

Date: 2025-03-02

Reference: 2025 ACUOSU 1

UNIVERSITY OF OTTAWA STUDENT UNION'S APPEALS COMMITTEE

BETWEEN

DANIEL THORP

The Appellant

AND

UOSU CLUBS COMMITTEE

The Respondent

Indexed as

Thorp v UOSU Clubs Committee

In a matter concerning the admissibility of an appeal under the University of Ottawa Student Union's Constitution

Before: Chair Philippe Giguère, a panel of the UOSU Appeals Committee

For the Appellant: Daniel Thorp, The Appellant

For the Respondent: Emilia Bah, Student Life Commissioner

REASONS FOR DECISION

I. Overview of the matter before the Appeals Committee

1. This matter concerns an appeal brought by Mr. Daniel Thorp against a decision of the Clubs Committee dated November 10, 2024, regarding an amendment to POL-GEN-03 (Student Group Status) that caps the number of UOSU-recognized clubs. The Appeals Committee must determine whether it has jurisdiction to hear Mr. Thorp's appeal.
2. The Clubs Committee argues that the decision is not final and, therefore, not appealable. It argues that the motion to amend POL-GEN-03 was merely a recommendation requiring approval from the Board of Directors, rendering it non-final. It submits that only specific decisions—removal of a club member, approval or removal of student group status, and investigations and sanctions—are explicitly appealable under POL-GEN-03, s. 4.6.
3. The Appellant, Mr. Thorp, argues that the decision should be considered final once the Clubs Committee has voted. He further contends that Article 6.12.4 of the Constitution broadens the jurisdiction of the Appeals Committee to include appeals concerning failures of the UOSU, its executives, or staff to uphold the principles governing clubs.
4. Additionally, the Appeals Committee must assess whether Mr. Thorp's appeal was filed within the 14-day limitation period set out in Article 12.5.1 or if an extension of time is warranted under Article 12.5.3.
5. For the reasons set out below, the Appeals Committee finds that while the appeal was untimely, an extension of time is granted. However, the Appeals Committee ultimately finds that it does not have jurisdiction to hear the appeal as the Clubs Committee's motion to amend POL-GEN-03 does not constitute a "final decision" within the meaning of Articles 12.2 and 12.5.3.
6. Mr. Thorp may have legitimate and important concerns regarding the constitutionality of the new policy. Conversely, the Clubs Committee may have valid and strong policy reasons for wanting to impose a cap on the number of UOSU-recognized clubs. However, such concerns or discussions must be addressed in the appropriate forum.
7. In accordance with the Constitution, the proper venue for challenging the constitutionality of these policy changes lies with the Board of Directors or other governance mechanisms provided by the Constitution. The Appeals Committee's mandate does not extend beyond the matters expressly designated under Articles 12.2 and 12.5.1 of the Constitution.

II. The UOSU Clubs Committee's decision and current appeal:

8. The decision under review was made by the Clubs Committee on November 10, 2024, when it adopted a motion to amend POL-GEN-03 to cap the number of recognized student clubs at 300, effective May 1, 2025. The rationale for this decision, as outlined in the meeting minutes, was that the rapid increase in the number of clubs had placed an unsustainable strain on available resources, including funding, administrative support, and physical space allocations.
9. The Clubs Committee considered a recommendation from the Clubs Coordinator, who had originally proposed a cap of 250 clubs, before settling on a limit of 300 clubs. The motion also required the Clubs Committee's annual review of the cap to assess its continued appropriateness. The motion passed with three votes in favour and one abstention.
10. Mr. Thorp contends that this decision violates Article 6.12.4 of the UOSU Constitution, which establishes principles ensuring the fair treatment of clubs. He argues that the policy change was arbitrary, lacked proper consultation, and is inconsistent with the rights and protections afforded to clubs under the Constitution.
11. Mr. Thorp further asserts that the decision-making process failed to account for the interests of existing and prospective clubs and that the cap will unduly restrict student engagement and participation in campus activities.

III. Relevant UOSU constitutional provisions

12. Article 12.2 of the University of Ottawa Students' Union Constitution states:

"The Appeals Committee shall hear appeals of a final decision made by a Committee under Article XVIII, Dispute Resolution."

13. Article 12.5.1 states:

"An appeal to a final decision under Article XVIII may be filed by a Complainant or Respondent(s) to the Appeals Committee up to and including fourteen (14) days from when the final decision of the Committee (under Article XVIII) was communicated."

14. Article 6.12.4 states:

"The Clubs Committee, the Clubs Administration Service, and all other committees and staff involved with the management and support of clubs must at all times act in a way which furthers the following principles: [...] Accountability: should the UOSU, its executives, or its staff fail to uphold these principles, club executives may pursue proper recourse through the Board, the Appeals Committee, or any other process to ensure accountability for all those overseeing club policy."

