

# DISCIPLINE, INTERPRETATION, AND ENFORCEMENT BOARD

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**Citation:** Flaman v Chief Returning Officer; Decision 02-2022

**BETWEEN:**

**Levi Flaman**

Applicant

- and -

**Chief Returning Officer,  
University of Alberta Students' Union**

Respondent

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## **BYLAW 2300 SECTION 9: DECISION**

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**Panel Members:**

**(Chair) Sarah Rhydderch, Chief Tribune  
Scott Parker, Associate Chief Tribune  
Hamza Mandour, Tribune**

**Panel Review Date:**

**March 21, 2022**

**Witnesses for the Applicant:**

**n/a**

**Witnesses for the Respondent:**

**n/a**

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The reasons of the unanimous Board are delivered by S. Parker.

## **LEGISLATION:**

### **Bylaw 2100 Chief Returning Officer and Elections Staff of the Students' Union**

#### ***8. Duties of the Elections Staff***

*(1) Duties of the C.R.O. shall include*

*(a) overseeing the implementation of the Elections Bylaw, which includes Bylaws 2100, 2200, 2300, 2400, 2500; and...*

*(c) being the highest responsible manager of the Elections Office and elections staff, particularly when interpreting, enforcing, and delegating authority afforded by the aforementioned Bylaws.*

*(3) Duties of the elections staff to be found in Bylaw and include but are not limited to:*

*(f) determining the dates for all nomination deadlines, elections cycles, and voting days; ...*

### **Bylaw 2300 Councilor Elections to Students' Council and General Faculties' Council**

#### ***9. No Candidate Nomination Received***

*(1) Where no valid candidate or side for a given position has been received by the deadline, the C.R.O. shall extend the deadline for that position or side by 48 hours.*

*(2) Where the only nominations received for a given position is (are) joke candidate(s), the CRO shall extend the deadline for that position by 48 hours.*

#### ***10. Candidate Registration Meeting***

*(9) In the event of an extension under section 14(1) the CRO shall hold an additional meeting for new candidates subject to the rules stated in section 15.*

#### ***15. Joke Candidates***

*(1) A joke candidate shall be designated as such at the nomination deadline.*

*(2) Where a candidate has been designated as a joke candidate, as set out in Section 2(i), and that candidate does not wish to be a joke candidate, that candidate may provide to*

*the C.R.O. a new signed statement indicating the name under which they wish to appear on the ballot, within forty-eight (48) hours of the nomination deadline.*

*(3) Where a candidate who has been designated a joke candidate exercises their right, as set out in Section 15(1), to submit a new name under which they wish to appear on the ballot, and where the new name is, at the discretion of the C.R.O., a reasonable derivative of that candidate's legal name, that candidate's designation as a joke candidate shall be reversed.*

## **DIE Board Protocol**

### ***Circumstances Where Panel Can Reject Application Without Hearing***

*(14) Upon review of the application, the panel may unanimously vote to dismiss an application for a Hearing or Appeal without meeting in person to hear evidence or oral submissions if the panel concludes the application is frivolous, vexatious, or has no possibility of success, or if the panel concludes the issue in question is outside its jurisdiction to hear. The panel must give written reasons for its decision to dismiss the application.*

### **Holding**

[1] The Dispute, Interpretation and Enforcement Board (“the DIE Board”) has unanimously voted to reject this application for a hearing, with reasons set out below.

### **Facts**

[2] On March 15, 2022, Levi Flaman (“Flaman”) applied to the DIE Board to hear an allegation that the Chief Returning Officer (“CRO”) of the University of Alberta Students’ Union (“UASU”) violated Students’ Union legislation, specifically *Bylaw 2300, section 9(1)*.

[3] Based on information provided by Flaman, on March 15 at approximately 3:10 PM, the UASU elections office made an Instagram post that extended nominations “for all faculties” until Thursday, March 17 at 5 PM. This would result in an approximately 50-hour extension to the nomination deadline.

### **Flaman’s Position**

[4] Flaman’s application (“the Application”) claims the CRO violated *Bylaw 2300, section 9(1)* by extending the nomination deadline for all candidates to the Students’ Council and General

Faculties' Council. Flaman claims that section 9 of *Bylaw 2300* prohibits any extension of candidate nomination deadlines unless one of two conditions are met: that there is no candidate available to run in a particular position 9(1), or that there is only a "joke" candidate available to run 9(2).

