



Bylaw Changes- Student Court Consultant's Recommendations

Date: March 11, 2009
From: the Oversight and Code and Policies Committees
To: AMS Council

Additions are indicated by ***bold italics***. Deletions are indicated by striking through (~~this~~).

BYLAW 21: STUDENT COURT

1. (a) The Court shall, subject to the *University Act*, the *Society Act*, and the Constitution and Bylaws, exercise disciplinary powers over the Society's organizations and members.
- (b) Notwithstanding this Bylaw, the Court shall have no authority to fetter the discretion of Council with regard to handling or disbursing the funds of the Society.
- (c) For greater certainty, the Court shall have jurisdiction:
 - i) over individuals:
 - (1) for any alleged violation of the Society's Constitution, Bylaws or Code, and
 - (2) for any alleged violation of any rule, resolution or regulation passed by Council or the Society, and
 - (3) for any behaviour deemed unbecoming to a Member of the Society.
 - ii) over the Society's organizations:
 - (1) for any alleged violation of the Society's Constitution, Bylaws or Code, and
 - (2) for any alleged violation of any rule, resolution or regulation passed by Council or the Society, and
 - (3) for alleged failure to maintain a proper standard of conduct at any event sponsored or organized by that organization or by the Society or any other organization, and
 - (4) for the violation of the constitution or bylaws of any subsidiary organization of the Society.
- (d) For any violation of Bylaw 21(1)(c)(i), the Court may:
 - i) impose fines not in excess of ***an amount to be determined by Council in the Code*** ~~ten dollars (\$10.00) per Member~~, and
 - ii) suspend that individual from all Society privileges for any period less than one School Year.

- (e) For any violation of Bylaw 21(1)(c)(ii), the Court may:
 - i) subject to Bylaw 21(1)(b), order that restitution be made by payment out of the general funds of that organization of such amount as the Court shall see fit in all the circumstances, all such amounts to be applied towards remedying any loss or damage caused;
 - ii) in extreme cases, order in addition, the suspension of that organization from the Society;
 - iii) declare that an action is void and of no effect, and that the organization must take the appropriate steps to remedy the situation.

2. The Court shall be constituted by and shall be governed by the following provisions.

- (a) The Court shall consist of five (5) judges and two (2) alternate judges who are active members and are appointed by Council, ***at least two of whom are drawn from faculties other than law*** . Council shall also appoint a Chief Justice from the seven (7) judges.
- ~~(b) The Chief Justice and at least one alternate judge shall be members of the Law Constituency.~~
- (c) The Chief Justice shall be a member of the Law Constituency entering or enrolled in third year Law at UBC Vancouver.
- (d) When appointed by the Chief Justice to sit on a particular hearing, alternate judges shall have the full rank and authority of Judges.
- (e) A quorum of the Court shall be five (5) judges.
- (f) Council shall, in the Code, determine the rules of procedure to guide the conduct of all hearings before the Court. These rules shall be consistent with the principles of natural justice which shall likewise govern the conduct of all hearings.
- (g) Each individual brought before the Court is entitled to be represented by an active member.
- (h) In any proceeding in which an organization of the Society is proceeded against:
 - i) Service upon the President or Chair of that organization of the charge or of any notice required by this Bylaw shall be deemed service upon the organization.
 - ii) The President and two (2) members in good standing of the organization proceeded against are to be appointed by resolution of the organization to represent the said organization in the proceedings.
 - iii) In addition to the representation provided by (ii) hereof, each organization of the Society proceed against shall be entitled to be represented by one additional active member.
- ~~(i) The Court shall be the final interpreter within the Society of the meaning of the Constitution, Bylaws and Code of the Society and shall deliver a written opinion upon any portions thereof at the request of Council or any active member of the Society. The Court shall, in the case of any ambiguity existing in the meaning of a Bylaw, interpret that Bylaw as written, and in no other way.~~
- (j) No appeal shall be taken from an acquittal by the Court.
- ~~(k) No judgment of the Court pronounced under the jurisdiction of this Bylaw shall be acted upon or become binding until that judgment has been received by a Resolution of Council.~~
- (k) ***Decisions of Court shall be sent to the next sitting of Council, at which time they shall become binding.***

- ~~(1) Court shall, within one (1) calendar week of Council referring a referendum to Court in accordance with Bylaw 4(2), supply Council with a suitable text for that referendum question.~~
3. The Court may be summoned by Resolution of Council, or by any active member who may make an application in writing to the Clerk, as provided in the rules of the procedure of the Court. It shall be a duty of the Council to receive and inquire into the complaint of any Member or employee of the Society which is submitted according to the rules of procedure of the Court. Each person against whom, in the opinion of Council or its designated committee, there exists a prima facie case within the jurisdiction of the Court, shall be handed a formal charge, as provided in the Code no later than three (3) clear days before the date set for the hearing of his case.
 4. For any violation pursuant to Bylaw 21(1)(c) brought to the Court, Council shall appoint a Prosecutor who shall be an active member.
 5. A clerk of the Court shall be appointed by Council and his duties shall be:
 - (a) To publish a notice as provided in the rules of procedure of the Court before each sitting of the Court.
 - (b) To prepare a room suitable for a sitting of the Court for the time, day and place specified in the notice of charge duly received by the accused in that proceeding.
 - (c) To take possession of and be responsible for the production of all exhibits and other materials relevant to a proceeding.
 - (d) To record the judgment of the Court, the course of the proceedings and in particular, the points of evidence adduced by counsel and to keep the same in a bound volume in a secure place.
 - (e) To request of each witness and each accused called to give testimony and undertaking in the terms provided in the rules of procedure of the Court.
 - (f) To request of each witness and each accused a statement of his faculty and year.
 - (g) To publish by notice in the *Ubysey* the decision of the Court.

BYLAW 4: REFERENDUM

1. A referendum for the Society shall be called by the President upon:
 - (a) a Resolution of Council; or
 - (b) a petition duly signed by five percent (5%) of the active members or one thousand (1000) active members, whichever is the lesser number, evidencing their Registration Numbers, and delivered to the Vice-President.
2. The text of the referendum shall be drafted to ensure that the question is capable of being answered “yes” or “no” ~~and if in the opinion of Council a petition for a referendum does not meet this requirement, Council shall forthwith refer the referendum to the Court to prepare a clear and unambiguous question.~~
3. Subject to Bylaw 4(5), a referendum shall be put to the members not less than ten (10) days and not more than thirty (30) days after the passing of a Resolution of Council calling for the referendum or the submission to the Vice-President of a petition referred to in Bylaw 4(1)(b), ~~or not less than ten (10) and not more than thirty (30) days after the Court supplies Council with a suitable text for the question if the referendum is referred to the Court in accordance with Bylaw 4(2).~~

4. A referendum of the Society shall, subject to these Bylaws, be acted upon by the Society where:
 - (a) a majority, or such greater percentage as may be required by the *Society Act*, of the votes cast support the referendum; and
 - (b) the number of votes cast supporting the referendum is equal to or greater than eight percent (8%) of the active members of the Society.
5. No referendum shall be held except during the School Year.
6. ***Referenda shall be conducted by the Elections Administrator, with appeals to be heard by the Elections Appeal Committee, and ultimately, Student Court.***