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Re: Student Societies Summit

This letter is written in advance of the Undergraduate Student Societies Summit proposed by Provost Misak via email dated August 20, 2013.

The purpose of this letter is to set out the position held by the University of Toronto Engineering Society (EngSoc), Trinity College Meeting (TCM), and the Victoria University Students' Administrative Council (VUSAC) with respect to the proposed discussions dealing with the support and respect of the distinct interests of divisional student societies. This letter will begin by briefly outlining our understanding of the referenda, and then proceed to outline a solution that we believe would meet those divisional interests. We will also provide rationale and clarify potential misconceptions regarding the proposal.

The Referenda

EngSoc, TCM, and VUSAC called for the holding of referenda regarding the cessation of their members' financial relationship with the University of Toronto Students' Union (UTSU). These referenda were not undertaken hastily and were the culmination of numerous years of dissatisfaction felt by these constituencies regarding the operations of the UTSU.

The Proposal

This letter outlines two proposals that we wish to see enacted. These two proposals will be followed with the rationale outlining the importance of committing to the implementation of these proposals to ensure that the democratic will of University of Toronto students is upheld.

These proposals are as follows:

- 1) The University require the UTSU to allow for a provision giving recognized constituencies (namely, any Faculty, College, or the Mississauga Campus) the option of ending fee payment to the UTSU through a free and fair referendum process. Such a referendum process should include the following features:
 - a. it must allow for a referendum to be initiated by a petition signed by an appropriate number of students *solely within the constituency in question* (i.e., it must be possible for a petition signed only by Trinity College students to initiate a referendum on UTSU membership at Trinity College);

- b. *referenda voter lists must include only students in the constituency in question* (i.e., only Trinity College students should be able to vote in a referendum on the membership of Trinity College students in the UTSU);
- 2) The UTSU retroactively recognize the results of the 2013 fee diversion referenda, and the University permit the constituencies in question to cease payment of fees to the UTSU, and divert those fees as the referenda request.

Rationale

The guiding principle behind these two proposals is that natural constituencies within the UTSU should have a right to self-determination regarding their governance, and fees that are collected on their behalf. It is undemocratic for the UTSU to maintain a constitution and bylaws that prohibit such a right to self-determination when large numbers of students have clearly indicated dissatisfaction with the UTSU's current model. Accepting this proposal and requiring the UTSU to maintain it in its bylaws is the best way to ensure that the distinct interests of divisional societies are supported and respected.

The reasons we believe that adoption of these two proposals is necessary are as follows: (i) legitimate constituencies within UTSU should have a mechanism to end their relationship with UTSU; (ii) there are a number of potential harms if legitimate constituencies are prevented from doing so; (iii) there is precedent both within UTSU and more generally which supports such a provision; (iv) the societies in question are legitimate constituencies within UTSU. We will now briefly elaborate on these four positions.

1. Legitimate Constituencies within UTSU Should Have a Mechanism to Divert Fees from the UTSU

It is wrong for the UTSU to maintain a system that provides no constitutional process for respecting the reasonable and clearly articulated democratic will of recognized constituencies within it.

The only coherent basis for mandating the collection and spending of ancillary fees on behalf of students is that doing so is in accordance with the democratic will of those students. While perhaps desirable in principle, we recognize that a system where every individual could opt-in and opt-out of all ancillary fees is not practical, however.

That situation, however, is very different from one where coherent, recognized groups at the divisional level are permitted to decide by whom they will be provided services through mandatory fee deductions, through a free and fair referendum process. Different Colleges, Faculties and Campuses often have divergent interests, aspirations and cultures, with their divisional student societies responding to those needs by providing different sets of services from one constituency to another. Efficient, effective common service provision may not always be feasible, desirable, or fair. Therefore, a mechanism should exist whereby these constituencies are able to determine whether they wish to pay fees to the

UTSU for their services, or wish to have those services provided by their preferred, alternative means.

The existence of such a provision would not only satisfy those constituencies which feel they cannot be well-served by the UTSU, but would also motivate the UTSU to serve the interests of *all* minority groups and constituencies. If groups can opt for a different model of service provision, the UTSU would naturally seek to make its model as appealing as possible to minority interests that exist within the UTSU.

2. Potential Harms

A system that does not permit recognized constituencies to express their democratic will on this important subject will lead to a profound and well-justified sense of alienation by divisional societies on behalf of those minority constituencies.

