

DIE BOARD RULING 2020-01

Hearing Details:

Style of Cause: *Reference re Students' Union Bylaw 8200*

Hearing Date: November 23, 2020

DIE Board Panel Members: Kyle Ramsey, Associate Chief Tribune (Chair)

Kienna Shkopich-Hunter, Tribune

Tamya Chowdhury, Tribune

Applicant: David Draper, VP Academic/ Students' Union

Witnesses: Christian Fotang.

The reasons of the Board are delivered by Associate Chief Tribune K. Ramsey

REFERENCE QUESTION AS SUBMITTED:

The current requirement to notify the Students Union of one's intent to run a FAMF campaign (8200,7,2) is lacking clarity around who one notifies as well as what notice looks like. Clarity on this process is essential for Faculty Associations looking to run a FAMF campaign

LEGISLATION:

Bylaw 8200

A Bylaw Respecting Student Representative Association Finances

7. Student Representative Association Fees: Purpose and Eligibility

2. The Association shall notify the Students' Union by November 15th, of the year before the fee is to be implemented, of its intent to create a student Representative Association Fee

FACTS

[1] On November 23, 2020, David Draper, ["the Applicant"] requested this Board to conduct an interpretation of the Students' Union bylaw number 8200(7)(2). The provision states: "The Association shall notify the Students' Union by November 15th, of the year before the fee is to be implemented, of its intent to create a Student Representative Association Fee". The Applicant seeks clarification about what member of the Students' Union the notification is to be submitted to and the specific form the application should take.

ISSUES

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

1. *Does this application fall within the scope of this Board under Bylaw 1500?*
2. *Under what circumstances should the Board exercise its interpretation power granted under Bylaw 1500?*
3. *Is it necessary for the Board to interpret and clarify Bylaw 8200(7)(2)?*

ANALYSIS

[3] Regarding the first issue, we are of the opinion that the application for interpretation of the Bylaw does fall within the scope of this Board. Under *Bylaw 1500(3)(1)(b)*, this Board is granted the discretion to interpret Students' Union bylaws when the meaning is not sufficiently clear. In addition, the Applicant possesses sufficient standing outlined in *Bylaw 1500(4)(2)(b)* to request this interpretation.

[4] The decision as to when the interpretation of a bylaw is appropriate depends on the facts of each specific case brought to this Board. When interpreting a bylaw, the Board ascribes meaning to legislation drafted by the Student's Council; this is not an insignificant matter. The drafters of the legislation carefully choose the wording to convey a specific meaning. The Board must be mindful of narrowing the construction of a Students' Council Bylaw through the interpretive process. Because of this narrowing, interpretation should only be undertaken when the facts of the application necessitate it. It is our view that this standard has not been met in this case.

[5] In our view, an application's facts will warrant the exercise of the Board's interpretation powers when the Bylaw in question is sufficiently ambiguous, and there is no alternative method to ascertain the meaning of the Bylaw in question. It is our view that this application meets neither condition. *Bylaw 8200(7)(2)* is sufficiently clear, and despite the somewhat ambiguous wording, the Students' Council has provided accompanying documents that completely answer the reference question asked by the Applicant.

The Ambiguity of the Bylaw

[6] It is the view of this Board that *Bylaw 8200(7)(2)* is sufficiently clear. When interpreting legislation, this Board follows the modern approach to statutory interpretation. The procedure of modern statutory interpretation was adopted by the Supreme Court of Canada in *Re: Rizzo & Rizzo Shoes Ltd*, [1998] 1 SCR 27. This approach requires that the words of the legislation be read with their ordinary meaning and in the context of the entire act as a whole in order to distinguish their purposive meaning.

[7] Applying the modern approach described above to *Bylaw 8200(7)(2)*, this Board finds that the Student Council's intention when drafting the Bylaw is sufficiently clear. It would be improper to narrow the meaning of the phrase "The Association shall notify the Students' Union". We are of the opinion that if the Bylaw's drafters intended to define to whom the application should be submitted narrowly, they would have specified this point in the drafting of *Bylaw 8200(7)(2)*.

Alternatives to Interpretation

[8] Even if it were the case that the Bylaw's wording did not clearly convey the intent of the drafters of *Bylaw 8200(7)(2)*, the Students' Council has provided supplementary "Discover Governance" documents that are widely available to the students and staff at the University of Alberta. The Discover Governance documents are quasi-regulatory in nature and provide complete and detailed procedures relating to protocols discussed in many of the Students' Council Bylaws.

[9] To supplement *Bylaw 8200(7)(2)*, the Students' Council has provided the Discovering Governance document titled "How to Hold a FAMF Referendum," which provides a complete answer to the reference question asked of this Board. Because this document provides clarification to whom the Association shall submit a notification and the requirements of that submission, there is no need for this Board to interpret or clarify *Bylaw 8200(7)(2)*.

DISPOSITION

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

1. *Does this application fall within the scope of this Board under Bylaw 1500?*

This application falls within the DIE Board's scope, and the Applicant has the standing to request interpretation.

2. *Under what circumstances should the Board exercise its interpretation power granted under Bylaw 1500?*

The Board should only engage in interpretation of a Students' Council Bylaw when the Bylaw in question is sufficiently ambiguous, and there is no alternative method available to ascertain the meaning of the Bylaw.

3. *Is it necessary for the Board to interpret and clarify Bylaw 8200(7)(2)?*

The Board finds that this application's facts do not make it necessary to engage in interpretation and clarification of *Bylaw 8200(7)(2)*.

Application denied