



## Fee Levy Reference Decisions

Reference Questions Requested: October, 1, 2021

Decision Made: October, 8, 2021

### Reference Requested By:

Fee Levy Committee

### Interested Parties:

Tzvi Hersh Filler

Malcolm Asselin

Aria Khaksar

Ikrane Housni

Howard Issley

### Judicial Board Members:

#### Non-voting chairperson:

Sedda Djaoud

#### Unanimous Decision:

Jose Tornes

Vincent Bologna

### Statement of Facts:

The Judicial Board received a series of reference questions from the Fee Levy Committee (hereafter the Committee) on October 1, 2021. The questions were referring to the new Policy on Fee Levy Applications. According to Eduardo Malorni, the CSU's General Coordinator, the Council ratified the new policy on September 23, 2021. In its reference question 1 (see Annex), the Committee mentions an unnamed fee-levy candidate who submitted their application before the ratification of the new policy.

### Decision

#### Regarding Reference Question 1:

The Judicial Board had unanimously agreed that the previous Policy on Fee Levy Applications should apply to the unnamed fee levy group that submitted a request before the new policy was ratified. As requested by the undermentioned section;

*1.2.2.2 A list of at least 3 officers responsible for the organization*

shall be sufficient for the current case.

As the new policy has yet to be posted on the CSU website and the fee-levy candidate was not made aware of the changes, this body agrees that an exception can be made for this particular circumstance. Indeed, it would have been impossible for the applicant group to anticipate the new policy's requirements before it came into place. Thus, to ensure a fair and equitable selection process for said group, we have come to this decision.

Nonetheless, this exception shall only be made for the fee levy groups that were impacted by the delay in updating the regulation on the website. As soon as the new policy is made available to the general public on the website, no exception will be granted. Applicant groups will be responsible for providing all the requested information on their application.

### Regarding Reference Question 2:

As per Section 2.1 of the new Policy on Fee Levy Applications:

*2.1. The Fee Levy Review Committee shall consider the following criteria in making a decision to recommend sending a question to referendum*

The Judicial Board unanimously agrees that the Committee shall consider only the criteria mentioned in section 2.1.1 of the Policy on Fee Levy Applications. Nonetheless, this Board interprets the words "verify," "consider," and "determine" as meaning that the Committee can review the content of each individual criteria. Thus, this Board interprets that the Committee shall include the application's content in their decision process.

### Regarding Reference Question 3:

As per the Policy on Fee Levy Applications, there is no mention of any conditional approval of a fee-levy application. Nonetheless, the Judicial Board finds that "a breakdown of future expenditures" falls under the section:

*2.1.1.2.3 Determine that the requested funds accurately reflect the group's goals.*

of the policy and thus must be reviewed before sending the application to Council.

## Annex

### Summary of incident(s)

In accordance with Bylaw 8.2a, the members of the fee Levy Committee would like to request a reference decision with regards to interpreting the policies in the following three dilemmas:

1. The policy has recently been changed. Before the policy was changed, a group requesting fee levy status filed their request. After the policy was changed, the group's request no longer complied based on a technicality (it listed 3 signing officers instead of 6). Note that this technicality falls under the category of one of the articles to which the notwithstanding clause cannot apply. Question: Are we to apply the old policy (in force when they submitted their application) or the new one (currently in force)?

2. Article 2.1 of the new Policy on Fee Levy Review states:

"The Fee Levy Review Committee shall consider the following criteria in making a decision to recommend sending a question to referendum:"

2.1.2.1.1 "Verify that all of the appropriate documentation has been submitted"

Note: Article 2.2 used to be "Under no circumstances shall it take into consideration the mandate or mission of the group in question. The Committee's considerations should be restricted exclusively to the criteria above.", but was removed in the new version.

Question: Does this mean that we must verify that it was actually submitted, or that we must vote on the actual content (ex: if a fee levy is spending 80% on salaries, can this be held against them at the committee) or must the committee approve all applications if the checklist is met?

3. Can the Fee Levy Review Committee sent a conditional approval to council? (example: demanding a breakdown of the future expenditures, even if this is not within the list of required items)