IV. Analysis

A. Timeliness of the Appeal

15. The Appeals Committee notes that in this case, because there is no "final decision," it technically need not consider or explain whether the appeal was filed within the prescribed timeline or whether the Chair of the Appeals Committee ought to grant an extension of time.
16. The Appeals Committee has nevertheless included such analysis to assist future parties appearing before it or considering filing an appeal under Articles 12.2 and 12.5.1 of the Constitution.
17. The Appeals Committee finds that Mr. Thorp's appeal was not filed within the prescribed 14-day period set out in Article 12.5.1. The Clubs Committee's decision was communicated to the Appellant on November 16, 2024, and under the Constitution, the appeal should have been formally submitted by November 30, 2024.
18. However, the formal appeal was only submitted on December 15, 2024, beyond the deadline. Accordingly, the appeal was untimely under the Constitution.
19. Timeliness is crucial to the appeals process, and parties must comply with the prescribed deadlines. Extensions of time must be rarely granted and only in exceptional circumstances. The Chair of the Appeals Committee must exercise discretion with care and judiciously, ensuring that extensions are not given routinely, thereby maintaining the integrity of the appeals process.
20. Nevertheless, under Article 12.5.3, the Chair of the Appeals Committee may grant an extension of time where extenuating circumstances exist.
21. The Chair of the Appeals Committee considers the following factors in determining whether an extension is warranted:
 - a) Are there clear, cogent, and compelling reasons for the delay?
 - b) How long was the delay?
 - c) Did the Appellant exercise due diligence?
 - d) Who would suffer the worst prejudice, the Respondent if the extension were granted, or the Appellant if it were not granted?
 - e) Would the extension serve no useful purpose because the appeal has no chance of success or is frivolous or vexatious?
22. The Appeals Committee finds that there were clear, cogent, and compelling reasons for the delay. Mr. Thorp faced procedural uncertainty regarding where to contest a decision of the Clubs Committee regarding an amendment to POL-GEN-03 (Student Group Status) that caps the number of UOSU-recognized clubs. This resulted in a reasonable delay beyond the prescribed period.

23. Furthermore, Mr. Thorp exercised due diligence by continuously seeking clarification from relevant bodies and filing the appeal quickly after being advised that he could submit it directly to the Appeals Committee.
24. The Respondent has consented to the extension of time, mitigating any prejudice. By contrast, denying the extension would significantly impact Mr. Thorp's ability to have the procedural issues reviewed. The Appeals Committee also finds that the appeal is not frivolous or vexatious, as it raises legitimate procedural concerns about the application of Article 6.12.4.
25. Accordingly, the Appeals Committee grants an extension of time and deems the appeal to have been filed in a timely manner.

B) Does the motion adopted by the Clubs Committee to adopt an amendment to POL-GEN-03 amount to a "final decision"

26. The Appeals Committee finds that the Clubs Committee's decision to amend POL-GEN-03 does not constitute a "final decision" within the meaning of Articles 12.2 and 12.5.1 of the Constitution that is amenable to appeal.
27. As the Clubs Committee has correctly pointed out, changes to general UOSU policies, including POL-GEN-03, are not a final and binding decision and must be approved by the Board of Directors before they take effect to affect rights, impose obligations, or cause prejudicial effects.
28. Under the Constitution, UOSU Committees, such as the Clubs Committee, review and, if appropriate, recommend changes to the UOSU's structure, activities, and operations (see Article 6.1). In the case of the Clubs Committee, it is specifically tasked with reviewing and proposing UOSU services and programs for recognized student clubs (See Article 6.12.3)
29. In turn, the Board is not bound to accept the Clubs Committee's findings and proposal as that decision may be reversed or amended by the Board except where limited by the Constitution (see Article 6.2)
30. Consequently, the Clubs Committee's proposed motion to amend POL-GEN-03 to impose a cap on the number of UOSU-recognized clubs remains akin to a "recommendation" to the Board, not a "final decision," and is therefore not subject to appeal under Articles 12.2 and 12.5.1 of the Constitution.
31. Mr. Thorp's argument that the decision should be considered final does not align with the constitutional structure. The Constitution clearly states that a Committee's decision requiring Board ratification is not final until approved. If the Appeals Committee were to hear appeals of non-final committee decisions, it would undermine the Board's authority and interfere with its legislative and decision-making function.

