



Space Concordia Nathan Fortier V. Concordia Student Union

Complaint: March 23rd, 2021

Decision: April 23 2021

Complainant:

Nathan McDonald Fortier

Space Concordia

Respondent:

Chairperson of the CSU

Council of the CSU

Interested Parties:

Executive Eduardo Malorni

Mindfulness on the go

James Hanna

Judicial Board:

Non-Voting Chair:

- **Shai Navi Mazor**

Voting Members:

- **Shaina Wilison**
- **Jack Santiago Alarie**
- **Tessa Bertucci**
- **Jose Tornes**
- **Emily Zunti**
- **Vincent Bologna**
- **Sedda Djaoud**

Statement of Facts

On March 23rd, 2021, the Judicial Board received a complaint from Space Concordia's Nathan McDonald Fortier. The following events were outlined and are relevant to the issue at hand.

Space Concordia made an application to become an official Fee Levy group in the month of October. As per Standing Regulation 255, the applicants sent the necessary documentation for their pending approval, not including the petition with 750 signatures.

In the month of February, the group was granted an extension, by the Student Life Coordinator Eduardo Malorni and the Fee Levy Committee, for their petitioning due to the Covid-19 pandemic.

The group handed in their petition with over 750 signatures on February 8th, as per the request of the Fee Levy committee.

After a series of communications, the Fee Levy committee had still not approved Space Concordia's application. According to the Student Life Coordinator, they were ultimately not approved by the committee due to their incomplete budget.

On March 11th 2021, the Concordia Student Union held a Special Council meeting. During which Standing Regulations Article 255 were not withstood and amended. In addition to this, Space Concordia was approved by a 2/3rd majority to appear on the Referendum ballot.

Directly after the March 11th meeting, the Chairperson of the Concordia Student Union received notice that the Fee Levy group did not present their petition five days prior to the polling period, as per By-Law 9.6.1, and thus, were not eligible to appear on the ballot.

The Chair contacted the Judicial Board for a reference decision, in accordance with Code of Procedures. This membership pool unanimously decided the applicants would not appear on the ballot due to the aforementioned conflictions.

During this time, the Board received another complaint from Space Concordia calling to remedy the issue at hand and offer a solution.

The Judicial Board rendered a decision on April 23, 2021.

Decision

The Judicial Board unanimously agreed the removal of Space Concordia from the Winter 2021 ballot was necessary, and a new By-election will not be conducted. Should Space Concordia wish to become a Fee Levy group, **their application must be done for the Fall 2021**

By-Elections; with all **the necessary documentation and signatures required for a proper petition**. The reasoning behind this decision is elaborated in the below subsections. Furthermore, the Judicial Board exercised their mandate in further investigating and rendering decisions on violations that occurred during the process of this case.

Re-application in the By-election of Fall 2022

Accentuating the importance of the fee-levy application process as it involves student funds, the Board believes that Space Concordia should be able to fulfill all requirements mentioned in section 9.6.1 of CSU by-laws:

*9.6.1 The Council of Representatives may choose to call referenda on amendments to these by-laws or on questions of importance to the Student Union. The Chief Electoral Officer's report on such referenda shall form part of the proceedings of the Annual General Meeting if such referenda are held concurrent to an Annual- General Election. The procedure set out in paragraphs a) to e) of Section 9.4 shall apply mutatis mutandis to referenda. Referenda may also be called by a petition of **at least five- hundred (500) members** presented to the Chairperson of the Council of Representatives a minimum of five (5) days before the announcement of the Poll. The stipulations of by-laws 5.3.2 and 5.3.3 apply, mutatis mutandis, to this by-law. Any petition concerning the introduction or*

change in a fee levy must in addition to receiving the respective amount of signatures, follow the dispositions of these By- Laws and CSU Standing Regulations.

After deliberation, the Board finds that Space Concordia will have to produce the necessary signatures mentioned in the standing regulations for their fall application. According to ***Standing Regulation 255 subsection C:***

*A petition in support of the fee levy's collection, containing the name, faculty, student ID number, and signature, of at least 750 **undergraduate students***

These signatures must consist of present undergraduate students at Concordia. The Board believes it is fair to the fee-levy application process that all signatures represent students currently enrolled at Concordia University. In a closed session meeting with Space Concordia's president, Ms. Ferrus informed the Board that they successfully produced 287 signatures within one day thanks to improved communication with engineering students. The Board believes that Space Concordia now has the resources and knowledge to produce the signatures required in a timely manner, whether the upcoming semester is held online or on campus.

