

Style of Cause: Reference Re Bylaw 2200

Hearing Number: 05 – 2011/2012

Hearing Date: February 12<sup>th</sup> 2012

DIE Board Panel Members: Kathleen Elhatton-Lake, Associate Chief Tribune, Chair;

Rebecca Gormley, Tribune;

Eve Coppinger, Tribune

Appearing for the Applicant: Farid Iskandr, Vice-President External University of Alberta  
Students' Union

Intervener: **Zach Fentiman Chief Returning Officer**

**Background:**

[1] Farid Iskandr, VP External of the Students' Council requested that the DIE board provide an interpretation of §12(2) of Bylaw 2000. Mr. Iskandr notes that §12(2) requires that a member of Students' Council who is running for election must take a leave of absence from their duties for the period beginning with the nomination deadline and ending with the closing of voting for the election they are running in. He also stated that his concern was that many of these positions could not nominate a proxy.

[2] He also notes that many of the executive positions of the Students' Council are cross appointed to other committees and boards. Of particular note in this case are the appointments to the General Faculties Council, the University of Alberta Senate and the University of Alberta Board of Governors.

[3] Bylaw 100 §20 lays out the nominations to the General Faculties Council, the University of Alberta Senate and the University of Alberta Board of Governors. The CRO notes that these are nominations and require acceptance before they are formally members of their respective boards. Additionally both the CRO and the VP External stress that these boards have meetings during election season and the student representation on these boards is of particular importance. Specifically this year the University of Alberta Senate is searching for a new Chancellor. To facilitate this search they have struck a Search Committee for the Chancellor. This committee required to have a Students' Union member on it. Farid Iskandr was nominated for the position and accepted for the position on May 17<sup>th</sup> 2011. Mr. Iskandr is also the Students' Council Vice-President External and as such sits on the University of Alberta Senate. There is no requirement in Students' Union Bylaws that the Students' Union must nominate a Student Senator or the

Vice-President External for the position on the Search Committee which is struck every four years.

**Issues:**

[4] Is a member of the Students' Council, who is taking a leave of absence as per Bylaw 2200 Section 12(2), required to take leave from their duties on the:

- a) University of Alberta Board of Governors;
- b) University of Alberta General Faculties Council;
- c) University of Alberta Senate?

[5] Is a member of the Students' Council allowed to choose a proxy to represent them while they are taking a leave of absence in order to run for re-election?

**Relevant Legislation:**

[6] Excerpts from Bylaw 100

20. Nominations to University Bodies

(1) The four individuals nominated by the Students' Union to the University of Alberta Senate shall be

- (a) the Students' Union Vice President (External), and
- (b) three members of the Students' Union selected by Students' Council, after receipt by the latter of a recommendation from the Council Administration Committee.

(2) The two individuals nominated as ex-officio representatives of the Students' Union to the University of Alberta General Faculties Council shall be

- (a) the Students' Union Vice President (Academic), and
- (b) the Students' Union Vice President (Student Life).

(3) The two individuals nominated by the Students' Union to the University of Alberta Board of Governors shall be

- (a) the Students' Union President, and
- (b) the Undergraduate Board of Governors Representative.

(4) The Undergraduate Board of Governors Representative shall be elected at the same time and in the same fashion as the Students' Union President and Vice Presidents

[7] Excerpts from Bylaw 2000

## 12. Restrictions on Candidate Nominees

(1) No member shall be nominated for more than one (1) of the positions contested in each election.

(2) Members of Students' Council and its standing committees, in order for their nomination papers to be valid are required to take a leave of absence from their duties for the period beginning with the nomination deadline and ceasing with the conclusion of voting of the election in which they are contesting a position. The following exceptions apply:

a. Any member of Students' Council contesting an executive position when the race is uncontested

For the purpose of this section, any race solely contested by a joke candidate shall be considered uncontested.

