

**BYLAW
COMMITTEE**

**Tuesday, January 15, 2019
3:00 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-2018-13)

2018-13/1 INTRODUCTION

2018-13/1a Call to Order

2018-13/1b Approval of Agenda

2018-13/1c Approval of Minutes

2018-13/1d Chair's Business

2018-13/2 QUESTION/DISCUSSION PERIOD

- 2018-13/2a**
- Councillors graduating in Fall term with no other representation for the Winter term

2018-13/3 COMMITTEE BUSINESS

2018-13/3a KIM MOVES to approve First Principles of Bill 6: Changes to SU Student Group Oversight First Principles.

See BC-2018-13.02.

2018-13/3b KIM MOVES to review DIE board ruling 2018-07.

See BC-2018-13.03

2018-13/4 INFORMATION ITEMS

2018-13/4a BC-2018-12-M, *December 6, 2018*

See BC-2018-13.01.

2018-13/4b Bill 6: Changes to SU Student Group Oversight First Principles - First Principles

See BC-2018-13.02.

2018-13/4c DIE Board Ruling - 2018-07

See BC-2018-13.03.

2018-12/5 **ADJOURNMENT**

2018-12/5a **Next Meeting:** TBD.



University of Alberta Students' Union

BYLAW COMMITTEE

Thursday, December 6, 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.

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

MINUTES (BC-2018-12)

2018-12/1 INTRODUCTION

2018-12/1a Call to Order

KIM: Called to order at 4:06pm.

2018-12/1b Approval of Agenda

LEY/STATT MOVED to approve the agenda.

6/0/0 - CARRIED.

2018-12/1c Approval of Minutes

LEY/BILAK MOVED to approve the minutes of *BC-2018-11-M*.

6/0/0 - CARRIED.

2018-12/1d Chair's Business

KIM: Established that the Committee will review Bylaw 6100, specifically plebiscite renewal, as well as investigate DIE Board ruling in the new years. Noted that this is the last meeting of the current year. Identified January 15 from 3:00pm-4:00pm as the first meeting for the next semester.

2018-12/2 QUESTION/DISCUSSION PERIOD

RIPKA: Updated the Committee that the Faculty Association Membership Fee amendments, as per Bourgeois' presentation at *2018-10/2a*, is not a priority at present. Determined to include this item as part of the executive transitional planning.

2018-12/3 COMMITTEE BUSINESS

2018-12/3a LEY/KIM MOVE to approve the ASC Referendum Question.

See BC-2018-11.02.

LEY: Established that he utilised a modified version of the materials sent from the Aboriginal Student Council. Noted that he structured the question similarly to that which the Committee passed for CJSR.

KIM: Implemented a proposed amendment, as proposed by Sunday, to correct incorrect naming and the formatting of the provisions.

LEY: Inquired into whether the proposal provides for the fifty cent fee reduction for part-time students.

KIM: Responded in the affirmative.

RIPKA: Expressed concern that the proposal's phrasing "the fee will be \$1 per trimester per student, to be assessed to undergraduate students enrolled in class that semester"

KIM: Proposed that the provision read "\$1 a fee will be assessed to undergraduate students enrolled in classes each semester".

LEY: Clarified that the proposal uses the term trimester as there are three trimester's but four semesters.

RIPKA: Suggested using either the term trimester or the phrase semester. Inquired into whether the proposal provides for a single fee for both the Spring and Summer terms.

KIM: Responded in the affirmative.

RIPKA: Proposed that the provision read “a \$1 dollar per trimester fee will be assessed to undergraduate students enrolled in classes that term”.

LEY: Proposed clarifying that the fee applies only in the trimester in which students are enrolled. Clarified that this means that students enrolled in Winter and Fall classes do not pay the Spring and Summer fee.

RIPKA: Considered that the provision implicitly provides for Ley’s suggestion.

KIM: Implemented Ley’s suggestion.