32. The Constitution must also be read to ensure coherence and harmony between its provisions, and Article 6.12.4 cannot be interpreted as granting jurisdiction beyond the limitations expressly set out in Article 12.2.
33. Article 6.12.4 must be read in conjunction with Article 12.2. A plain reading of Article 6.12.4 reveals that this article does not provide or create a new and separate basis for the Appeals Committee's jurisdiction. While it generally recognizes various possible avenues for recourse, it does not create any new grounds for appeal or override the limitations in Article 12.2, which clearly sets out and limits the Appeals Committee's authority to hear appeals of "final decisions" of UOSU committees.
34. Further, Article 6.12.4 specifically states that club executives "may pursue proper recourse" through the Appeals Committee, the Board, or another process. The term "proper recourse" suggests that the Appeals Committee is not the automatic or exclusive venue for all grievances but is instead one of several potential forums depending on the facts of each case.
35. Moreover, the use of the word "may" in Article 6.12.4 is permissive rather than mandatory, meaning that it may allow for recourse through the Appeals Committee. In contrast, Article 12.2 uses the word "shall," which is imperative and leaves no discretion, making it clear that the Appeals Committee is strictly limited to hearing appeals of final committee decisions.
36. Since Article 12.2 is authoritative in determining the scope of appeals, the permissive language of Article 6.12.4 cannot expand the Appeals Committee's jurisdiction beyond what is explicitly permitted.
37. Article 12.2 is the specific provision governing the appeals mechanism. It must prevail over any other provision, including the general language in Article 6.12.4. Where a specific provision and a general provision appear to be in tension, established principles of legal interpretation dictate that the specific provision takes precedence.
38. Therefore, Article 12.2 governs the Appeals Committee's authority, and the broader, permissive language of Article 6.12.4 cannot be relied upon to expand its jurisdiction beyond what is explicitly provided in Article 12.2.
39. The Appeals Committee also finds that the matters enumerated in POL-GEN-03, s. 4.6 helps define the scope and intent of appeals related to club decisions. While this section is not binding or determinative of the Appeals Committee's jurisdiction (in contrast to the Constitution, which is the supreme document that governs the UOSU and must always be followed), it can serve as a useful interpretative aid.
40. In this case, this section explicitly allows appeals of decisions concerning the removal of a club member, student group status approval or removal, and investigations and sanctions. However, it does not permit appeals concerning amendments to club policies.

41. Lastly and importantly, the UOSU Constitution clearly divides roles between the Appeals Committee and the Board of Directors. The Board has the ultimate authority over policy decisions, including adopting and amending General Policies such as POL-GEN-03.
42. By contrast, the Appeals Committee's role is narrow and explicitly limited to reviewing specific disputes that fall within the defined scope of appealable matters. It derives its authority strictly from the UOSU Constitution. It does not have a general supervisory role over all actions of the UOSU, its committees, or the Board.
43. Instead, its jurisdiction is confined to the specific matters outlined in Article 12.2 and other applicable constitutional provisions. Expanding its role beyond these limits would exceed the authority granted by the Constitution and create governance inconsistencies.
44. If the Appeals Committee were to assume jurisdiction over a non-final policy decision, it would unduly encroach upon the Board of Directors' important legislative and decision-making function and disrupt the governance framework set out in the Constitution. Respect for the Constitution and the division of powers requires the Appeals Committee to acknowledge and adhere to these role distinctions.
45. With that said the Appeals Committee acknowledges that Mr. Thorp may have raised legitimate and important concerns regarding the constitutionality of the new policy. Conversely, the Clubs Committee may have valid and strong policy reasons for wanting to impose a cap on the number of UOSU-recognized clubs.
46. However, these concerns must be addressed in the appropriate forum. In accordance with the Constitution, the proper venue for challenging the constitutionality of policy changes lies with the Board of Directors or other governance mechanisms.
47. Moreover, this issue would have ideally been raised at a lower level or earlier on, such as when the Clubs Committee was reviewing and considering amending POL-GEN-03 (Student Group Status) to impose a cap on the number of UOSU-recognized clubs. The Appeals Committee's mandate does not extend to broad constitutional review of policy decisions beyond the matters expressly designated as appealable.

IV. Conclusion & order

48. Based on the foregoing analysis, the Appeals Committee finds Mr. Thorp's appeal to be untimely. However, an extension of time is granted due to the exceptional circumstances outlined.
49. The Clubs Committee's motion to amend POL-GEN-03 does not constitute a "final decision" under the UOSU Constitution, as it requires Board of Directors approval to take effect. Therefore, the Appeals Committee does not have jurisdiction to hear this appeal. The Appeals Committee's jurisdiction is limited to appealable matters as defined in the Constitution. Concerns about the constitutionality of this type of policy change should be raised with the Board of Directors or Clubs Committee

March 3, 2025.

A handwritten signature in black ink, appearing to be 'PG' with a long horizontal stroke extending to the right.

Philippe Giguère

Chair of the Appeals Committee

A panel of the University of Ottawa Students' Union Appeals Committee