

Discipline, Interpretation and Enforcement (DIE) Board

Ruling of the Board

Style of Cause: Nicol vs. Eruvbetine (Ruling #1, 2007/2008)

Date heard: August 17, 2007

Appearing for the D.I.E. Board:

Presiding Chair: Guillaume Laroche, Chief Tribune

Tribunes: Dane Bullerwell, Tribune

James Koizumi, Tribune

Appearing for the Applicant: Scott Nicol, SU Councillor

Appearing for the Respondent: Prem Eruvbetine, Chair, CAC

Observers present: Steven Dollansky, VP External, SU

Rachel Woynorowski

Case summary:

Councillor Scott Nicol alleges that proper notification for a Council Administration Committee (CAC) meeting was not given by the Chair, Councillor Prem Eruvbetine. Councillor Nicol seeks that the ensuing meeting of CAC on August 15th, 2007 be found null and void. The Board declares the CAC meeting held on August 15th, 2007 null and void due to the violation of bylaw 100, s. 15.2, and imposes that all references to and records of a CAC meeting on August 15th, 2007 be purged from the official record.

SUMMARY OF ALLEGATIONS

Councillor Scott Nicol (Applicant) alleges that proper notification for a Council Administration Committee (CAC) meeting was not given by the Chair, Councillor Prem Eruvbetine (Respondent). Councillor Nicol seeks that the ensuing meeting of CAC on August 15th, 2007 be found null and void.

FACTS

1. A CAC (Council Administration Committee) meeting was called for 1800h on August 15, 2007.
2. Notice was sent to the Council Administration Assistant by Mr. Eruvbetine with the following time stamp: August 12, 2007 11:34:08 PM.
3. Notice was sent to Council members by the Council Administration Assistant with the following time stamp: August 13, 2007 11:09:32 AM.
4. CAC is a standing committee per Bylaw 100 s.12(4).
5. All members of Students' Council are CAC members per Bylaw 100 s.12(4).

6. Bylaw 100 s.15(2) reads as follows:
“No meeting of a standing committee shall occur unless
(a) every member of the standing committee has received at least seventy-two hours notice of the meeting, or
(b) every member of the standing committee consents to the meeting taking place.
7. The August 15, 2007 meeting of CAC was not listed on the committee’s meeting schedule.
8. Notice was personally given to the chair both by e-mail and instant communication by Mr. Nicol that CAC would be in violation of the 72 hour rule and a request was made that the meeting not be held at this time.
9. A CAC meeting was held on August 15, 2007. The meeting was called to order at 1817h.

These facts are supported through documentation received by the Board and are not contested by the respondent.

RELEVANT LEGAL PROVISIONS

Bylaw 100 states:

12. Standing Committee Membership

- (4) The Council Administration Committee consists of
 - (a) five members of Students’ Council as permanent members, and
 - (b) all members of Students’ Council except the Speaker and the General Manager.

15. Functioning of Standing Committees

- (2) No meeting of a standing committee shall occur unless
 - (a) every member of the standing committee has received at least seventy-two hours notice of the meeting, or
 - (b) every member of the standing committee consents to the meeting taking place.

ANALYSIS

The central question that must be answered in this issue is whether the term “member” at section 15.2 of Bylaw 100 refers to permanent members or regular members in the specific context of the Council Administration Committee (CAC). The Board finds that the term refers to the entire membership of CAC, not simply permanent members. Section 12.4.b of Bylaw 100 clearly defines the membership of CAC as including all members of Students’ Council, except the Speaker and the General Manager. Consequently, in reading section 15.2.b, the Board finds that the membership that must give consent for a meeting to be held without 72 hours notice is in fact all members of Students’ Council, except the Speaker and the General Manager.

The respondent suggested that “member” in section 15.2 must be read as “permanent member,” since to interpret “every member” to mean all members (permanent, voting, and non-voting) would require that all 42 councillors agree to a meeting without 72 hours notice, which is unworkable. There may be circumstances where a plain reading of a

bylaw would lead to such a ridiculous result that we could only assume Council never intended the bylaw to be read in that way. This, however, is not such a case. While perhaps difficult, it is not logically impossible for all members of Council to consent to an emergency meeting, and the threshold for departing from a plain reading of a bylaw is very high.

The Board rejects the respondent's further claim that the meeting was held in an emergency and should therefore be exempted from the Bylaw 100. The Board finds no sufficient grounds to believe that the outcome of the meeting, if annulled, would result in serious injury to CAC, Students' Council, or the Students' Union. Indeed, contrary to Chair Eruvbetine's claims of an emergency, the motion directing CAC to discuss Council procedures has no imposed time limit (from August 7th 2007 Students' Council meeting Votes and Proceeding):

ERUVBETINE/ GAMBLE MOVED THAT Students' Council direct the Council Administration Committee to review Council procedures and incorporate them into the standing orders and submit them for approval.

Objection on Amendment
Speakers List: Eruvbetine
Amendment: CARRIED
Main Motion: CARRIED

The respondent informed the Board that there is pending SU legislation which, if passed, could lead to inconsistencies or gaps within SU legislation if the recommendations of CAC are not put before Council. The Board can only trust that Students' Council, in its wisdom, would not pass legislation that would result in serious problems within SU bylaws. Hypothetical legislative possibilities do not constitute an emergency.

It is established that Chair Eruvbetine called a meeting of CAC to order on August 15th without having given 72 hours notice, and CAC member Scott Nicol informed the Chair that he opposed the meeting being held. Therefore, not all members of the standing committee gave consent, and the Board finds that section 15.2.b of Bylaw 100 was violated.

DISPOSITION AND REMEDY IMPOSED

The Board declares the CAC meeting held on August 15th, 2007 null and void due to the violation of bylaw 100, s. 15.2. This gathering of councillors was not a meeting of the Council Administration Committee. The Board further imposes that all references to and records of a CAC meeting on August 15th, 2007 be purged from the official record, such as CAC's online minutes database. This includes the order paper for the Students' Council meeting scheduled for August 21st, 2007, which must be modified as follows:

- 1) Item 2007-09/5c (the minutes of the purported CAC meeting) must be deleted from the meeting agenda.

- 2) All CAC motions and recommendations that were passed at the meeting of August 15th, 2007 and reported in CAC Chair Eruvbetine's report to council must be removed from the report.

Should another Council Administration Committee meeting be held in due process before the August 21st meeting, official records may be kept of this meeting. If a CAC meeting is not held, Students' Council's motion in regards to CAC is outstanding at the time of the August 21st, 2007 Students' Council meeting.

RECOMMENDATIONS

The Board recommends that the Chairs of all Students' Union standing committees give 72 hours notice to all committee members, in compliance with Bylaw 100 s. 15.2.a as to avoid any potential conflicts. Failing 72 hours notice, it is the responsibility of the Chair of the committee to ensure that all members, whether attending the meeting or not, give consent for a meeting of the standing committee. The Board reminds all members of Students' Council that expediency must not trump due process in the day-to-day functioning of the Students' Union. If legislated meeting requirements are found to be undesirable or unworkable, the Board recommends amending the legislation to render it desirable and workable.

The Discipline, Interpretation And Enforcement (D.I.E.) Board functions as the judicial 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 Chief Tribune, Guillaume Laroche, at ea@su.ualberta.ca .