

DECISION OF THE DISCIPLINE, INTERPRETATION,
AND ENFORCEMENT BOARD

STEVE SMITH vs. THE EXECUTIVE COMMITTEE OF THE STUDENTS UNION II

DATE HEARD: Monday, March 21, 2005

D.I.E. BOARD MEMBERS PRESENT:

Jamie Gruman, Vice Chair
Chris Stolfa
Mike Solowan

COMPLAINT DETAILS:

Applicant: Steve Smith
Defendants: The Executive Committee of the Students' Union per Jordan Blatz

SUMMARY OF ALLEGATIONS & FACTS

The DIE Board met on Monday March 21, 2005 to hear a complaint brought forward by Steve Smith. The complainant alleges that the agreement reached between the Students' Union and studentcare.net/works on January 11, 2005 is a public document in accordance with Section 1 (3) of Students' Union Bylaw 500. As well, the complainant alleges that the Executive Committee is in contravention of Sections 2 (1) and 3 of Bylaw 500 by reason of its failure to make the document available to all Students' Union members.

On January 11, 2005 the Student's Union and studentcare.net/works agreed on a contract for the provision of health care coverage to Students' Union members. The agreement was contingent on approval by the student body in the form of a referendum. In order to better inform the student body and to provide transparency the Executive Committee of the Students' Union placed a copy of the agreement on the Internet. The agreement was ultimately rejected in the referendum. The Executive Committee has since determined that the agreement is properly confidential and that they had erred in releasing it to the public. In order to correct this error the Executive Committee removed the agreement from the Internet and from the Students' Council agenda. However, a complete document (with legally sensitive areas blacked out) is available for students with valid ID to read in 2-900 SUB. This document cannot leave the office and photocopies cannot be made.

Bylaw 500

A Bylaw Respecting Access to Students' Union Information Classification

1. ... (2) Every Students' Union document or record is confidential that has not been designated strictly confidential and that ...
 - (c) if divulged, could compromise the legal position or business competitiveness of the Students' Union.
- (3) Every Students' Union document or record is public that is neither strictly confidential nor confidential.

Access to Information

2. (1) Public information is available to all members of the Students' Union.
- (2) Confidential information is available to
 - (a) members of Students' Council and committees thereof;
 - (b) members of the Executive Committee;
 - (c) members of the Discipline, Interpretation, and Enforcement Board;
 - (d) such employees of the Students' Union as the Executive Committee considers appropriate; and
 - (e) any individuals designated by Students' Council.

Cost to Members

3. Any member of the Students' Union requesting a copy of a public Students' Union document or record shall be provided such a copy, at a cost to that member not exceeding the cost of the document or record's retrieval and reproduction.

ISSUES

Ruling #9

- 1.) Is the agreement reached between the Students' Union and studentcare.net/works on January 11, 2005 a public document in accordance with Students' Union Bylaw 500?
- 2.) Who has access to the agreement under Students' Union Bylaw 500?

DECISION

D.I.E. board has been asked to determine if the agreement between the Students' Union and studentcare.net/works is a public document. The classification of a Students' Union documents according to Students' Union legislation is within the D.I.E. board's jurisdiction to interpret Students' Union legislation.

Three categories of documents are set out in Bylaw 500. First, strictly confidential documents may be designated as such by Students' Council in accordance with section 1.1(1). Second, confidential documents are created through operation of section 1.2(2). The Bylaw does not contemplate any process for the designation of documents as confidential. As well, the power to designate a document confidential is not specifically conferred on any person or office. Thirdly, section 1.3(3) makes all Students' Union documents public that are neither strictly confidential nor confidential. In order to find that a document is a public document, it is necessary to first find that the document is neither strictly confidential nor confidential. On the evidence D.I.E. finds that the agreement between the Students' Union and studentcare.net/works could compromise the business competitiveness of the Students' Union and is confidential according to section 1.2(c).

The agreement is confidential and so access to it is limited to those people listed in section 2(2) of Bylaw 500. Confidential documents should not be accessible to all members of the Students' Union. D.I.E. board appreciates the document in question has historical interest and that it is good practice for the Students' Union to remain transparent to its members. Nevertheless, the document available for viewing in 2-900 SUB is either a confidential document or a public document. If the document is confidential, then it should not be available for viewing by Students' Union members. If the document has been altered substantially enough to make it a public document, then Students' Union members must be allowed to make copies of it as set out in section 3.

D.I.E. Board thanks parties for their reasoned submissions and, in particular, the Executive Committee of the Students' Union's candour in accepting responsibility for their error.

The Discipline, Interpretation and Enforcement (D.I.E.) Board functions as the judicial branch of the Students' Union, and is responsible for interpreting and enforcing all Students' Union legislation. If anyone has any questions regarding the D.I.E. Board, feel free to contact the Chair, Alex Ragan, at ea@su.ualberta.ca.