Thus, the Judicial Board has unanimously agreed that the removal of *Space Concordia* and *Concordia's Mindfulness on The Go* from the election ballot was necessary in order to respect the integrity of CSU's bylaws. Furthermore, this Board finds that conducting a second By-election in the Winter 2021 semester would bring this union into disrepute and into further complications.

This membership association concludes that Space Concordia's fee levy application must be completed in the By-election of Fall 2021. This application must include 500 new undergraduate signatures, as per the aforementioned By-laws.

Use of Closed Session by Council

The Judicial Board finds that the Council's discussion of Space Concordia's fee levy application during the March 15 meeting did not necessitate a closed session.

Standing Regulation 70

70. All meetings and records of the Student Union and its sponsored or organized groups are open to its members.

*Closed session of Council can be held following a 2/3 majority vote of Council for the limited **purpose of dealing with issues requiring confidentiality**. Closed sessions of Council are open to all representatives, executives, the Minute Keeper and chair of Council, members of the Judicial Board, and members of the Academic Caucus. Any additional persons can be granted permission to sit in on a closed session by a 2/3 majority vote of Council.*

The Board also finds the conduct displayed by the Council at this time to be gross disrespect to Space Concordia and The Mindfulness Project which both had representatives waiting to be heard and included in the discussion. The meeting was not conducted in good faith towards the groups, who were there for a discussion and to find a common solution.

1.3 Act in good faith towards the Union and the Student Union Representatives.

The Board sees this as a lack of transparency towards the Student Union and an improper method of deliberation.

Furthermore, the Board does not consider the discussion that took place to warrant a closed session meeting. The discussion that took place did not contain confidential information, particularly with discussing Space Concordia and The Mindfulness Project. This is an indication that there was malice in deliberating in a Closed Session setting and was a gross violation by those who created the motion. The Board recognizes that some Council members attempted to pass a motion to grant permission for members of Space Concordia and The Mindfulness Project in the second closed session of the meeting to involve them in the discussion, but the motion was not passed. The Judicial Board implores the Student Union to **only** use their powers of sending meetings into closed session when **absolutely** necessary to increase transparency within the Union.

The Board believes that it is also the Chairperson's responsibility to ensure that no abuse of confidentiality occurs going forward.

Policy on Council and Committees Subsection 3: Confidentiality

4.3.1 The Chairperson shall ensure the confidentiality of all matters discussed in closed session by...

4.1.1.1. Informing all Councillors of their duties of confidentiality

4.1.1.2 Labelling all confidential documents as such

The Chairperson shall ensure that all subsequent matters raised in closed session require confidentiality. If during a closed session the Chairperson judges that the topic no longer requires confidentiality, it is their duty to remind councillors of the necessity to return to an open session.

Acting in Due Care and Union disrepute

The Judicial Board finds that the Council of Representatives and the Student Life Coordinator Eduardo Malorni did not act with due care in regards to the Space Concordia application. As it stands, ***Standing Regulation Article 255*** was changed to read:

*Any non-CSU group seeking a new fee levy must submit an application to the **Fee Levy Review committee** for review and approval on the Monday following September 15th, for consideration during the fall by-election or on the **first Monday of February**, for consideration during the March general elections. The application must contain:*

(a) The group's constitution and regulations

(b) A list of at least 3 officers responsible for the organization

*(c) A petition in support of the fee levy's collection, containing the name, faculty, student ID number, and signature, of at least **500 undergraduate** students*

(d) The group should prepare a draft question to be approved by council and the CEO.

(e) Any and all other documentation relating to the group's organizational structure and processes.

(f) An internal complaints policy.

(g) Previous year's budget.

