

## ***Discipline, Interpretation and Enforcement (DIE) Board***

---

### ***Ruling of the Board***

Style of Cause: *Re Bylaw 2400 s.7*

Ruling # 4

Date heard: October 27, 2005

Appearing for the D.I.E. Board:

Presiding Chair: Alex Ragan

Tribunes: Chris Stolfa, Alan Cliff

Appearing for the referring party:

Stephen Kirkham

Intervenors present:

Rachel Woynorowski, Chief Returning Officer

Case summary:

This case interprets the wording of bylaw 2400, section 7, which concerns petitions for plebiscites. D.I.E. found:

1. The ‘following February 1’ in section 7 of bylaw 2400 refers to the next February 1 occurring after the C.R.O. has received a petition conforming to the bylaw.
2. The 90 day period in section 7 of bylaw 2400 refers to the 90 days preceding the C.R.O.’s receipt of the petition.

### **SUMMARY OF ALLEGATIONS**

1. What is the interpretation of the words “as of the following February 1” in bylaw 2400(7)?
2. What is the interpretation of the words “within ninety (90) days of submission of the petition” in bylaw 2400(7)?

### **RELEVANT LEGAL PROVISIONS**

Bylaw 2400 (7)

Where a petition bearing the names, signatures, and student identification numbers of at least five percent (5%) of the total membership of the Students’ Union as of the following February 1 requesting a plebiscite on a given Students’ Council-approved question is submitted to the C.R.O., then a plebiscite shall be held on that question, provided that the names, signatures, and student identification numbers were all collected within ninety (90) days of submission of the petition.

## ANALYSIS

1. What is the interpretation of the words “as of the following February 1” in bylaw 2400(7)?

The words “as of the following February 1” refer to the next February 1 after the C.R.O. has received a petition conforming to all the requirements set out in the bylaw. For example, a petition submitted before or on January 31, 2006 must bear the signatures of at least five percent of the total SU membership as of February 1, 2006. Petitions submitted from February 1, 2006 until January 31 2007 must conform to the SU membership as of February 1, 2007. Given the clear language of the provision, i.e. ‘the following’, this is the only possible grammatical interpretation. There is no language in section 7, or anywhere else in bylaw 2400, that suggests that ‘the following’ refers in any way to an academic year as suggested.

The date of February 1 was likely chosen because January 31 is the deadline for tuition fee payment. By counting SU membership on February 1 the total student population will not be inflated by students who drop out within the first month of winter term. The February 1 date creates a fair total number of SU members from which five percent may be calculated. However the date of February 1 creates some technical difficulties for the C.R.O. and petitioners.

Creating a benchmark for the total number of signatories that can only be ascertained in the future means that petitioners will not know if they truly have enough signatures until February 1. Yet, petitioners cannot wait until February 1 to submit their petition because signatures submitted on or after February 1 must be tallied according to the SU membership as of the following February 1.

Section 10 of bylaw 2400 states that a valid petition submitted at least 30 days before a general election will cause the referendum or plebiscite in question to occur at that election. This section in conjunction with section 7 is a trap for the unwary. A petition may only be valid if it conforms to SU membership on the following February 1. Specifically, a petition submitted after January 31 but at least 30 days before elections cannot be a valid petition until the following February 1 and the plebiscite cannot be held until the next general election after the following February 1.

We would like to add that because section 8 of bylaw 2400 contains similar wording to that found in section 7 the preceding analysis applies equally to section 8.

2. What is the interpretation of the words “within ninety (90) days of submission of the petition” in bylaw 2400(7)?

The words “within ninety days” means the 90 day prior to the C.R.O. receiving the petition. In other words, all the signatures on a petition must have been obtained within the 90 days prior to the petition being submitted to the C.R.O. The word ‘submission’ in this provision refers to the submission by the petitioners to the C.R.O. The petition must be submitted to several bodies prior to submission to the C.R.O.,

specifically the Bylaw Committee and Students' Council. However, because the provision in question only deals with a submission to the C.R.O. and does not refer to any other submissions, it would be nonsensical to interpret 'submission' in reference to any other body other than the C.R.O.

As well, all the signatures on the petition must be obtained after the Students' Council has approved the question. Petitioners should also beware, Students' Council approval is considered a 'miscellaneous motion' of the Council, so approval will expire the following April 30 pursuant to bylaw 400 section 4(b).

We would like to add that because section 8 of bylaw 2400 contains similar wording to that found in section 7 the preceding analysis applies equally to section 8.

## **DISPOSITION AND REMEDY IMPOSED**

1. The 'following February 1' in section 7 of bylaw 2400 refers to the next February 1 occurring after the C.R.O. has received a petition conforming to the bylaw.
2. The 90 day period in section 7 of bylaw 2400 refers to the 90 days preceding the C.R.O.'s receipt of the petition.

## **RECOMMENDATIONS**

Students' Council should reconsider the wording and meaning of bylaw 2400 and consider a revision.

The Discipline, Interpretation And Enforcement (D.I.E.) Board functions as the judiciary branch of the Student's Union, and is responsible for interpreting and enforcing all Student's 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](mailto:ea@su.ualberta.ca) .