STATT: Suggested distinguishing the fee-term application with two separate provisions. Proposed having a principal provision reading “A one dollar fee will be assessed to undergraduate students each trimester” with a sub-provision reading “Students enrolled in Summer and Spring terms will also be assessed this fee”.

LEY: Expressed concern that the phrase “each semester” could result in confusion for those who do not read the Question in full.

KIM: Amended the provision to read “the fee will also be assessed to students enrolled in the Spring and Summer terms”.

6/0/0 - CARRIED.

2018-12/3b LEY/KIM MOVE to approve the Second Principles of Bill #5.

See BC-2018-11.03

KIM: Established that Bill #5 relates to the sustainable bilingual translation plan. Noted that the Committee must now ensure the Second Principles match the manner and form of the First Principles.

STATT: Inquired into whether the Second Principles provide for a timeline for the implementation of the translation system.

LEY: Responded in the negative. Noted the First Principles included no information on implementation timeline. Clarified that the default process is that the Bylaw enters into force and effect at the adjournment of the meeting in which it passes.

KIM: Considered that the Translation Committee would not be classified as standing as it would meet infrequently.

LEY: Considered that the Committee would have to meet fairly regularly as it must translate and update bylaw and policy on an ongoing basis. Suggested the Committee have standing classification.

STATT: Expressed concern that a standing classification would mandate certain participation from councillors. Suggested that another classification would better provide for the involvement and engagement of students, especially those in Campus Saint-Jean.

LEY: Identified that the Bill recognises Statt's concerns with its connection to Bylaw 100 §12.9(a) that provides for the appointment of French speaking members from the community at large, as per §12.12, if there are an insufficient number of Councillors who are able or willing.

KIM: Suggested that this specific issue may also be resolved, without limiting the Translation Committee's discretion, in its standing orders.

LEY: Confirmed that Council approved First Principles on October 2 at Augustana. Identified that he developed the Second Principles' timelines as per specific requirements in the First Principles.

KIM: Clarified that the First Principles only set out that there will be a committee of Council as it was unclear which designation the committee will have.

LEY: Suggested that the Translation Committee should have standing classification as it has a continuing function. Expressed concern that Bylaw 100 Schedule B has not received website updates. Noted that Committees are standing, operational, or ad-hoc.

RIPKA: Noted that the website reflects these three classifications.

KIM: Suggested that the Translation Committee be operational as it should have open membership and is reoccurring. Expressed concern that an insufficiency in interested/able councillors or recruitment difficulty, both being part of a standing classification, would problematize translation.

RIPKA: Supported a standing classification for its relation to governance.

KIM: Inquired into whether CAC would later create the Translation Committee.

RIPKA: Responded in the affirmative.

KIM: Expressed concern that provision eight reading "The Committee shall begin the translation of all new bylaws and policies or changes thereof at the first opportunity following the approval of Second Principles" is too complex.

RIPKA: Inquired into whether this provision provides that the translation will always occur from English to French after approval at Council.

LEY: Responding in the affirmative. Noted that pre-translating before a Council meeting would be inefficient as amendments occur in the meeting. Outlined the

process as (1) Council passes a bylaw and (2) translation Committee effects the changes.

KIM: Expressed concern that two months may be too short for the timeline for producing the translated document.

LEY: Supported two months as a reasonable timeframe. Clarified that this can be extended in future.

STATT: Considered that the two month mandated deadline within which to produce the translation will ensure that there is no complaint as to the speed of translation.

RIPKA: Noted that the Translation Committee could proactively translate bylaws and policies.

LEY: Noted that the Translation Committee need not do additional research and only functions to translate existing documents.

STATT: Inquired into whether a certified translator is a regulated/professional qualification.

LEY: Responded in the affirmative. Noted that he removed the timeline section as it was redundant. Noted that he removed delay of implementation as it will take effect immediately.

BILAK: Inquired into why the membership requires the presence of an English speaking member.

LEY: Responded that the English speaking member will organise the professional audit and work to appoint students at large if there are an insufficient number of French-speaking councillors.