We are all members of the University of Toronto community. The presence within that community of an entity, associated with the University, whose members feel inherently disrespected by and alienated from (the UTSU) is contrary not only to the interests of the UTSU but, much more importantly, to the interests of the University as a whole.

We believe a system that forces such recognized constituencies to continue to pay fees to the UTSU once they have clearly expressed a desire to cease doing so will lead inexorably towards acrimony that is harmful to both the constituency in question and to the entire membership of the UTSU. The expression of the desire to cease paying is the strongest expression of dissatisfaction that a group can issue. Insofar as this group is forced to remain members of such an organization, it is reasonable to assume that this group will remain dissatisfied.

When groups of students are dissatisfied, they cease to want to cooperate or reach compromises on certain issues, feeling that any outcome of such cooperation undermines the stated desire to cease affiliation. This ultimately leads to a decrease in the quality of student life on campus. Unfortunately, this leaves organizations in a perpetual state of conflict which prohibits the growth and refinement of either the constituency in question or the UTSU. Overall, it is reasonable to believe that students are happiest when they feel that their expressed desires are being acted on, and currently, the University has not acted on the democratically-expressed will of students who voted to cease fee payment to the UTSU.

While it might seem counterintuitive, allowing recognized constituencies to cease fee payment to the UTSU once they have expressed an overwhelming desire to do so will likely increase cooperation and decrease acrimony between these constituencies and the UTSU. These recognized constituencies can still collaborate through mutual consent on issues of mutual concern.

There are already models on campus for separate constituencies working together through mutual consent. The St. George Round Table (SGRT) has allowed the College Councils to

collaborate to organize events, share best practices, and coordinate advocacy by mutual consent without top-down control. This collaborative structure recognizes that, in a university with as many distinct, disparate communities as the University of Toronto, of different sizes and cultures, sometimes agreement will not be possible on all issues, so a consensus model allows flexibility for divisional societies to choose which issues and initiatives to pursue as a group, and which to act on independently.

For those constituencies whose desire, as expressed by the democratic will of students, is to continue membership in a larger Union, this move will only strengthen the feeling of solidarity and unity of purpose within that Union. Instead of having to wage constant battles with constituencies that do not wish to pay fees to the UTSU, the UTSU could focus on improving the services it provides to students who actually desire those services. We recognize that the status quo actually undermines the spirit of solidarity, collaboration, unity and fellowship on campus.

3. Precedents

This principle that constituencies within UTSU should be allowed to self-determine whether they wish to remain a part of UTSU was recognized in 2003-2004 when the University of Toronto Scarborough Campus (“UTSC”) ceased membership in and fee payment to the Students’ Administrative Council (“SAC”).¹ In that case, a referendum was held on January 20-21, 2004, solely amongst UTSC students instead of all SAC members, with approximately 8% of all such students voting and a majority of 62.2% voting in favor of eliminating the SAC-UTSC fee and increasing the undergraduate SCSU fee for Fall 2004. The results of this referendum were accepted by all parties and subsequently passed by Governing Council.

For comparison, the EngSoc referendum had 30% turnout and 95% voting in favour of fee diversion, the TCM referendum had 33% turnout and 72% voting in favour, and the VUSAC referendum had 12% turnout with 61% voting in favour. The democratic will of students is clear.

This UTSC case clearly demonstrates the importance of ensuring that recognized constituencies are able to articulate their democratic will and that the central Union respects that democratic voice. If anything, such precedent would favour the UTSU’s recognition of the current referenda, as failing to do so would set the much more dangerous precedent allowing the UTSU to deal with referenda in an arbitrary and discriminatory manner by permitting some but prohibiting others based on its own institutional interests and not the interests of students themselves.

Another precedent exists at the University of Toronto Mississauga (UTM). In this case, the fees paid by UTM students to the UTSU are transferred to the University of Toronto Mississauga Students’ Union (UTMSU), which provides services to UTM students on behalf of the UTSU. This arrangement allows the UTSU to continue to represent UTM students to the University central administration, but permits the UTMSU to take charge

¹ SAC was the previous name of the UTSU

of providing services and representation at UTM. In addition, the UTSU allows the UTMSU to appoint UTM's representatives to the UTSU Board of Directors (for other divisions, those representatives must be elected by students in the general election), as well as having the President of UTMSU (or his/her designate) serve as a member of the UTSU Executive Committee. To date, the UTSU has not offered a similar arrangement to any other divisional society.

