

Ruling of the Discipline, Interpretation, and Enforcement Board

Jones v. Chief Returning Officer

Date Heard:

March 18, 2005

Members of the D.I.E. Board Present:

Alex Ragan, Chairman
Justyna Herman
Jeevan Nallainayagam

Appearing For the Appellant:

Chris Jones

Appearing For the Respondent:

Dane Bullerwell

Summary of Facts and Allegations

Chris Jones is an undergraduate student registered in Open Studies. Mr. Jones wants to run for a SU Councillor position. SU Bylaw 2200 § 8(b) [“Bylaw”] sets out procedure for nominating and electing SU councillors. The Bylaw stipulates that nominees are required to obtain at least ten signatures from students enrolled in the same faculty as the nominee. Mr. Jones argues that due to the nature of the Open Studies Faculty, he was able to obtain only one signature. Mr. Jones argues that it is virtually impossible to collect ten signatures considering the fact that the majority of students in Open Studies are part time students, dispersed throughout the campus. Further, Mr. Jones argues that the Bylaw discriminates against students enrolled in Open Studies because, in effect, it creates an insurmountable barrier to completing a valid nomination form as required by the Bylaw.

Mr. Jones argues that SU Bylaw 700 § 2(h) guarantees him the right to be a member of the Student’s Council. Further, Mr. Jones contends that § 8(b) of the SU Bylaw 2200 is in conflict with § 2(h) of the SU Bylaw 700 and requests that D.I.E. Board harmonize the two bylaws.

The Respondent acknowledges that the requirement of ten signatures as set out in 2200 § 8(b) is harsh for students registered in Open Studies. However, the Respondent contends that Mr. Jones failed to take prudent measures in contacting students in Open Studies. Additionally, Mr. Jones decided to run for SU Councillor position only a very short time before the deadline for submitting the nomination forms. Further, the Respondent contends that Bylaw 700 and Bylaw 2200 are not in conflict, therefore there is no need to harmonize them. Alternatively, if the bylaws are in conflict, the Respondent argues that the D.I.E. Board doesn’t have jurisdiction to harmonize them.

Relevant Provisions

Students' Union Bylaw 2200 § 8(b):

8. The nomination packages shall contain, at minimum:

(b) nomination papers soliciting the name, contact information, and student identification number of the proposed nominee, and the names, years, signatures, and student identification numbers of at least ten (10) and at most twenty (20) members registered in the same faculty as the nominee as nominators;

Students Union Bylaw 700 § 2(h):

2. All members of the Students' Union (...) shall have full Students' Union privileges, which shall include:

(h) the right to be a member of Students' Council, if qualified and if properly elected.

Analysis

The Appellant demonstrated to the satisfaction of DIE Board that achieving the required signatures for his nomination package was a task of some difficulty. This difficulty, however, does not have the effect of denying the Appellant his right to become a member of Students' Council "if qualified and if properly elected" as stipulated in s.2(h) of Bylaw 700. Indeed, it was still quite possible for the Appellant to complete his nomination package. As such, the rights afforded in Bylaw 700 are not infringed by the provisions of Bylaw 2200 and the two statutes need not be reconciled.

The Appellant's second submission that the requirements of Bylaw 2200 (specifically s.8(b)) were discriminatory against Open Studies students was generally accepted by DIE Board. Inasmuch as it is harder for an Open Studies student to meet the required signature threshold than for a student in any other faculty, there is a substantive, if not formal, difference in treatment. When pressed, however, the Appellant was not able to cite any Students' Union statute or precedent that prohibits such discrimination. In the absence of any such law, DIE Board refuses to change statutory law duly passed by Students' Council.

This is not to say that the Appellant's arguments are wholly without merit. Indeed, the hardship placed on Open Studies students in completing their nomination packages will inevitably have a detrimental effect on that program's representation on Students' Council. Students' Council would be wise to investigate this matter and act accordingly.

Appeal dismissed.

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. For any questions please contact dieboard@su.ualberta.ca.