

Date: January 29, 2025

Graduate Student Association (GSA)

Election Judicial Committee (EJC)

Chairperson: Me Patrice Blais (non-voting)

Members: Daniela Arias-Hoyos, Sareh Medina, Rakshita Sawani, Harshitha Voleti, Nicholas Von Rosk

Case: Appeal of Kharazmi v. Chief Returning Officer (CRO)

Decision: The EJC, unanimously, grants the appeal and sends the referendum question back to the GSA Council.

Facts: The GSA held a referendum on December 4 and 5, 2024 and various referendum questions were asked to the membership. On Friday November 29, 2024, the director of the CSU legal information clinic (LIC) requested that a paragraph be added to the referendum question describing the services of the LIC. (reproduced below)

To the Chief Returning Officer

Please approve of the following short description explaining the services available through the LIC Fee Levy Question which will be included with the Ballot question and used in campaigning.

Ballot Question:

Do you agree to apply a fee levy of \$2.75 per term in order to allow graduate students with full access to the services offered by the CSU Legal Information Clinic?

By voting for this fee levy, grad students will be helping to overcome the high costs of access to justice and legal fees by receiving ON-CAMPUS, WALK-IN ACCESS to legal info services. Experienced Quebec lawyers and law students will help them to understand and exercise their rights in immigration, small claims, human rights, criminal, contracts, family law, as well as any other areas of law. Legal Consultation, Representation and Referrals can be provided in ALL AREAS OF LAW, with eligible cases having their legal fees and costs paid by the LIC Legal Fee Fund. Grad students will be given prioritized access to immigration and other legal workshops, along with accompaniment to any legal appointments. This fee would be effective beginning in the Winter Semester of 2025.

RESPONSE: YES/ NO/ ABSTAIN

The CRO approved the request and asked the university if they could modify the question accordingly. The university (who controls the voting system) proceeded with the requested changes. The modified referendum was voted on and approved by the GSA members. The validity of the referendum question was contested by Mr. Kharazmi. The contestation was rejected by the CRO and is now appealed to the EJC.

Exhibits presented: The EJC reviewed emails between the CRO and the LIC, the University's Dean of Students Office (DOS), and Mr. Kharazmi.

Applicable By-Laws and Policies: The references to articles of the By-Laws in this decision are the By-Laws in force on March 14, 2022.

Analysis:

Did the CRO have the power to modify the referendum question unilaterally?

The CRO does not have the power to substantially modify approved referendum questions by Council under article XVII section 1.1 of the By-Laws. The CRO can do minor editorial changes, only if necessary. Any substantive changes must be approved by the GSA Council prior to the referendum. Substantive changes are not possible when the referendum is called by petition (article XVII section 1.2), because it is practically impossible to get the consent of every signatory.

The CRO also erred in allowing the request on a second ground. The CRO has the responsibility to enforce article XII article 15 forbidding external organizations from campaigning in a referendum. The request of November 29, 2024 from the manager of the LIC mentions that the description requested to be added to the question will be used in campaigning. The LIC is an external organization to the GSA and the manager of the LIC is not a member of the GSA. Both should not be involved in any campaigning, much less making requests to modify the question to align it with campaign objectives the LIC should not be a part of. It is up to graduate students to campaign to support or oppose a referendum question. The CRO should have instead enforced and reminded the manager of the LIC of the applicable GSA By-Laws.

Referendum Questions should remain objective

Despite the first 2 points, if the CRO had the power to change a referendum question and should the request have come from a GSA member, it still could not have been changed the way it was written. Referendum questions must remain objective and deprived of elements that can be challenged or debated. Information should be very limited to what is absolutely necessary, and the use of adjectives such as "Experienced" should be used with major caution or not used at all. The use of CAPS to put emphasis on some words is also not appropriate. The addition of this paragraph was made to create a favorable bias by the reader.

For all these motives, the EJC unanimously invalidates the referendum question and sends back the issue to the GSA Council in order for them to decide on the next steps, and should the GSA Council decide to send this question back to referendum, decide on its wording.

Recommendations

Inadequate GSA minutes

The EJC in trying to adjudicate this case has taken notice that the minutes of the GSA Council (September 23, 2024) are totally below the proper standards of minute taking. The EJC is also worried that the GSA Council approved such inadequate minutes and it rendered the work of the EJC quite complicated. For example, the wording of approved referendum questions must be included in the motion. Secondly the minutes of the September 23 meeting shows the Chair of the EJC moving a motion regarding a referendum question (ironically the one concerned by this case). The Chair of the EJC doesn't have the right to move a motion and never moved the concerned motion. There are also numerous other problems in this set of minutes on issues unrelated to the issue at hand. Those mistakes should have

been corrected when Council approves the minutes at a subsequent meeting before publication on the website. The EJC recommends that the GSA Council reviews the minutes of September 23, 2024, and other sets of minutes from the 2024-2025 Academic Year that might be approved with similar problems.

The EJC, in its decision of May 4, 2024, made recommendations to the GSA to give the CRO resources to help enforce article XII section 15 (on third party interference). This recommendation was not only not followed, but the CRO in this referendum ended up being complicit with an outside interference despite this issue being explicitly addressed in the training. The EJC strongly reiterates its previous recommendation and directs the Executive and Council to address this point in any interviews with potential CRO future applicants.

A handwritten signature in black ink that reads "Patrice Blais". The signature is written in a cursive, flowing style.

Me Patrice Blais

EJC Chairperson