the translation process, which could ultimately contribute to subsequent bylaw contraventions.

CONCLUSION

[28] While robust and comprehensive frameworks have been set up to effectively allow for the collective bargaining of undergraduate students at the University of Alberta through the SU, enforcement of SU Bylaws is a somewhat nebulous concept. Enforcement hinges on a Council that is honest to the norms that guide the principles of democracy. If Students’ Council willfully contravenes SU Bylaws without cause for concern, then it is up to the media to report on this contravention, and it is up to the Union members to decide at the ballot box whether or not that contemptible behaviour is to be punished.

[29] Finally, the SU can legislate changes to its Bylaws under its usual frameworks to eliminate any contravention on a go-forward basis, but this does not mean that the contravention did not occur. If a contravention occurred at any point in time, it is fully within the right of a member with standing to bring an application to the DIE Board to remedy this contravention as the DIE Board considers appropriate and just under its plenary powers of enforcement.

[30] In terms of Bylaw 600 specifically, it is this Panel’s opinion that Students’ Council, being in contravention of this Bylaw, has the ability to change the Bylaw if it wishes. However, this does not mean that the contravention did not take place. By changing the Bylaw, Students’ Council is not able to negate the fact that a contravention did happen, and therefore, remain subject to the ruling written here.

[31] With regards to Bylaw 600, this Panel has found that Students’ Council of the SU is in contravention. This Panel has decided to exercise its broad plenary powers of enforcement to order that an initial translation of Bylaws and Political Policies shall be performed by no later than September 4, 2018, being the first day of the 2018-2019 Academic Term. The Bylaws that shall be translated are as they existed on the date this judgment was released, or any such instance of the Bylaws from that date onward. With regards to the “sustainable method of

translation” we order that such a method has to be established by September 4, 2019, being one year from the date the initial translation must be completed by. This Panel makes no specific ruling on how the sustainable method of translation should operate, but we have made some recommendations above that could be used as guidance by Students’ Council.

[32] It must also be noted that as this is Council’s first contravention in regards to Bylaw 600, this Panel has elected to make broad orders so that Council, a democratically elected body, may resolve this issue based upon the desires of its electorate. Notwithstanding, this Panel cautions Council that further contraventions of Bylaw 600, or of this ruling, may result in the DIE Board ordering more substantial and directed remedies in order to prevent further or continued contravention.