KIM: Inquired into why there are no permanent positions for students of Campus Saint-Jean.

STATT: Expressed concern that creating permanent positions for students off North Campus may present difficulties in the practical operation of the Committee.

LEY: Noted that a member of Council suggested that the Translation Committee would provide opportunities for student employment. Emphasised, however, that there are no committees with paid participation. Identified that, therefore, there is no student employment as part of the Second Principles. Inquired into whether the Translation Committee could offer an honorarium for its members.

RIPKA: Responded that Council or CAC could decide whether to provide an

honorarium.

KIM: Expressed concern that the Committee is now considering the specific structure of the Translation Committee when it is only supposed to be ensuring a consistency between the First and Second Principles.

RIPKA: Determined consult with Executive Committee on this issue at a forthcoming meeting.

KIM: Requested that Ripka update Ley and herself once that consultation is complete.

KIM: Noted that the Committee can continue to investigate options for the structuring of Translation Committee.

STATT: Proposed inviting members of Council connected to Campus Saint-Jean to the next meeting.

KIM: Determined to contact these relevant individuals.

LEY/STATT MOVED to table item *2018-12/3b* until the next meeting.
6/0/0 - CARRIED

2018-12/4 INFORMATION ITEMS

2018-12/4a BC-2018-11-M, *November 22, 2018*

See BC-2018-12.01.

2018-12/4b ASC- Plebiscite Question, 2018

See BC-2018-11.02.

2018-12/4c Bill #5 - Second Principles

See BC-2018-11.03.

2018-12/5 ADJOURNMENT

KIM: Adjourned the meeting at 4:57.

2018-12/5a Next Meeting: TBD.

MOTION	VOTES
LEY/KIM MOVE to approve the ASC Referendum Question.	6/0/0 - CARRIED.

LEY/BILAK MOVED to approve the minutes of <i>BC-2018-11-M</i> .	6/0/0 - CARRIED.
LEY/KIM MOVE to approve the ASC Referendum Question.	6/0/0 - CARRIED.
LEY/KIM MOVE to approve the Second Principles of Bill #5.	TABLED
LEY/STATT MOVED to table item <i>2018-12/3b</i> until the next meeting.	6/0/0 - CARRIED

Bill 6: Changes to SU Student Group Oversight First Principles

Whereas

The Students' Union is responsible for student affairs under the Post Secondary Learning Act;

The University of Alberta is the one of the only Universities in Canada where student group oversight is not conducted primarily by the Students Union;

The Students' Union must establish a fair, consistent, and robust process for student group recognition and oversight;

The University of Alberta does not wish to give up its own authority to recognize and derecognize Student Groups' ability to use the U of A name, insignia, and space;

Therefore

A new bylaw shall be drafted outlining a fair, consistent, and robust process for student group oversight which will include, at minimum, the processes for recognition, derecognition, complaints and investigations, and event registration.

The processes will include, at minimum, a committee of Students' Council that makes final decisions about student group oversight, and a process for appeal to the DIE Board.

Existing bylaws that concern student groups and student representative associations will be amended to agree with the Student Group Bylaw.

DIE BOARD RULING 2018-07

Hearing Details: Student's Council in violation of Bylaw 100(11.4). Noncompliance with Standing Orders regarding release of presentation materials.

Style of Cause: *Monda* (Applicant) *v* *Students' Council (Speaker)* (Respondent)

Hearing Date: September 13, 2018

DIE Board Panel Members: Karamveer Lalh, Chief Tribune (Chair)

Shridar Patel

Christian Zukowski

Applicant: Kyle Monda (Councillor)

Appearing for the Respondent: Levi Flaman (Board of Governors Representative, Deputy Speaker, Council Administration Committee Chair)

Reasons per Lalh CT:

Bylaw 100**1. Definitions**

1. In this bylaw

- e. "Legislation" means
 - iii. Students' Council standing orders, and

11. Legislation

4. Standing orders of Students' Council

- a. Are ongoing instructions to members of Students' Council and Students' Union staff respecting the manner of execution of Students' Council logistics;
- b. Are adopted, amended, or rescinded on a simple majority vote of Students' Council or the Council Administration Committee; and
- c. Do not expire, but shall be reintroduced by the Chair of the Council Administration Committee at the first meeting of each year's Students' Council.