[5] Flaman submits that *Bylaw 2300(9)* explicitly permits extension of the nomination deadline only where there are no valid candidates. Flaman further submits that *Bylaw 2300(9)* does not permit, either implicitly or explicitly, the extension of any nomination contests where at least one valid candidate is entered. Flaman further submits that *Bylaw 2300(9)* does not permit an extension for all candidate nominations.

[6] In support of this claim, Flaman relies on *Bylaw 2900(10)(9)*. As the DIE Board does not find *Bylaw 2900* in the UASU Bylaws, we consider that Flaman is relying on *Bylaw 2300(10)(9)*. *Bylaw 2300(10)(9)* states that in event of an extension under section (14)(1) of *Bylaw 2300*, the CRO shall hold an additional meeting for new candidates "subject to rules stated in section 15." This leads to some additional confusion, since, as Flaman points out, section (14)(1) relates to "storage space", and not to nominations or extensions.

### Issues

[7] The issue before the DIE Board is:

1. *Did the CRO violate Bylaw 2300(9) by ordering an extension of all nomination deadlines?*

### Analysis

[8] Flaman maintains that *Bylaw 2300(9)* is explicit in only allowing nomination deadline extensions if there are one of two conditions met: either no candidate is available for a particular position (9)(1), or there is only a "joke" candidate available (9)(2). This is an incorrect interpretation of the Bylaw.

[9] The DIE Board interprets *Bylaw 2300(9)* as meaning the CRO "shall extend the deadline" up to 48 hours explicitly *if* at least one of the two conditions are met: (9)(1) no candidate available or (9)(2) only a "joke" candidate is available. It requires action on the part of the CRO to extend the nomination deadline explicitly on meeting one or both of the two conditions set out in the Bylaw. *Bylaw 2300(9)* does not restrict the CRO's authority to extend a nomination deadline for all candidates.

[10] For the CRO to have breached *Bylaw 2300(9)*, the CRO or their staff would have to fail to extend the deadline for nominations where there was no candidate or only a joke candidate. This was not alleged in this case.

[11] Under *Bylaw 2100(8)(1)(c)*, the CRO has the highest level of authority over elections staff. *Bylaw 2100(8)(3)(f)* gives elections staff the duty for determining “dates for all nomination deadlines, elections cycles, and voting days”. Therefore, the CRO and elections staff have the authority to set nomination deadlines, and the DIE Board considers extensions to nominations packages are within that authority.

[12] The DIE Board notes that there are some inconsistencies in *Bylaw 2300* of the Students’ Union that may have led to confusion regarding the interpretation of *Bylaw 2300(9)*. Notably, *Bylaw 2300(14)(1)*, which provides for storage space for campaign materials, is incorrectly referred to in other Bylaws. Flaman has pointed this out in their application. *Bylaw 2300(10)(6)(d)* refers to candidates “nominated under section 14(1)”, and again in *2300(10)(9)* “in the event of an extension under section 14(1)”. These inconsistencies did not affect the DIE Board’s interpretation of *Bylaw 2300(9)*.

[13] The DIE Board would like to address the delay in releasing this decision. Flaman’s application was not given the attention it deserved in a timely manner, as per the DIE Board’s duties under *Bylaw 1500(34)(5)*. This was largely unavoidable due to a combination of personnel changes and members being Covid positive. The DIE Board regrets this delay to adjudicating Flaman’s application. The DIE Board maintains there is no prejudice to the applicant as the application has been rejected regardless of the timelines.

[14] The Board finds that Flaman’s allegation that the CRO violated *Bylaw 2300(9)* is a result of Flaman’s misinterpretation of the Bylaw, and Flaman’s application is rejected on that ground.

### **DISPOSITION**

[15] The issue before the Board, and the answers to that issue, are as follows:

1. *Did the CRO violate Bylaw 2300(9) by ordering an extension to all nomination deadlines?*

[16] The CRO did not violate *Bylaw 2300(9)(1)* or *2300(9)(2)*.

*Application rejected.*