

DIE BOARD RULING 2013-01

HEARING DETAILS:

Style of Cause: Chelen re: Bylaw 8100

Hearing Date: January 3rd, 2014

Hearing Number: Ruling #01 2013/2014

DIE Board Panel Members: Cian Hackett, Associate Chief Tribune, Chair
Harvir Mann, Associate Chief Tribune
Catherine Fan, Tribune

Appearing for the Applicant: Dustin Chelen, Students' Union Vice President, Academic

Appearing for the Respondent: N/A

BACKGROUND:

In July, 2012, the Nursing Undergraduate Association (NUA) was placed on probationary status by the Students' Union according to Bylaw 8100. This probationary status was extended on July 10, 2013 according to Bylaw 8100. Bylaw 8100, Section 27 subsection b states that a probationary status may be extended for up to six months, and the NUA's probationary status is reaching the limit of this six month extension on January 10, 2014. Other than the ratification of a revised constitution at a general meeting, the Students' Union has no reason to believe that the Conditions of Probation will not be met by January 10, 2014.

Mr. Chelen made this application to seek clarification of Students' Union Bylaw 8100 Section 27 subsection b. The panel was asked to rule on the process after the probationary period had already been extended by six months, as the bylaw is not clear.

Mr. Chelen indicated he was the author of Bylaw 8100, Section 27 subsection b and expressed that the intent of the bylaw was to give reasonable and clear deadlines to Faculty Associations to meet their Conditions of Probation without dragging on the process.

ISSUES:

[1] What are the Students' Union's options after a probationary period has been extended to a maximum of six months according to Bylaw 8100, section 27 subsection b?

[2] Can the Students' Union extend the probationary period repeatedly after the maximum of six months if it believes the Conditions of Probation will be met during the subsequent extension?

RELEVANT BYLAWS:

[3] **From Bylaw 8100, Section 14:**

14. All determinations by the Students' Union required by this bylaw shall be made by the Vice President (Academic) in consultation with the Student Governance Advisor, the Manager of Student Group Services and the following:

- a. The Chief Returning Officer on all matters pertaining to Association elections, plebiscites and referenda;
- b. The Chair of Audit Committee on all matters pertaining to Association finances; and
- c. The Dean of Students and the Dean of all affected faculties on all matters pertaining to Association recognition, probation or derecognition.

[4] **From Bylaw 8100, Section 19:**

19. The Students' Union may derecognize an Association, thus leaving an unrepresented constituency if:

- a. The Association applies for derecognition;
- b. A majority of the students which the Association represents petition for derecognition; or
- c. An Association is found to be in gross violation of its conditions of probation.
- d. A probationary Association does not meet its conditions of probation in accordance with the timelines set out in section 26.

[5] **From Bylaw 8100, Section 24:**

24. Any decisions made pertaining to an Association's status must include thorough investigation, consultation, transparency, and adherence to the principles of natural justice

[6] **From Bylaw 8100, Section 25:**

25. The Students' Union may recognize an Association as having probationary status if:

- a. Multiple significant issues, including but not limiting the generality of the foregoing: financial misrepresentation, constitutional violations, alleged violations of the Code of Student Behaviour, or failure to adhere to basic standards of democratic accountability or administrative and financial transparency, arise out of the annual recognition process, notwithstanding Section 14.d of this bylaw;
- b. The Association applies for probation; or

[7] **From Bylaw 8100, Section 26:**

26. The Students' Union and the Association, having probationary status, shall agree to and sign Conditions of Probation, which shall govern the Association while it retains its probationary status.

[8] **From Bylaw 8100, Section 27:**

27. After three calendar months and before one calendar year of an Association being recognized as having probationary status, the Students' Union shall ;

- a. recognize the as no longer having probationary status and no longer being subject to their conditions of probation, if the Association has met their conditions of probation;
- b. extend the probationary period of an Association for up to six months, if all parties to the conditions of probation consent to the extension or if the Students' Union has reason to believe that the conditions of probation will be met during the period of extension; or
- c. derecognize the Association, if the conditions of probation are not met and the Students' Union has no reason to believe that the conditions of probation will be met during the period of extension.

DECISION:

The following decision was made unanimously.

[9] The panel finds that Bylaw 8100 is silent with respect to the Students' Union's options after a probationary period has been extended for six months. Bylaw 8100, Section 19 implies with the word "may" that there are options other than derecognition if an Association does not meet its Conditions of Probation.

[10] The panel rules that Bylaw 8100, Section 14 gives the Students' Union Vice President, Academic discretion over the probationary status of the group where the bylaw is silent.

[11] The panel accepts the interpretation of the intent of Bylaw 8100, Section 27, given by Mr. Chelen, to be reasonable.

[12] The panel recommends that the Students' Union's Bylaw Committee clarify Bylaw 8100, Section 27 to provide clear guidance on the Students' Union's options after a probationary period has already been extended for six months. In the absence of changes, as stated in [10], the Students' Union Vice President, Academic shall have the power to make reasonable decisions based on the principles outlined in Bylaw 8100, Section 24 and in accordance with the procedures outlined in Bylaw 8100, Section 14.