DIE Board Ruling 2012-9

Hearing Details:

Style of Cause: Interpretation of Bylaw 2200

Hearing Date: February 8th, 2013

Hearing Number: Ruling # 09 2012/2013

DIE Board Panel Members: Sean Wallace, Chief Tribune

Drew Jordan-Maharaj, Tribune

Mary McPhail, Tribune

Issues:

[1] Is more clarification needed on paragraph 13 of DIE Board Ruling 2011-05?

[2] Can the Students' Union appoint a proxy on a board/committee where an individual cannot due to a leave of absence?

Relevant Legislation:

[3] From Bylaw 2200 §12(2):

> "(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."

[4] From DIE Board Ruling 2011-05

> "[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] An 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.

…

[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."

Decision:

The Panel made the decision below unanimously.

[5] To reiterate from previous rulings, the DIE Board is a judicial body which interprets Students' Union Bylaws. The Panel agrees that the intention of Bylaw 2200, as with all other Bylaws, is not to be inconsistent with University policy or higher law.

[6] The Panel agrees that the intention of Bylaw 2200 §12(2) is to compel electoral candidates to resign from committees that may provide them an advantage over other candidates, or would put them in a conflict-of-interests.

[7] The Panel recognizes that paragraph 13 of DIE Board Ruling 2011-05 is ambiguous with respect to committee positions requiring a leave of absence, and agrees that more clarification is necessary. Since the DIE Board is not bound by the precedent set by its own rulings, the Panel elects to restate their interpretation of Bylaw 2200 rather than scrutinize DIE Board Ruling 2011-05.

[8] The Panel agrees that individuals taking a leave of absence from their elected position must also take leave of absences from all committees which they were appointed to, either by virtue of said position or by Students' Council. For example, the VP Academic would be required to resign from all committees that he/she regularly sits on as part of the position (irrespective of the individual), committees they were appointed to by virtue of their status as VP Academic, and committees he/she was appointed to by Students' Council or the Students' Union Executive.

[9] With respect to proxies, the Panel upholds DIE Board Ruling 2011-05 whereby "[a]n 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."

[10] However, in instances where the vacant board seat is not mandated for a specific elected position in SU Bylaw or policy, the Students' Council, where appropriate, may designate a proxy if necessary. This presumes that the individual who held the elected position was appointed to that board by Students' Council in first instance.

[11] In the example provided by the appellant, the Vice President Academic was appointed by Students' Council to sit on the Chief Librarian Search Committee, a board with strict quorum and timeline requirements that conflicts with the SU Executive

Election. The Panel agrees that in this instance, the VP Academic must resign from this committee, as he was appointed his seat by Students' Council over the course of his elected term. He may not designate a proxy. However, the Students' Council may appoint a proxy in his absence.