(h) Expected budget for the following year taking the new fee levy into consideration

As indicated by Student Life Coordinator Eduardo Malorni, he advised Space Concordia to submit their fee levy petition on February 8th (see annex 2) which was the day of the announcement of the poll as stipulated by **By-Law 9.6.1**

*The Council of Representatives may choose to call referenda on amendments to these by-laws or on questions of importance to the Student Union. The Chief Electoral Officer's report on such referenda shall form part of the proceedings of the Annual General Meeting if such referenda are held concurrent to an Annual- General Election. The procedure set out in paragraphs a) to e) of Section 9.4 shall apply mutatis mutandis to referenda. **Referenda may also be called by a petition of at least five- hundred (500) members presented to the Chairperson of the Council of Representatives a minimum of five (5) days before the announcement of the Poll.** The stipulations of by-laws 5.3.2 and 5.3.3 apply, mutatis mutandis, to this by-law. Any petition concerning the introduction or change in a fee levy must in addition to receiving the respective amount of signatures, follow the dispositions of these By- Laws and CSU Standing Regulations.*

The Council of Representatives voted on the change to the Standing Regulations on March 11th, 2021. Although there are no By-Laws or Standing Regulations that indicate the Council of Representatives must pass an amendment prior to the event it will affect, the Judicial Board finds

that the Council of Representatives violated *Code of Conduct 1.2* by not properly communicating the required petition submission date:

Act reasonably and with due care so as not to disrupt, interfere with or unduly delay Union Activities or union related activities.

Furthermore, the Judicial Board also finds Student Life Coordinator Eduardo Malorni in violation of *Code of Conduct 1.2* by advising Space Concordia to submit their Fee Levy application on February 8th making their application late and in violation of *By-Law 9.6.1*. As it stands, the Space Concordia fee levy group submitted 750 signatures on February 8th 2021 instead of the actual petition deadline of February 1st 2021. The head of the Space Concordia fee levy indicated in a Judicial Board closed session that the fee levy group had acquired approximately 420 signatures prior to February 1st and would have been capable to acquire the remaining 80 signatures for the February 1st deadline. The Judicial Board finds that the Fee-levy committee, and Student Life Coordinator Eduardo Malorni, did not act with due care in communicating the correct dates for submission and the signatures needed for the application thus making the Space Concordia petition late and not eligible to be put up for referendum.

Although the Judicial Board has decided to send the potential Fee Levy group to referendum in Fall 2021, nonetheless, this body believes this outcome could have been avoided if the Fee Levy Committee had presented correct information to the applying groups.

Thus, in a unanimous decision, this membership pool finds Executive Eduardo Malorni in violation of Code of Conduct 1.2 and thus, **formally warns** him that any future violations that

fall under the mentioned code will warrant a harsher sanction by the Judicial Board. , as per

Code of Conduct 6.3.3

A formal and recorded written warning: This warning may indicate the action which may be taken if there is a further breach of the Code. A copy of this warning shall be given to the concerned representative and another retained by the Judicial Board.

We have chosen to only issue a warning to Student Life Executive Eduardo Malorni, due to the fact that he acted without ill intent throughout this process, despite the mistakes that were made.

Respectful Conduct in Council Meetings

After attending multiple Regular and Special Council Meetings, the Judicial Board found several members of the Student Union to be in violation of Code of Conduct. As per the **Judicial Board Mandate**, it is the duty of this membership pool to act upon violations made by Student Union members, regardless of its relevance to the case in question. During the close session meeting of March 15, 2021, Student Representative James Hanna yelled inappropriately and cursed at a fellow colleague of the union.

2. It is the duty of the Judicial Board to act upon any violation to By-Laws and constitutions of member associations that comes to light stemming from an ongoing investigation, even if such violations are not directly related to the original complaint.

The Judicial Board finds the conduct exhibited by Student Representative James Hanna to be in violation of the following Code of Conduct articles;

*1.1 Adopt a **professional and respectful** standard of **language** when engaging with other Student Union Representatives, members of the Concordia staff and student body, as well as third parties, while in performance of their union duties*

*1.5 Maintain **professional and respectful** relationships with **other** Student Union **Representatives** and Student Union Members.*

The Councillor in question had previously committed similar offences and violated the same By-laws in the case of *CUSSA v. CSU*. The Judicial Board took this precedence into consideration, as per Code of Conduct

6.2 In determining the just and appropriate sanction the Judicial Board or Third Party Ombudsperson shall notably consider the following factors:

6.2.3 Whether the Representative has previously been found to have committed violations of a similar nature;

6.2.6 Failure or refusal to respect or follow previous sanctions under the Code;

Thus, the Judicial Board has unanimously decided to apply a **temporary suspension** for Councillor James Hanna, as per the following Code of Conduct

6.3.6 Temporary Suspension: The Student Union Representative will temporarily be suspended from all entitlements and functions and may not participate in any union activities or union related activities for a specified period of time.

