

Discipline, Interpretation and Enforcement (DIE) Board

Ruling of the Board

Style of Cause: *Re Bylaw 2400 s.2 (d) and (e) Plebiscites and Referenda*

Ruling # 2005/2006-06 in the matter of: Re: Distinction Between Referenda and Plebiscites

Date heard: Wednesday, November 7, 2005

Appearing for the D.I.E. Board: Presiding Chair: Jaimie Gruman

Tribunes: Chris Stolfa, Catherine Lepine

Interveners present: Chris Jones

Case summary:

The Board is asked to define the term “Students’ Union” in section 2 (e) of bylaw 2400 and finds that the term refers to all members and bodies of the Students’ Union. Additionally, the Board is asked what sort of vote is binding on the Students’ Union and the Board finds that according to the definition of “plebiscite” and “referendum” in section 2 of Bylaw 2400, only a referendum is binding on the Students’ Union.

REFERENCE QUESTIONS

1. Are the students, other than the graduate students, of The University of Alberta synonymous with the term “Students’ Union” as used in Bylaw 2400 §§ 2(d) and 2(e)? If not, – how does the term “Students’ Union” in Bylaw 2400 §§ 2(d) and 2(e) differ from the set of students, other than graduate students, of The University of Alberta for the purposes of the Post-Secondary Learning Act, § 93(2)?
2. Would a vote conducted by the Students’ Union, The University of Alberta, that would bind the students, other than the graduate students, of The University of Alberta be properly held as a plebiscite or as a referendum for Bylaw 2400 purposes?

RELEVANT LEGAL PROVISIONS

Bylaw 2400

Section 2 (d) a “plebiscite” shall be a vote, open to all members except the C.R.O., held on a given question but that is not binding;

Section 2 (e) a “referendum” shall be a vote, open to all members except the C.R.O., held on a given question and whose result is legally binding upon the Students’ Union;

ANALYSIS

1. Meaning of “Students’ Union

The term “Students’ Union” in section 2 (e) of bylaw 2400 refers to all members of the Students’ Union and all bodies of the Students’ Union. The issue in this question is whether the term “Students’ Union” means each individual member, Students’ Council and other various SU bodies, or both. No persuasive reason could be found not to give

the term “Students’ Union” an inclusive meaning. “Students’ Union” could not mean individual members of the SU because Section 2(e) refers to individual members as “all members”. It would be unconventional to give two different terms in one section of legislation the same meaning. For similar reasons, it would be unconventional to restrict the meaning of “Students’ Union” to Students’ Council or any combination of SU bodies, boards, committees, offices, etc.. Other sections of Bylaw 2400 explicitly mention Students’ Council, Bylaw Committee, and D.I.E. Board. If section 2(e) meant any specific SU body it would say so explicitly. Without any evidence suggesting a more restricted definition of “Students’ Union” the term must be interpreted as inclusive of SU members and SU bodies.

Regarding the citation of the Post Secondary Learning Act, S.A. 2003, c. P-19.5, in the reference question. D.I.E. Board would like to point out that the Board’s enabling legislation, Bylaw 1500 section 4, allows the Board to hear complaints and requests regarding contravention or interpretation of Students’ Union legislation. Interpretation or application of the Post Secondary Learning Act is beyond the scope of D.I.E. Board.

2. Effects of Plebiscites and Referenda

According to the definition of “plebiscite” and “referendum” in section 2 of Bylaw 2400, only a referendum is binding on the Students’ Union. Bylaw 2400 section 2(d) explicitly states that a plebiscite is not binding and section 2(e) explicitly states that a referendum is binding upon the Students’ Union. While the above statements answer the reference question, D.I.E. Board feels it should briefly comment on the nature of plebiscites and referenda as set out in Bylaw 2400.

Plebiscites are not binding. (Bylaw 2400 section 2(d)) In order for a plebiscite to be initiated, by anyone other than Students’ Council, signatures of 5% of SU members must be collected. (Bylaw 2400 section 7 and 9, see also D.I.E. Board rulings *Re Bylaw 2400 s.7* and *Re Bylaw 2400 “law”*)

Referenda are binding. (Bylaw 2400 section 2(e)) In order for a referendum to be initiated, by anyone other than Students’ Council, signatures of 15% of SU members must be collected. (Bylaw 2400 section 8 and 9, see also D.I.E. Board rulings *Re Bylaw 2400 s.7* and *Re Bylaw 2400 “law”*)

All other sections of Bylaw 2400 treat plebiscites and referenda identically. While the percentage of signatures necessary to initiate a plebiscite or referendum is technical in nature, the difference between binding and non-binding is crucial in distinguishing the terms. The term “binding” and the obligations it imposes have already been discussed in the D.I.E. Board’s 04/05 rulings of *Re: Universal Bus Pass Referendum#1* and *Re: Universal Bus Pass Referendum #2* and need not be repeated here.

The expression “not binding” obviously entails a lesser obligation on the Students’ Union than the term “binding”. This is backed up by a common sense reading of the terms and the different signatory requirement for petitions. However, a plebiscite still represents the will of a majority of voting SU members and cannot be ignored. Because a plebiscite is an expression of the entire SU, any decision making body of the SU should take into consideration the results of a plebiscite when making decisions.

When taking plebiscite results into consideration, decision makers are not obliged to strictly adhere to plebiscite results. The decision makers must think about the plebiscite results and consider the relationship between the results and the decision before them. Plebiscite results demand the respect of the Students' Union but cannot dictate any particular course of action.

DISPOSITION AND REMEDY IMPOSED

1. Question:

Are the students, other than the graduate students, of The University of Alberta synonymous with the term "Students' Union" as used in Bylaw 2400 §§ 2(d) and 2(e)? If not, – how does the term "Students' Union" in Bylaw 2400 §§ 2(d) and 2(e) differ from the set of students, other than graduate students, of The University of Alberta for the purposes of the Post-Secondary Learning Act, § 93(2)?

Answer:

The term "Students' Union" in section 2 (e) of bylaw 2400 refers to all members of the Students' Union and all bodies of the Students' Union.

2. Question:

Would a vote conducted by the Students' Union, The University of Alberta, that would bind the students, other than the graduate students, of The University of Alberta be properly held as a plebiscite or as a referendum for Bylaw 2400 purposes?

Answer:

According to the definition of "plebiscite" and "referendum" in section 2 of Bylaw 2400, only a referendum is binding on the Students' Union.

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 .