It is worth noting that the UTSU enjoys the benefit of the type of constitutional mechanism we are proposing in its own membership with the Canadian Federation of Students ("CFS").² The by-laws of the CFS provide a clear and consistent means for their members to "decertify" and discontinue their relationship with CFS.³ Surely the inherent democratic value of such a by-law remains the same when it is applied to both the members of CFS and the members of UTSU.

In correspondence regarding the referenda, the UTSU has repeatedly sought to characterize itself as a "union", that is, a legally recognized bargaining unit. While the reality is that the UTSU enjoys no such legal protection, if it did it would also be legally obliged to provide a means to its members to leave the union by voting on "decertification". Again, the UTSU seeks to embrace rationales that are to its benefit (such as the avoidance of "free-rider problems") while rejecting those obligations (such as providing a mechanism for members to opt-out) which are not.

4. Legitimate Constituencies of the UTSU

We believe that it is imperative to reaffirm the nature of the relationship between the constituencies in question and the UTSU.

The UTSU's contention is that the relationship between UTSU and its members at Trinity College, for example, is not "mediated" through TCM, and that individual constituencies have no standing within the UTSU. Therefore, the claim appears to be that there is no distinction between a referendum conducted by a College or Faculty council and a referendum conducted by students of particular political affiliations, religious groups, or other affiliations, or indeed individual students choosing to opt out of fee payment.

The UTSU has attempted to liken College and Faculty affiliation to that of any other affiliation. The former UTSU President wrote, "*there is no provision for individual students – whether organized by college membership, or club membership, or age, or gender, or political affiliation – to opt out of membership in the UTSU.*" We strongly disagree and believe that such a comparison is totally without merit for the following reasons:

- 1) The question at hand is not whether individual students may opt out of ancillary fees collected on behalf of the UTSU, but rather whether recognized, natural

² See <http://www.cfs-fcee.ca/downloads/Bylaws.pdf>

³ See by-law #1, section 6.

- constituencies of students have a right to decide the apportionment of their ancillary fees by free and fair referenda processes.
- 2) The UTSU's own bylaws recognize the distinct and special status of Colleges and Faculties. There are representatives on the UTSU Board of Directors for Colleges and Faculties. By contrast, there are no Director positions allocated to students "organized" by club membership, age, gender, or political affiliation.
 - 3) Within the University, Colleges and Faculties have special membership and entrance requirements. Many divisions within the University have special application processes. For example, Undergraduate Arts & Science applicants must rank Victoria University first amongst the Colleges to even be considered for membership in the College. By contrast, there are generally no differential entrance or status requirements at the University of Toronto made solely on the basis of age, gender, club membership, or political affiliation.
 - 4) Students pay additional, separate ancillary fees to their Colleges and Faculties. By contrast, students do not generally pay different ancillary fee structures solely on the basis of age, gender, club membership, or political affiliation.
 - 5) Critically, ancillary fees for undergraduate Arts & Science students are determined in part by College affiliation, and not at all by program of study, age, gender or any other criterion. Indeed, this principle is so well established that even members of different constituent Colleges can be, and are, charged different ancillary fees by the University of Toronto.
 - 6) With respect to Trinity College and Victoria University, specifically, several provisions of the Federation Framework Agreement (2008) are illustrative of the point that Colleges are not an arbitrary grouping of students but a defined, natural and recognized constituency within the University.
 - 7) The Colleges have distinct histories, traditions and cultures that create a basis for common identity and identity of interests amongst students. This is one of the primary reasons for the continued existence of the Collegiate system.

It is clear that Trinity College, Victoria University, and the Faculty of Applied Science and Engineering are recognized as distinct and natural constituencies both within the University and the UTSU in a much more formal and entrenched sense than other forms of affiliation. While club membership, age, gender, and political affiliation are clearly important forms of affiliation and/or organization, they are not granted the level of recognition that Colleges and Professional Faculties are granted in matters of University and UTSU governance. The TCM, for example, is without question the representative body for the students of Trinity College. As such, we submit that as clearly defined and recognized constituencies of both the University and the UTSU, the results of the 2013 fee diversion referenda ought to be recognized.

Conclusion

The inclusion of a provision in the UTSU's bylaws permitting recognized constituencies to cease fee payment to the UTSU through a free, fair and orderly democratic referendum process, and the recognition of the 2013 fee diversion referenda, are absolutely vital. Without such a provision, UTSU's bylaws are, and will continue to be, undemocratic and oppressive, with no incentive for the UTSU to support and respect the distinct interests of divisional student societies. We believe our proposals are in the best interest of divisional student societies, all UTSU members, and most importantly, the University of Toronto community as a whole.

Sincerely,

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