

REMOVING STUDENT COURT FROM THE AMS BYLAWS

TO: Council
FROM: Governance Committee
January 2018

Amendments to remove Student Court from the bylaws and transfer some of its powers to Council.

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

BYLAW 1: INTERPRETATION AND DEFINITIONS

2. In these Bylaws unless the context otherwise requires:

~~□ Court shall mean the student court of the Society~~

BYLAW 2: MEMBERS OF THE SOCIETY

2. Expulsion From the Society

A Member ceases to be a member of the Society upon:

(a) falling to meet the requirements as set out in Bylaw 2(1); or

~~(b) on the ruling of the Court pursuant to Bylaw 21; or~~

(e b) upon a Resolution of the Members of the Society

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 Student Numbers, and delivered to the Vice-President Academic and University Affairs.

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.~~ ***Council shall forthwith arrange to have the referendum question redrafted so that it does meet the requirement.***

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 Academic and University Affairs 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).~~ **the redrafting of a question in accordance with Bylaw 4(2).**

BYLAW 5: STUDENT COUNCIL

1. Powers and Duties

The Board of Directors of the Society shall consist of the voting members of Council and, subject to the Bylaws, the management, administration, and control of the property, revenue, business and affairs of the Society are vested in Council. Pursuant to the foregoing, Council:

- (a) shall be the sole official body representing the Society;
- (b) shall appoint the Ombudsperson using such procedures as provided for in the Code;
- (c) may, upon Two-thirds (2/3) Resolution, remove the Ombudsperson and any other persons appointed by Council provided that the persons to be removed shall have been given seven (7) days notice of the meeting at which such Resolution is proposed;
- (d) may by Resolution overrule or amend any item arising out of minutes submitted to it pursuant to the Bylaws or the Code;
- (e) may amend or alter the Code upon Two-thirds (2/3) Resolution;
- (f) may make such further rules and regulations as may be considered necessary for the Society, provided such rules and regulations are consistent with the Constitution, Bylaws, and Code of the Society;
- (g) shall not delegate any of its powers and duties except as may be provided for in the Bylaws;
- (h) shall approve the budget of the Society in accordance with Bylaw 11-;
- (i) ***shall be the final interpreter within the Society of the meaning of the Constitution, Bylaws and Code of the Society.***

BYLAW 15: GENERAL POWERS OF THE SOCIETY

1. Subject to the provisions of the Bylaws, the Society has the power and capacity of a natural person of full capacity as may be required to pursue its purposes, including, without limiting the generality of the foregoing:
 - (a) the power to borrow, raise and secure payment or repayment of money for the purpose of carrying out the objects of the Society;
 - (b) the power to make such regulations from time to time as it may deem necessary or advisable concerning the activities of Council, its committees, ~~branch societies,~~ subsidiary organizations, ~~Court,~~ and any other organization of the Society, and to repeal, vary, alter or amend the same in such manner as it may deem fit;

BYLAW 21: STUDENT COURT

1. ~~(a) The Court shall, subject to the *University Act*, the *Societies 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 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. 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 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.~~

(l) ~~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 of the Court, as provided in the rules of the procedure of the Court. It shall be a duty of 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 the 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 the clerk's 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 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 or her faculty and year.~~
 - (g) ~~To publish by notice on the Society's website or other electronic notice board and in the *Ubysey* or other campus publication the decision of the Court.~~