

March 6, 2006

**STUDENT ARBITRATION COMMITTEE**

PARTIES:

**POLITICAL STUDIES STUDENT ASSOCIATION**

Appellant

- AND -

**LAURA AVALOS, BETSABE CHAIRES, ALARIC MOUBOUYI  
AND CAROLINA MENDOZA**

Respondents

**DECISION**

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On February 27, 2006, a complaint was lodged with the Student Arbitration Committee by Pam Hrick on behalf of the Political Studies Student Association (PSSA). A hearing was held in the morning of March 4, 2006 in room 207 of the University Centre.

The Student Arbitration Committee (SAC) of the Student Federation of the University of Ottawa (SFUO) finds unanimously as follows:

That the appeal made by the PSSA to:

- i) ban any referendum question regarding the separation of the students within the International Development (DVM) and International Studies (EIC) programs from the PSSA from being run during the 2005-2006 academic year
- be rejected.

Evidence taken into consideration by the Student Arbitration Committee consisted only of what was discussed at the hearing on March 4, 2006, the pertinent evidence presented to the committee during this hearing, and any information or clarifications sought by the Student Arbitration Committee from the involved parties during deliberations. This includes the testimony of both the appellant and the respondent, along with witnesses and evidence presented throughout the hearing.

As its mandate, the Student Arbitration Committee had to determine:

- The extent to which the Respondents have breached the regulations with regards to the presentation of referendum questions to the PSSA;
- The extent to which any such breaches have made a fair referendum impossible in this academic year; and,
- The feasibility of allowing the referendum question to be presented to the members of the PSSA within this academic year.

The Political Studies Student Association presented five main arguments for consideration by the Student Arbitration Committee. The Respondents provided their responses to each of these allegations.

The first argument presented by the PSSA referred to Articles 9.3 and 7.3.1 of the PSSA Constitution dealing with the process for the presentation of constitutional amendment referenda. The PSSA alleged that the Respondents breached said Articles, having “unjustifiably launched a referendum campaign without verification or approval by the PSSA Executive.” The Respondents did indeed neglect to receive official approval of both the referendum question and schedule from the PSSA Executive and are guilty of the infraction of those portions of the Articles. Such a schedule should have been negotiated and mutually agreed to by the two parties in good faith. The referendum scheduled by the Respondents for March 7, 8, and 9 is therefore illegitimate and shall not be executed.

The second allegation presented by the PSSA involves the Respondents’ restriction of the voting population of the PSSA with respect to the referendum in question. At first, the Respondents sought to poll only those students in the DVM and EIC programs. They have since agreed to respect the written regulations of the PSSA and allow all current members of the PSSA to be allowed a vote in this referendum question. The Student Arbitration Committee was not presented with arguments by the Respondents against the inclusion of all PSSA members and therefore respects the agreement reached between the two parties in this matter.

The third allegation presented by the PSSA refers to Laura Avalos’ use of the Student Distribution List e-mail services of the Faculty of Social Sciences to advertise the referendum schedule and to encourage the “Yes” vote among members of the PSSA. The PSSA argued this act to be a breach of the spirit of Article 7.10 of the PSSA Constitution, which disallows the use of PSSA

resources during election campaigns. The Student Arbitration Committee understands the advantage the “Yes” campaign has received as a result of this e-mail and condones neither the partisan nature of the e-mail’s content nor the timing of the e-mail’s release. While the Student Arbitration Committee does not believe that the use of the Student Distribution List by a student group or club is in and of itself an inappropriate action, its use during or directly preceding an electoral or referendum campaign is unsuitable. If Ms. Avalos wanted to make use of the Student Distribution List, she should have done so only after the proper schedule for the referendum was made and should have employed it to advertise the referendum without implicitly or explicitly supporting the “Yes” or “No” campaigns.

The fourth allegation of the PSSA was that the Respondents inappropriately transformed the Office of the Faculty of Social Sciences into the unofficial headquarters of their campaign. The Respondents admitted that the office was initially proposed as a location to support their cause, but rectified this situation as soon as they were made aware of its inappropriateness. The Student Arbitration Committee, whilst unsupportive of this original action, does not feel that any harm has been done by this brief error in judgment.

The fifth and final argument of the PSSA was that the Respondents published false accusations that were “injurious to the personal character of the PSSA in the form of an unapproved campaign poster entitled ‘No Taxation Without Proper Representation.’” The Student Arbitration Committee feels this argument is irrelevant to the issue at hand and will not comment on inter-personal conflicts of this nature.

The PSSA also described to the Student Arbitration Committee their intentions to present a separate referendum dealing with the DVM and EIC programs to the members of the PSSA during the upcoming PSSA Elections. The PSSA explained its intentions to suggest the re-structuring of the PSSA to include a system more ‘federal’ in nature with greater DVM and EIC representation enshrined within its structure. The Student Arbitration Committee acknowledges these efforts being made by the PSSA to better represent the students within the increasingly large DVM and EIC programs.