Bylaw 1500**2. Mandate**

The [D.I.E.] Board is the organ of the Students' Union responsible for the interpretation and enforcement of Students' Union legislation.

3. Scope of Cases

1. The scope of the Board shall be limited to actions and appeals brought before it that:
 - a. initiate a complaint about a contravention of Students' Union legislation

Summary of Facts

- [1] This case is about an issue arising from the implementation Bylaw 100.11(4).
- [2] Councillor Monda submitted evidence that indicated that a change was made to the Students' Union Standing Orders at the Council Administration Committee meeting 2016-17/3a.
- [3] This change was regarding the archival and accessibility of all presentations made to council. The motion to update the standing orders passed unanimously.
- [4] The evidence presented before this tribunal suggested that the standing order amendments were not enforced from its implementation at CAC to the adoption of new standing orders at the start of the next legislative session.
- [5] Deputy Speaker Flaman did not dispute these facts.

Analysis

- [6] This case is the result of poor communication and a bizarre parallel process for implementing changes to standing orders.
- [7] Following in the tradition of Canadian courts and a recent court decision in *Singh v Quebec (AG)* 2018 QCCA 257, parliamentary privilege suggests that the operational procedures of a legislature are exempt from review by the courts.
- [8] However, the bylaws of the Students' Union grant the D.I.E. Board the express authority to do so.
- [9] It is plainly clear from the facts that the Speaker erred in enforcing the orders passed in the CAC, and then new rules were adopted later without the amendments.
- [10] Therefore, it is plainly obvious that the only outcome that can arise is that I must order the speaker to make a reasonable attempt to procure the missing documents and release them as per the amendment passed at CAC meeting 2016-17/3a reproduced below:

MONDA/DEJONG MOVES to amend Students' Council Standing Orders by adding the following subsection:

Presentation Materials: All materials or slides accompanying a presentation must be submitted to Council for archival and made available to all members of the Students' Union. Materials presented during in-camera sessions must be archived and made available in accordance with Section 3 (2) of Bylaw 500.

[11] I believe that this problem is not one of a failure to interpret bylaw, but because of bizarre Student's Union structure which allows proposed amendments to be approved in two different channels.

[12] Deputy Speaker Flaman told this panel that no other committee can unilaterally approve an item before a final vote in council.

[13] It seems patently obvious to me that this procedure resulted in confusion, and ultimately resulted in an amendment aimed at providing transparency to students, somewhat ironically, vanishing into thin air.

[14] Furthermore, the conclusion and remedy that which I recommend is narrow in scope. As above, I will only order the speaker to make a reasonable undertaking to release the documents mentioned from the period above.

[15] This means that the standing order would be in effect for only a few months, after which no such reporting requirement exists.

[16] This is an absurd result, as doing so no longer will satisfy the primary purpose of that amendment, but it is the only result I can give that is within the scope of both the D.I.E. Board's jurisdiction, and the express instructions of the Council in its bylaws.

[17] I also strongly recommend that council amend their legislation to strip CAC's ability to unilaterally pass and implement amendments as this results in confusion.

[18] My suggestion is that the CAC remains the place for proposal and debate of bylaws, but any bylaw discussed there they are not considered legislation until ratified by council.

Conclusion

[19] In reviewing this case, I rule in favour of Councillor Monda.

[20] I order the speaker to undertake to release the documents as discussed in the standing order and as above.

[21] I strongly recommend that Council address this issue with a bill amending how standing orders are created and implemented to prevent a similar issue from occurring in the future.

Patel T: I concur.

Zukowski T: I concur.

Ordered accordingly.