[8] Excerpts from Bylaw 1100

### 4. (1) The President

a. shall develop and maintain awareness of significant issues that impact students;

b. is the primary spokesperson for the Students' Union;

c. shall supervise the affairs of the Students' Union subject to the authority of the Executive Committee and Students' Council; and

d. has the authority to direct the General Manager.

### (2) The Vice President (External)

a. shall develop and maintain awareness of significant issues external to the University of Alberta that impact students;

b. shall advocate for the Students' Union to the federal, provincial, and municipal governments; and

c. shall lead and coordinate the Students' Union's efforts on advocacy external to the University of Alberta.

### (3) The Vice President (Academic)

a. shall develop and maintain awareness of significant academic issues that impact students;

b. shall advocate on behalf of the Students' Union on academic issues; and

c. shall lead and coordinate the Students' Union's efforts on academic advocacy.

(4) The Vice President (Operations and Finance)

a. shall develop and maintain awareness of the Students' Union's operations and finances;

b. shall oversee those portions of the Students' Union's budget process falling within the realm of the Executive Committee;

c. shall provide operational and financial advice to the Executive Committee and its members;  
and

d. shall, in the absence of the President,

i. chair the Executive Committee, and

ii. have the authority to direct the General Manager.

(5) The Vice President (Student Life)

a. shall develop and maintain awareness of significant non-academic issues internal to the University of Alberta that impact students;

b. shall advocate on behalf of the Students' Union on non-academic issues internal to the University of Alberta; and

c. shall lead and coordinate the Students' Union's efforts on advocacy on non-academic issues internal to the University of Alberta.

**Decision**

[9] In cases where the individual hold another position solely due to their elected Students' Union position then that position will be considered a duty of the elected position and a leave of absence will be required from it as well. If the position is one acquired separately from the Student's Union position then the individual will not be required to take a leave of absence. If bylaw requires that an elected member of Students Council be the nominee for a position then that position will be considered a duty.

[10] A elected member of Students' Council who is taking a leave of absence in order to run for election as per §12(2) of Bylaw 2000 may not appoint a proxy for their positions.

**Analysis:**

[11] First, DIE board must examine what constitutes a duty as per §12(2) of Bylaw 2000. Bylaw 1100 lists what each position shall do. These are clearly duties. However, they are not the limit on what constitutes a duty. The list is short and clearly meant as an outline rather than a

specific list. DIE board also turns to Bylaw 100(20) to see the nominations of the Students' Union.

[12] Here we see that some positions are automatically nominated to other student bodies such as the GFC, Board of Directors and Senate. Though these are nominations and not appointments of the Students Council the nominations process is not a competitive process with other nominees and the individual is the automatic nominee of the Students' Council by virtue of their Students' Union position. This would apply to the positions that the President and Undergraduate Board of Governors Representative hold on the University of Alberta Board of Governors, the Vice-President Academic and Vice-President Student Life on the General Faculties Council and the Vice-President External on the Senate. Unlike the Senate nominees other than the Vice-President External the Undergraduate Board of Governors Representative is an elected position that is simultaneously a voting Students' Council position.

[13] If any members of the Students' Council are serving on committees that are part of these bodies in capacities that are not due to their positions they would not be required to take a leave of absence from those separate positions. If a member of Students' Council is holding a position that any student would be able to run or apply for and receive without being a member of Students' Council then they may continue serving in that capacity. It is separate from their Students' Council position and if it is not related should not be considered a duty of a position under §12(2) of Bylaw 2000.

[14] DIE board also was asked to clarify if an individual taking a leave of absence from a position due to election was able to appoint a proxy to act for them in their other positions. DIE board rules that an individual taking a leave of absence due to running for re-election is unable to appoint their own proxy. In examining the purpose of By-Law 2200 Section 12(2) it is clear that the purpose is to prevent a Students' Union member from being able to gain an unfair advantage from currently occupying their position. As such, allowing them to appoint their own proxy would fundamentally undermine this purpose.