

**Submissions for the Applicant
Christian Zukowski, Speaker**

PART I: OVERVIEW AND STATEMENT OF ISSUE

[1] The Speaker of Students' Council [the Speaker] submits the following issue for the Board's consideration:

[a] Bylaw 100 of the Students' Union requires that the Speaker "confirm that all individuals occupying positions requiring them to be undergraduate students meet all requirements set out in bylaw".¹ Specifically, Councillors are required to be enrolled in the Faculty that they represent.²

[b] In carrying out this duty, the Speaker found that Haruun Ali [the Respondent], an Arts Councillor, is not enrolled in the Faculty of Arts. Since Bylaw 100 is silent on what should occur if these provisions are contravened, the Speaker is applying to the Board for remedy under Bylaw 1500.

PART I: FACTS AND LEGISLATION

[2] On June 28, 2022, the Speaker received an email from a member of Council that alerted the Speaker to the following:

[a] the enrolment requirements and the duty of the Speaker in relation to those requirements, as contained in Bylaw 100; and

[b] that an unnamed member of Council may not meet these requirements.

[3] On June 29, 2022, the Speaker initiated the confirmation process in Bylaw 100. Due to uncertainty on the appropriate way to enact this process, verification was delayed until

¹ Bylaw 100, section 8(1)(c).

² Bylaw 100, section 3(2).

July 11, 2022. The Speaker worked with governance staff and the Elections Office to verify enrollment.

[4] On July 11, 2022, the Elections Office forwarded correspondence with the University that stated that Haruun Ali is not presently enrolled in the Faculty of Arts. Given the Applicant's ongoing concerns regarding privacy, this correspondence can be provided at hearing.

[5] On July 12, 2022, the Speaker met with the Respondent to request that they resign from their position. The Respondent refused the Speaker's request and stated that they would like the matter to be settled by the DIE Board.

[6] After July 12, 2022, the Respondent raised a multitude of issues concerning both the Application specifically and Council process more generally. Though the Speaker maintains that these issues should not impact the Board's determination, the original Application was withdrawn on July 15, 2022, to allow Council to have a discussion regarding both the Respondent's concerns and the matter of eligibility.

[7] Subsequently, this issue and related matters were discussed at Council Administration Committee and Students' Council over the course of multiple weeks and meetings. At the August 9, 2022, meeting of Students' Council, the following motion was approved:

For the speaker of council to resubmit the DIE board application regarding eligibility to the DIE board by August 9th.

[8] As per Council's direction, the Speaker is now resubmitting the complaint filed on August 12, 2022.

PART II: STATEMENT OF ARGUMENT

- [9] The Speaker respectfully submits that, in this case, the facts and legislation supports the assertion that the Respondent is ineligible to hold the position of Arts Councillor: the Respondent is not presently enrolled in the Faculty of Arts and therefore cannot represent that Faculty on Students' Council under Bylaw 100.
- [10] It is further submitted that whether or not the Respondent will be enrolled in the Faculty of Arts for Fall Semester of 2022 is irrelevant. Given that Fall Term classes do not begin until September 1, 2022, the Respondent is not enrolled in the proper faculty at the present time and therefore is ineligible to represent the Faculty of Arts until such a time that they are enrolled. Any argument to the contrary would allow Councillors to represent faculties that they are not enrolled in.
- [11] Despite such a clear contravention of eligibility requirements under Students' Union legislation, Bylaw 100 is silent on what process should be followed in situations such as this and what powers the Speaker has in enforcing Bylaw 100.
- [12] The Speaker respectfully submits that Students' Union legislation regarding Council positions and the election to those positions creates a form of representative democracy. While the Speaker acknowledges that faculty enrolment can be fluid for students, an abrogation of these rules not only contravenes Students' Union legislation and a specifically enumerated power under the *Post-Secondary Learning Act*,³ but also threatens to put this representative democratic system in disrepute among the broader undergraduate body.

³ *Post-Secondary Learning Act*, section 95(2)(b).

[13] The Speaker submits that, given the clear contravention of legislation and that Bylaw 100 is silent on an enforcement, that the Board should apply its general powers of enforcement granted under Bylaw 1500 and order a remedy.⁴

PART III: ORDER REQUESTED

[14] It is respectfully requested that the the Board orders the following:

[a] that Haruun Ali, Councillor for the Faculty of Arts on Students' Council, be removed from Students' Council effective immediately.

⁴ Bylaw 1500, s. 29.