

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

## **Ruling of the Board**

### **HEARING DETAILS**

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<b>Style of Cause:</b>	Reference Re: Bylaw 2000
<b>Hearing Number:</b>	Ruling #7 2010/2011
<b>Hearing Date:</b>	March 18, 2011
<b>DIE Board Panel Members:</b>	Megan Mickalyk, Chief Tribune, Chair; Imane Semaine, Tribune; Audrey Jun, Tribune;
<b>Appearing for the Applicant:</b>	Alena Manera, Chief Returning Officer, Student's Union
<b>Intervener(s):</b>	Craig Turner

### **BACKGROUND**

[1] The C.R.O. requested that the D.I.E. Board provide an interpretation of §39(1) of Bylaw 2000. Ms. Manera noted that §39(1) stipulates that candidates who are running in the same race are prevented from endorsing one another. She raised the concern that this would effectively disallow slates to run more than one candidate per race, as doing so would result in a contravention of §39(1). The C.R.O. quoted §63 (7) Bylaw 2000 which states that:

Where a ballot is left with no first place vote for a given race, the section of that ballot in question shall be considered spoiled.

[2] The C.R.O. proposed that, within the context of §63 (7), she would "...define a 'race' in the Students' Council election as all seats within the faculty, as they are listed together on the ballot as a single race." Although the C.R.O.'s concern initially related to independents, at the hearing Ms. Manera raised the issue of how §39(1) would impact slates that have more than one candidate within a race.

## **ISSUE**

[3] If independents or members of a slate endorse one another within a race, is this contrary to §39(1) of Bylaw 2000? Is there anything within Bylaw 2000 or other relevant legislation which would indicate that slates are exempt from §39(1)?

## **RELEVANT LEGISLATIVE PROVISIONS**

[4] Excerpts from Bylaw 2000:

### **2. Definitions**

o. "slate" shall be any two (2) or more candidates each running for a different position who choose to run under the guidelines for slates as opposed to the guidelines for individual candidates

### **39. Endorsements**

(1) No candidate shall  
a. act as a volunteer for another candidate; or  
b. endorse another candidate within his or her own race.

## **DECISION**

[5] §39(1) prohibits candidates within the same race from supporting one another. Bylaw 2000 does not appear to provide any inference that slates are to be exempt from this provision.

## **THE FOLLOWING ARE THE REASONS OF MICKALYK, CHIEF TRIBUNE**

[6] Two issues must be considered in interpreting §39(1). First, on its face, does this provision prohibit both independents and slates from endorsing fellow candidates within the same race during a General Faculty Council Election? Second, if so, is there anything to indicate that slates within the same race were intended to be permitted as an exception to the general rule?

[7] Turning to the first issue, §39(1) of Bylaw 2000 clearly states that candidates running within the same race cannot endorse one another. Candidates running for seats within the same

faculty in a General Faculty Council election are running within the same race. The plain word meaning of this provision would not allow independents or slates to endorse candidates within the same race.

[8] Turning to the second, D.I.E. Board considered whether it was possible to infer an exception for slates from §39(1). Bylaw 2000 clearly allows for slates. However, nothing within the Bylaw states that slates will be permitted to include more than one candidate per race. Not only is there no explicit approval, no reference at all is made to slate members within the same faculty in Bylaw 2000.

[9] D.I.E. Board then consulted the previous Bylaws 2100 & 2200, as well as the minutes from the amalgamation of the two Bylaws into Bylaw 2000, to attempt to discern whether the lack of references could be construed as a clear oversight or an intentional removal. Nothing in the materials expressly indicated what the drafters' intent was. Consequently, we are left with only what is explicitly written in Bylaw 2000.

[10] §39(1) in its current form precludes candidates in the same race from endorsing one another. Nothing indicates that slates are exempt from this provision. The consequence is that §39(1) prohibits both independent candidates and slates from endorsing one another in the same race. As nothing can be found to the contrary, this is the interpretation that we are left with.

### **RECOMMENDATIONS**

[11] D.I.E. Board strongly recommends that care be taken to ensure that the various provisions of Bylaw 2000 do not lead to undesired results. If §39(1) is not intended to apply to slates, then Bylaw 2000 ought to be revised to provide a clear and obvious exemption from §39(1) for slates, so that a slate would be able to include more than one candidate per General Faculty Council Race.

**THE FOLLOWING ARE THE REASONS OF JUN, TRIBUNE**

**I concur.**

**THE FOLLOWING ARE THE REASONS OF SEMAINE, TRIBUNE**

**I concur.** The D.I.E. Board is responsible for interpreting and enforcing the Bylaws of the Students' Union. As such, it is essential that the D.I.E. Board take an objective approach to its interpretations. During the hearing, Bylaws 2100 & 2200, as well as the minutes from the amalgamation of the two Bylaws were all carefully consulted and considered by the D.I.E. Board Panel. These materials were requested and reviewed by the Panel in order to garner more insight into the drafters' intent. Despite a thorough review, the Panel could not determine with any degree of certainty the intent of the drafters. In the end, the D.I.E. Board believed it prudent to defer to the plain and straightforward meaning of §39(1) as it currently stands.

The D.I.E. Board recognizes that it is an unelected body, responsible only for interpreting and enforcing Bylaws. Whether or not §39(1) should apply to slates is a policy decision best left to the Students' Union to determine.