

DIE BOARD RULING 2014-01

HEARING DETAILS:

Style of Cause: Hodgson re: Bylaw 100

Hearing Date: August 19, 2014

Hearing Number: Ruling #01 2014/2015

DIE Board Panel Members: Harvir Mann, Associate Chief Tribune, Chair
Catherine Fan, Tribune
Taylor Wong, Tribune

Appearing for the Applicant: Cory Hodgson, Students' Union Vice President, Operations & Finance

Appearing for the Respondent: N/A

BACKGROUND:

The Grants Allocation Standing Committee and Policy Standing Committee have standing orders allowing them to recommend the removal of members to Students' Council. The Nominating committee in particular, outlines that missing four meetings or more without a proxy serves as a justification for removal.

Bylaw 100, section 7 subsection 4 states that Students' Council-elect shall select the compositions of the ensuing year's Students' Council standing committees at the first meeting but is silent in regards to removal of voting members from them. Bylaw 100, section 15 subsection 3 states that standing committees may adopt standing orders as so not to conflict with legislation [bylaws].

Cory Hodgson, Students' Union Vice President (Operations & Finance), is a member of Students' Council who made this application to the Discipline, Interpretation, and Enforcement (DIE) Board seeking clarification on Bylaw 100. According to Mr. Hodgson, said bylaw is silent in regards to whether Students' Council standing committees have the authority to remove voting members with poor attendance records unilaterally, without the input of Students' Council. Mr. Hodgson argued that rather than having to provide recommendations to Students' Council, standing committees have the authority to remove members through the use of standing orders.

The panel was asked to interpret who has the authority to remove Councilors from standing committees and what is the process for removing such an individual, as the bylaw is not clear.

ISSUES:

[1] As stated by Bylaw 100, section 7 Students' Council has the authority to determine the composition of the ensuing year's standing committees, but does that refer to nominations and exclude removal?

[2] Are standing committees able to adopt standing orders that do not conflict with legislation in regards to removing Councilors?

[3] Assuming Students' Council has the authority to remove members of standing committees, do the standing orders of certain committees violate the principle that standing orders do not conflict with legislation [bylaws]?

RELEVANT BYLAWS:

[4] From Bylaw 100, Section 4:

1. Students' Council does not have the authority to remove any Councilor.

[5] From Bylaw 100, Section 7:

4. At the introductory meeting, the Students' Council-elect shall
 - a. select the ensuing year's Speaker of Students' Council,
 - b. select the compositions of the ensuing year's standing committees, and
 - c. set the meeting schedule for the ensuing year's Students' Council, with the first meeting to occur not before the last scheduled meeting of the current Students' Council and not later than May 7, and the last meeting to occur not later than May 7 of the succeeding year.

[6] From Bylaw 100, Section 15:

2. Standing committees may adopt such standing orders as do not conflict with legislation.
6. Every standing committee named at the introductory meeting shall hold a meeting before the first meeting of its Students' Council in order to
 - a. elect a chair,
 - b. set initial standing orders, and
 - c. set a meeting schedule for its first trimester.

[7] From Bylaw 100, Section 16:

1. The chair of each standing committee shall, after each meeting of the committee, submit to Students' Council a report including
 - a. any decisions made by the standing committee acting under authority delegated to it by Students' Council,
 - b. any recommendations made by the standing committee to Students' Council,
 - c. any standing orders adopted by the committee, and
 - d. a summary of all motions passed by the standing committee at the meeting in question
2. The Speaker shall table each report from each standing committee in Students' Council.
3. No decision made by a standing committee acting under authority delegated to it by Students' Council is effective before it has been provided to the Speaker as part of the standing committee's report to Students' Council.

DECISION:

The following decision was made unanimously.

[8] The panel finds that Bylaw 100 is silent with regards to whether standing orders issued by standing committees can concern removal of members from them.

[9] The panel recognizes that according to Bylaw 100 Section 15, standing committees may adopt standing orders so long as they do not interfere with legislation.

[10] The panel rejects the interpretation of Bylaw 100 Section 15 referring to standing committees having the authority to remove members by inserting clauses of standing orders. Bylaw 100 section 7 states that Students' Council shall select the composition of standing committees, This section has been interpreted to imply that ultimate authority to determine the final composition of standing committees lies with Students' Council, as Council has the authority both to select the initial members and to fill any vacancies that may arise with their candidate of choice. Of note, the majority of standing orders from standing committees which have adopted removal procedures implicitly acknowledge Council's authority on this matter, as provisions for recommending the removal of a voting member leaves the final decision to Council. Since it has been established in [9] that standing orders may not interfere with legislation, standing committees cannot make standing orders conflicting with this principle.

[11] The panel finds that certain committees have issued standing orders which are in contravention to the principle that bylaws supersede standing orders. The Nominating Committee has a standing order allowing for automatic removal of members following repeated absences, bypassing the authority of Council. It is the D.I.E. Board panel's opinion that these standing orders contravene the intent of Bylaw

100 Section 7 by giving the standing committee the right to determine its composition independent of the desires of Council and shall hereafter be held to be invalid.

[12] The panel recommends that the Students' Council Bylaw Committee clarify Bylaw 100, Section 7 to provide clear guidance on whether Students' Council may allow standing committees unilateral authority to determine their composition without prior approval by Students' Council. This authority must be explicitly delegated by Council. Alternatively, Council may also adopt bylaws outlining criteria for ongoing membership in standing committees if so desired. In the absence of changes, as stated in [10], Students' Council shall have the power to make decisions in regards to composition of standing committees, encompassing nomination and removal.