The student representative will omit himself from the mentioned Student Union activities until the end of the Fall 2021 By-Elections.

Recommendations

The Judicial Board's recommendation to the Concordia Student Union and its governing body is to exercise their mandate with a **much higher respect to the regulations in place**, notably when it comes to modifying existing regulations.

The following will be the recommended guidelines and acceptable limitations for the execution:

- The Judicial Board recommends the Policy Committee put in place a structure with strict guidelines and limits for changing standing regulations.
- If changing any standing regulation is found absolutely necessary, the Judicial Board highly recommends involving lawyers **throughout the whole process**, including when presenting and reviewing the final version of the change. Harmonizing any change with the By-Laws, Regulations and policies of the Student Union should remain a focal point throughout the process.
- The Judicial Board urges the Council of Representatives to take more care in ensuring that their decisions are transparent and easily accessible to the entire Union.
- The Board also advises for the presentation of a more detailed description of the tasks and responsibilities of the Fee Levy Committee in the Subsection 7 of the Policy on Council and Committees. We judge imperative a revision to Chapter IV Section 1 of the Standing Regulations on standing committees to reflect the creation of new committees.
- The Board requests that all members of Council, and those who attend the Student Union meetings, act respectfully and maintain appropriate language. Failure to do so may result in future repercussions going forward.

Conclusion

The Judicial Board has unanimously voted that Space Concordia must reapply to become a fee-levy in the next CSU by-election, in accordance with all fee-levy application rules and regulations.

The Judicial Board has also found the CSU Council of Representatives to be in violation of Code of Conduct 1.2 due to their lack of communication regarding the new Fee Levy submission date, which was voted on in a council meeting on March 11th, 2021. Furthermore, the Board urges the Council of Representatives to be more conscientious of their use of Closed Session during council meetings.

The Judicial Board finds Student Life Executive Eduardo Malorni, the chairperson of the Fee-levy committee, to be in particular breach of the Code of Conduct 1.2. Therefore, the Board has issued him with a **formal warning**, as per Code of Conduct 6.3.3.


In accordance with the Judicial Board Mandate, we unanimously found Councillor James Hanna to be in violation of Code of Conduct 1.1, due to his behaviour at a council meeting held on March 15. Given that this is the second time Councillor James Hanna has been found in violation of Code of Conduct 1.1, the Judicial Board has issued him with a **temporary suspension** from his seat as a councillor within the CSU, effective immediately and concluding after the Fall 2021 By-Elections. This is in accordance with Code of Conduct 6.2.3 and 6.2.6.

The Judicial Board has also made a series of recommendations to the Council of Representatives, which can be found above.


Annex

Annex 1


waiting to be let in

 We're doing Mindfulness Project first. You're welcome to sit in on that though


np

just let ed know im here  1

6:20 PM

 Per the current policies, iirc, the Fee Levy Committee recommends to council, council need not follow that recommendation.

wym?

 I mean that the final decision is in council's hands tonight at the SCM.

Annex 2

EM

Eduardo Malorni
Fri 3/26/2021 7:22 PM
To: Judicial Board

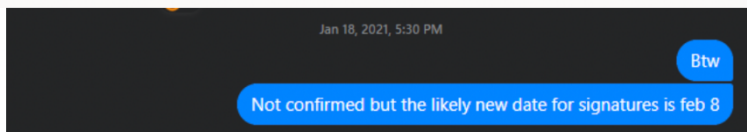
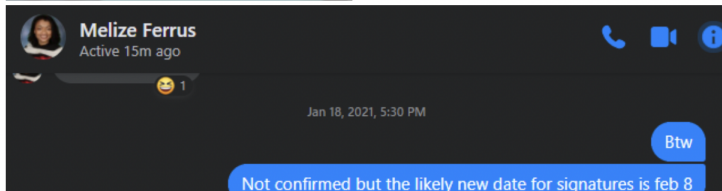
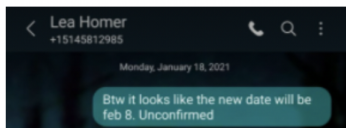


Hey JB,

It appears that I told the groups the deadline was February 8th in my communications with them. Incredibly, it seems that myself as well as the rest of the committee were incapable of reading a calendar correctly as we were all under the impression that February 8th was in fact the first Monday of the month.

