

DIE BOARD RULING 2015-01

Hearing Details:

Style of Cause: Mohamed v. CRO

Hearing Date: March 13th, 2016

Hearing Number: 2015-2016-01

DIE Board Panel Members: Harvir Mann, Associate Chief Tribune, Chair
Alin Florea, Tribune
Dylan Gibbs, Tribune

Appearing for the Applicant: Omar Salifou

Appearing for the Respondent: Jessica Nguyen, Chief Returning Officer

Intervener(s): None

BACKGROUND:

Mr. Bashir Mohamed, a candidate in the 2015-2016 SU Council/GFC race from the Faculty of Arts, submitted an appeal of CRO Ruling #02. In Ruling #02, the CRO ruled that Mr. Mohamed was in contravention of Bylaw 2300 Section 41 subsection 6 wherein a qualifying two-member candidate holding the position title for the majority of the term is required to have at least one academic program requirement that takes or could take the member off-campus for the period of time which they would not hold the position. The applicant contends that Bylaw 2300 Section 41 subsection 6 should be interpreted so as to include the exchange program that he is enrolled in and which has taken him off campus. Mr. Mohamed and his two-member candidate representative Mr. Omar Salifou appealed the CRO's decision to the DIE Board.

The activities in question can be found in 'CRO Ruling #02 Nomination Package not accepted.' On March 7, 2016 Mr. Mohamed and Mr. Salifou submitted a nomination package seeking candidacy for the position of Students' Union Councillor (Arts) in the 2016 election for Students' Council and General Faculties Council. The applicants' attached a letter explaining why the two members qualified as two-member candidate as defined by Bylaw 2300 Section 41. Mr. Mohamed made clear he is away on exchange and would serve on Council following his return in August. Until that time, Mr. Salifou would take his place on Council. In regards to Bylaw 2300 Section 41 subsection 6, Mr. Mohamed provided a letter of eligibility with evidence of his enrollment in a faculty-approved formal exchange program granting course credit. The CRO argued the applicant was in contravention of said bylaw. According to her interpretation, students choose to participate in an exchange program and it does not constitute an 'academic program requirement.' The CRO contends that the bylaw was enacted with the intention of

allowing students needing to be off-campus to be able to participate in Council during the period they were on campus. The CRO informed Mr. Salifou at the candidates' meeting on Monday March 7, 2016 that his and Mr. Mohamed's nomination package was not accepted as complete and could not be accepted as a valid set of nomination papers as defined in Bylaw 2300 Section 8 subsection a. On Tuesday March 8, 2016, the CRO's nomination package submission deadline package passed. On Wednesday March 9, 2016 the CRO ruled that Mr. Salifou and Mr. Mohamed could not be considered a valid two-member candidate.

On Thursday March 10, 2016 Mr. Salifou submitted an appeal on behalf of Mr. Mohamed. In regards to Bylaw 2300 Section 41 subsection 6, Mr. Mohamed argued that the phrase "academic program requirement that takes or could take...or other similar programs" is ambiguous and that an exchange program could fulfill the academic program requirement. Since the appellant was participating in an approved exchange program while earning credits towards his Bachelor of Arts degree, it was argued that these credits suggested the endeavor was a part of the member-candidate's academic program requirements. It was further contended that while the exchange program is a personal decision, so are engineering co-op programs and other similar programs. As a result, being enrolled in an exchange program should satisfy section 41 subsection 6 and allow the individuals to run as a two-member candidate.

The position of the CRO is that the faculty-approved exchange program allows one to obtain credits toward a degree, but it is optional and not a requirement. In contrast, the BSc Engineering Co-op program is a completely separate degree program and the work placement constitutes part of the academic program requirements. The CRO contends that the intent of the bylaw is to remove barriers imposed on students by their degree program. It is not intended to facilitate optional pursuits such as an exchange program. Since the nomination package deadline had passed, Mr. Salifou/Mr. Mohamed was ineligible to run.

ISSUES:

[1] Did the CRO err in Ruling #2 by failing to consider the arts exchange program as an academic program requirement that takes the applicant off-campus for a period during the council term and hence, consider the applicant's nomination package incomplete?

RELEVANT BYLAWS:

[2] From Bylaw 2300 Section 41 Subsection 6:

(1) Qualifying as eligible to constitute a two member candidate requires the member holding the position title for the majority of the term to satisfy one of the following conditions

(a) Have at least one academic program requirement that takes or could take the member off campus for the period over which they would not hold the position title such as a practicum, a co-op, a clinical placement or rotation, or other similar programs

DECISION:

The following is the unanimous decision of the panel:

[3] Bylaw 2300 Section 41 subsection 6 clearly states the major two-member candidate must satisfy the criterion that he/she have at least one academic program requirement that takes or could take the individual off-campus for the duration of the time off-campus. The appellant and respondent disagree as to whether this clause can be interpreted to include a formal exchange. The Arts Work Experience Program, which was raised by the appellant in their hearing application but not explicitly mentioned in their nomination package, is immaterial to this appeal.

[4] While the panel appreciates the submission of the appellant, the panel finds the appellant did not provide sufficient evidence to prove that an exchange program is an academic program requirement. The panel concurs with the CRO's understanding that Co-ops and practicums are essential for gaining credits toward their respective degrees whereas exchange programs are personal decisions which are not necessarily required towards graduation.

[5] The panel finds no ambiguity in Bylaw 2300 Section 41 subsection 6 with regards to the potential for "similar programs" to include a formal exchange. As a result, the appellant does not satisfy the condition of having an academic program requirement taking him off-campus and does not fulfill the requirements for a two-member candidate. The nomination package is therefore incomplete.

[6] For the reasons discussed above, the panel finds the CRO's ruling appropriate. The ruling is upheld and the appeal is dismissed.

Appeal dismissed, disqualification upheld