

DISCIPLINE, INTERPRETATION, AND ENFORCEMENT BOARD

Citation: *Taha v. Council*, 2021-05

BETWEEN:

Rama Taha

Applicant

- and -

Students' Council (Speaker)

Respondent

SECTION 21(7) DECISION BYLAW 100

Panel Members:	Christian Zukowski, Chief Tribune (Chair) Kienna Shkopich-Hunter, Tribune Emily Stolz, Tribune
Hearing Date:	September 17, 2021
Witnesses for the Applicant:	None
Witnesses for the Respondent:	None

The reasons of the Board are delivered by Zukowski CT:

RELEVANT LEGISLATION

[1] The relevant attendance regulations from Bylaw 100, *A Bylaw Respecting Students' Council*, are reproduced below:

21. Attendance Regulations

- 1. "Satisfactory attendance" is defined as being present for at least 50% of roll calls per trimester.*
- 2. "Unsatisfactory attendance" is defined as being present for less than 50% of roll calls per trimester.*
- 3. Councillors are expected to attend, send a Proxy or Councillor-Designate, to meetings of Students' Council as minimum expectations of holding office.*
- 4. A Councillor must maintain satisfactory attendance each trimester to remain a Councillor for the following term.*
- 5. Formal attendance percentages shall be calculated for each Councillor at the end of every trimester by the Speaker, and be provided as an information item to Students' Council.*
- 6. Where a Councillor has unsatisfactory attendance at the end of the trimester, they shall be declared in contravention of this Bylaw and automatically removed as a member of Students' Council.*
- 7. The contravening Councillor shall be able to appeal their removal to DIE Board within three (3) business days of their removal, based on extenuating circumstances at the Board's discretion, including those listed below:*
 - a. Personal circumstances including medical, emotional, mental, or family emergencies; or*
 - b. Academic program requirements, where evidence of mandatory evening or overnight commitments is provided confirming the conflict with meeting these attendance requirements; or*
 - c. Other circumstances deemed reasonable, at the discretion of the DIE Board.*
- 8. Unreliable proxies or Council-Designates shall not be considered a reasonable excuse for appeal, unless DIE Board deems there were extenuating circumstances.*
- 9. During the appeal proceedings, the Speaker shall attend the hearing to provide the official attendance record and field any questions of the Board.*

10. Should the DIE Board approve the appeal of the contravening Councillor, that Councillor shall be re-appointed immediately.

FACTS

[2] On August 13, 2021, Rama Taha (the Applicant) appealed to this Board to review their removal from Students' Council due to unsatisfactory attendance requirement under s. 21 of Bylaw 100 (reproduced above).

[3] The respondent Speaker of Students' Council (the Respondent), determined that the Applicant had contravened the attendance. In support of this, the Respondent provided the Council attendance record to the Board.

[4] The attendance record shows that the Applicant was present for only 10 of a total 30 Council roll calls in the Spring/Summer trimester of Council, which ran from April 20, 2021, to August 24, 2021.

[5] As Bylaw 100 s. 21(2) defines unsatisfactory attendance as less than 50% of roll calls in a given trimester (in this case, 15), the Applicant was removed by Council in accordance with the process described in s. 21(6) of Bylaw 100.

[6] At hearing, the Applicant submitted that they had travelled to Syria in July in response to a family emergency. The Applicant submitted that, as a result of this, they did not have access to reliable internet through which they could attend meetings of Council.

[7] The Applicant submitted that, despite this situation, they attempted to mitigate the impact of their personal circumstance on their duties as a Councillor. Such mitigating efforts included notifying the Respondent of their situation; and buying cell data and downloading a VPN service in order to access the video application.

[8] Despite this, the Applicant submitted that their data would often run out midway through meetings of Council, impacting the Applicant's ability to meet roll calls.

[9] These submissions are both supported by the Respondent and are corroborated by the Applicants improving attendance toward the end of the Spring/Summer trimester.

[10] When asked whether the Applicant had tried to find a proxy or Councillor-Designate, the Applicant stated that they had initially thought that this mechanism was reserved for Executives, but was regardless unsuccessful when trying to find a proxy later in the trimester.

[11] In support of this, both the Applicant and Respondent provided statements that engagement with the Students' Union on Augustana Campus (the Applicant's former constituency) is low and that this makes it difficult to find a proxy.

[12] Further, the Applicant submitted that due to the fact that they currently live in the United Arab Emirates, it has been more difficult to maintain relationships with students at Augustana who might potentially serve as proxies.

[13] The Applicant submitted that they intend to return to campus in-person for Winter Semester of 2021.

ISSUES

[14] The issues before this Board are as follows:

1. *Did the Applicant contravene section 21 of Bylaw 100?*
2. *Were the circumstances that prevented the Applicant from meetings of Students' Council extenuating as described in Bylaw 100?*

ANALYSIS

1. Did the Applicant contravene section 21 of Bylaw 100?

[15] The attendance record provided by the Respondent, as well as copies of that record contained within the Order Papers of Students' Council, indicate that the Applicant had been present for 10 roll calls during the Spring/Summer Trimester, falling short of the 15 required to meet the requirements for satisfactory attendance under Bylaw 100.

[16] Neither the attendance record, nor the interpretation of the attendance requirements found in Bylaw 100, were disputed at the hearing. As a result, the Board accepts as fact that the Applicant had failed to have satisfactory attendance and was duly removed from Council.

2. Were the circumstances that prevented the Applicant from meetings of Students' Council extenuating as described in Bylaw 100?

[17] In order for an expelled Councillor to be reinstated by this Board, they must successfully defend the cause of their unsatisfactory attendance as falling under an "extenuating circumstance."

[18] Bylaw 100, at s. 21(7), describes three broad categories of extenuating circumstance,

including: personal circumstances, which may include medical, emotional, mental, or family emergencies; academic circumstances, where mandatory evening or overnight academic commitments conflict with meetings of Council; and other extenuating circumstances that are deemed reasonable by the Board.

[19] It is the opinion of the Board that the Applicant's situation falls squarely within the definition of a personal circumstance. At hearing, the Applicant's submissions indicated that their circumstances were personal, in the sense that their relocation to Syria was in response to a family emergency. Further, the circumstances appeared to be unexpected and pose serious and, at times, irreconcilable difficulties in the Applicant's ability to attend Council. Further, attempts at mitigating such circumstances made by the Applicant were not successful at resolving the impact of such circumstances on the Applicant's attendance. Put simply, these circumstances were not simply a matter of *choice* in attending Council, but rather of *ability* to attend.

[20] The fact that the Respondent does not dispute these facts, this interpretation, or the Applicant's reinstatement further supports the Board's interpretation here.

DISPOSITION

[21] The issues before this Board, and the answers to those issues, are as follows:

1. *Did the Applicant contravene section 21 of Bylaw 100?*

Yes.

2. *Were the circumstances that prevented the Applicant from meetings of Students' Council extenuating as described in Bylaw 100?*

The circumstances that prevented the Applicant from meeting the requirements for satisfactory attendance fall under the intended meaning of personal circumstance under s. 21(7)(a) of Bylaw 100.

[22] Given this, the Board allows the Applicant's appeal and orders their reinstatement to Council effective immediately.

Appeal allowed.