Perhaps we were considering the second Monday of the month and somewhere along the line and that got changed to first Monday in the policies because I truly do not know how this mistake could have happened as I am certain that everyone (CSU and Fee Levy Groups) was under the impression that February 8th was the date being reflected in the policy.

So, I can confirm all the groups were told February 8th was the deadline. Also note that as the policy was only passed in March, I responded to each group that February 8th not finalized yet as the policy was not passed at Council yet. My responses to the three groups were on January 18th. Melize via Facebook Messenger (Space Concordia), Bus Co-op (Email) and Lea via Text (Mindfulness).



S

studentlife
Mon 2021-01-18 5:28 PM
To: Your Bus Co-Op <transit.mcgill@gmail.com>



Hello!

Just letting you know, we will likely extend your time to collect signatures until February 8. Though this date is not confirmed yet.

Let us know if you are still interested in becoming a fee levy.



Eduardo Malorni
Student Life Coordinator
Concordia Student Union | Union Étudiante de Concordia
1455 de Maisonneuve O. | Suite H-711 | Montréal, QC | H3G 1M8
Tel: 514.848.7474 ext 8905 | Fax: 514.848.7450
studentlife@csu.qc.ca

"I only hope that we don't lose sight of one thing - That it all started with a mouse" - Walt Disney



Eduardo Malorni
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emalorni@csu.qc.ca

"I only hope that we don't lose sight of one thing - That it all started with a mouse" - Walt Disney

...

Annex 3: Nathan Fortier Complaint details

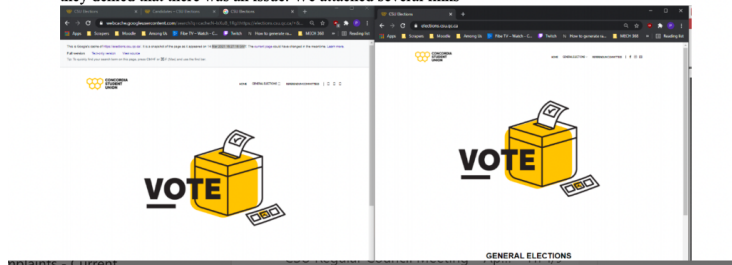
Complaint to judicial board over removal of space Concordia & Mindful Project from 2021 general election ballot.

We, Space Concordia & Mindful Project, believe that our Fee levy vote was wrongfully removed from the 2021 General election and ask this board to assure that our fee-levy question will be asked at the earliest possibility.

There are three reasons we believe that we should be assured to be put to the earliest possible referendum.

Reason 1:

The judicial board on March 15th made the Reference Decision: Fee Levy Question 9.6.1^[1] made the ruling based on the belief that Space Concordia & the Mindful Project did not give their votes in 5 days prior to the announcement of the poll (as stated in 9.6.1). However, the CSU has as of the beginning of the election (March 16th) still not announced its poll as outlined in the CSU-Policy-on-Elections-and-Referenda. Specifically, Article 3.3.1^[2] clearly states that the announcement **must** be made on their elections Facebook page, their elections commission website and by email to all members with a link. However, CSU only announced via their Facebook page^[3] on February 7th that the election was to be held and did not do so on the other two platforms. We believe the CSU knew that this was an error as they quickly updated their website^[4] on March 15th after it was brought to their attention by us, even though in the meeting they denied that there was an issue. We attached several links^{[5][6]}



did not announce the poll as outlined, we believe that Space Concordia & the Mindful Project were in fact not late and that we were wrongfully removed from the poll.