Overall, the Student Arbitration Committee finds it counter-intuitive that the PSSA regulates a potential division of the PSSA. Yet, SFUO Constitution By-Law 2.4.1 stipulates that the attainment of Member status be granted according to the membership rules that govern the Faculty Association in question. The Student Arbitration Committee believes that the Respondents have acted in contravention to many of these membership rules. It also believes, however, that many of these infractions were due to miscommunication or misunderstanding of the regulations and that the Respondents did not act in contravention of the regulations with purpose or malice. Furthermore, the uniqueness of this situation and of a referendum to dissect the PSSA warrants some flexibility within the regulations

which were not created with such a referendum question in mind. In the final analysis, the spirit of democracy and the best interests of all members of the PSSA must guide the decision of the Student Arbitration Committee, and must be weighed against any advantage the "Yes" side of this referendum may have received through the Respondents' actions.

It is for this reason that the Student Arbitration Committee is allowing a referendum question involving the separation of the DVM and EIC programs from the PSSA to take place during the 2005-2006 academic year. The students currently in the PSSA will be best served if this issue is resolved at once. The infractions of which the Respondents are guilty are not irrevocable, and an untainted referendum remains possible. The disallowance of this referendum presents the possibility that re-structuring will begin to occur in the 2005-2006 academic year only to be thwarted by the presentation of a referendum on separation in the 2006-2007 academic year.

## **RECOMMENDATIONS**

- The Student Arbitration Committee recommends that the referendum on separation take place along the same timeline as the PSSA Elections scheduled for March 22 and 23. The PSSA and the Respondents should meet before the campaign period begins on March 9 to resolve the referendum question and to agree to respect all PSSA electoral regulations during the campaign.
- The Student Arbitration Committee believes that the PSSA Executive is not in a position to independently oversee the regulation of this particular referendum campaign. Although PSSA Constitution Article 9.3.2 stipulates that the President of the PSSA act as the Referendum Convener, the Student Arbitration Committee believes that in this case, such a scenario presents a significant conflict of interest. For this reason, the Student Arbitration Committee recommends that the position of Referendum Convener be abdicated to the 2006 PSSA Elections Convener, who has already been appointed to oversee the PSSA Elections. In addition, the Student Arbitration Committee recommends to the SFUO Executive that it appoint a one-time independent Referendum Scrutineer to work in collaboration with the Elections Convener. This Referendum Scrutineer should not be a current member of the PSSA and should be consulted by the Elections Convener on all regulatory questions related to the referendum. This appointment should be made in consultation with the interested parties.
- The Student Arbitration Committee does not mean to implicitly discourage by this decision the presentation of an alternative referendum question involving PSSA re-structuring. Rather, it believes that there are opportunities for both options to be presented to the members of the PSSA concurrently. Although it is not within the purview of the Student Arbitration Committee to decide the

arrangement of referendum questions, it recommends that both referendum questions described throughout this decision appear in some form on the ballots of March 22 and 23. It suggests that the amalgamation of these proposals within one referendum will achieve a timely and all-encompassing solution to this issue.

- The Student Arbitration Committee recommends that if the Student Distribution List e-mail service is to be used to advertise the corrected referendum question(s), the text of this e-mail should be negotiated between the campaigns, the Elections Convener and the Referendum Scrutineer.
- In general, the Student Arbitration Committee believes that SFUO Constitution By-Law 2.4 provides an inadequate guide for the attainment of Member Association status, and fails to address the conflicts of interest that are inherent to such a process when its regulation is left to the current Faculty Association (2.4.1). Subsequently, the Student Arbitration Committee recommends that the SFUO amend this By-Law to create a process that is administered through the SFUO, and not through any individual Member Association in question.
- Both parties have agreed in this case to allow all current members of the PSSA to be polled on these referenda, and that agreement should be respected. In the future, however, the Student Arbitration Committee recommends to the SFUO that the amendments to Constitution By-Law 2.4 stipulate that only students of the programs of study seeking independence be allowed to vote in referenda involving such independence.

This decision shall be deemed final as rendered on Monday, March 6, 2006. Any appeals issued from this decision shall be calculated as of this date and shall only be subject to the evidence and arguments presented throughout this case. As well, please note that the audio recording of the hearing will be kept on file by the Student Arbitration Committee, as per section 8.6.1.9 of the SFUO Constitution, for a period of two years following the final day of the hearing.

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Ross Moncur, Chief Arbitrator, SAC

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Andrew Dowie, Associate Chief Arbitrator, SAC

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Frédéric Pagé, Arbitrator, SAC

**Student Arbitration Committee - Comité d'Arbitrage Étudiant**  
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