Reason 2:

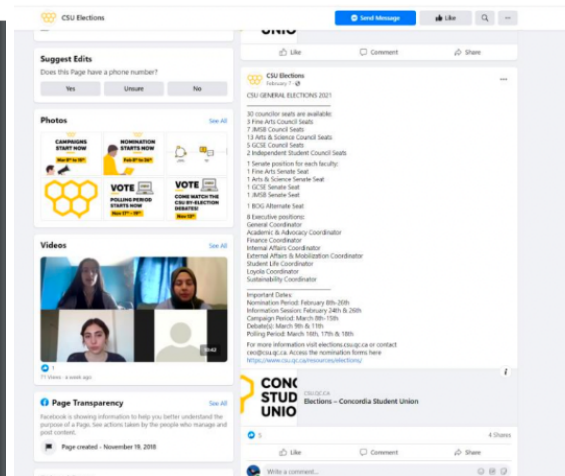
Because CSU did vote to put Space Concordia & the Mindful Project fee-levy questions on the referendum, thought because previously discussed complaint this was not done, we should be put on the next possible referendum in keeping with the intent of the motion.

Reason 3:

Because the judicial board made clear in their decision that the Fee-levy question must follow the bylaws and that bylaw 9.6.2 clearly states that CSU will have no voting power once a valid referendum question is brought to them with the requisite signatures. It follows that the CSU incorrectly scheduled us for this general referendum instead of the next possible referendum. This should mean that we are slated to be on the next referendum as should have been decided when we gave our proposal.

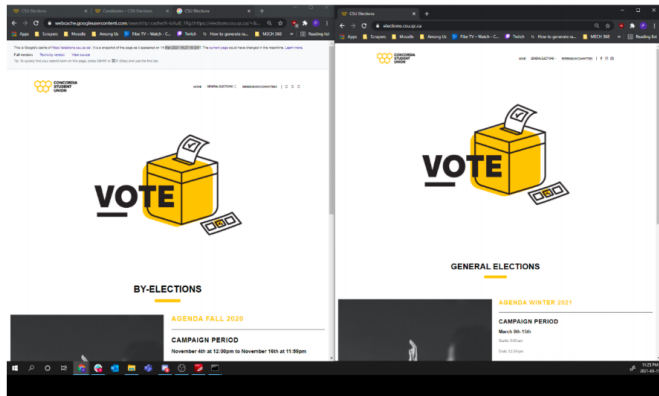
Remedy:

We understand that it is too late to be put on the 2021 general poll and seek to at least be put on the next referendum without another vote by council, given that we have already fulfilled every requirement including both exceeding the required number of signatures by 150% but also having had council vote and approve our question. We seek that we be put on the soonest possible referendum. We have reason to believe that there have been other infractions to bylaws in this election unrelated to this complaint. In the case that the 2021 poll would need to be redone due to a violation in the bylaws we would like to be placed on the ballot of the replacement election as in this case we would have given more than 5 days notice before the polling period.



? general elections post feb 7th

[4] CSU updating the website after our meeting on March 15th



[5] CSU elections website as it was on feb.7th
<https://web.archive.org/web/20210207130413/https://elections.csu.qc.ca/>

[6] CSU elections website as it was on March 9th
<https://web.archive.org/web/20210309073455/https://elections.csu.qc.ca/>

[7] List of witness student to not having received an email regarding the CSU 2021 general election before the march 16th

- Nathan McDonald-Fortier (40134141)
- Ruben Sanchez (40155309)
- Bilal Yattou
- Ryan Kastner 40075661
- Mario Sanchez 40068210
- Davide Zanetti 40068431
- Jonathan Masciotra 40178203
- Jeffrey Hamel 40078441
- Gabriel Sabbaghian 40097030
- Patrick Baylis 40098328
- Tim Freiman 40091639
- Michael Lesko-Krleza 40062405
- Michael Slater Covenden 40052240

Annex 5: Eduardo warning the President of Space Concordia

Eduardo Malorni

I would try my best for Dec 7th tho, not to risk it. You never know how these people will react in Council

Nov 29, 2020, 1:06 AM

Eduardo Malorni

As of right now the signatures are due Dec 7th as well as all documents.

To extend the deadline, you would have to go to council and convince them to notwithstanding (2/3rds vote) the standing regulations giving you extra time to collect signatures. I dont know if council will give you the extension.

We dont need an SCM, it can be at the regular council meeting in December.

Nov 29, 2020, 1:05 AM

Annex 6: Melize agreeing to get the signatures for December

Melize Ferrus

I guess its the only choice we got so no matter what its what needs to be done

Nov 29, 2020, 1:18 AM