

ADVISORY Committee on the Collection of Incidental Fees

Report to FEDS Council

March 10th, 2003

Committee Objectives:

- Review the existing incidental refundable fee system
- Examine the suitability of Council Procedure 7 for holding referenda on issues concerning autonomous organizations
- Report to Students Council on the progress made as well as the findings relating to this issue

Findings:

- On the financing and implementation of an on-line Strikeable fee system:
 - Dennis Huber, UW VP Administration and Finance, on adding the "strikeable fee" feature to the Student Information Systems Project (SISP):
 - Development time is unknown: a preliminary design would have to be undertaken to consider issues such as system reliability and tracking/reporting refunds. Currently, there is a development freeze on the SISP while a major system upgrade takes place.
 - In addition to the software development, there are significant logistical problems that would arise from the implementation related to payments, timing, collections, and communications.
 - Cost is unknown. There will be costs to design, implement and maintain an on-line strikeable fees system, as well as to keep that system current with each PeopleSoft upgrade.
 - University funds would not be invested in the project.
 - It would not have a high priority given all the other changes that need to be implemented.
 - UW's fee payment system, which collects over \$100 million annually, was never intended to manage small refundable fees and it cannot be burdened with a host of little transactions. It may cost more to transact the assessment and strike the individual fee than the fee is actually worth. Many student fees are paid by persons (parents, grandparents, guardians) based on the statement mailed to their permanent address - those people do not have access to the student's on-line accounts.
 - Simpler and less expensive solutions should be tried before more energy is expended on this (e.g. refunds in SLC for informed decisions by students).
 - The committee believes that students currently have sufficient choice when it comes to which fees they choose to refund, although not maximum convenience. In-person refunds provide an opportunity for students to make an informed decision.
 - While discussion with students revealed that their initial reactions to the concept of an on-line strikeable fee system tended to be positive, once those students become better informed as to the ramifications of the implementation of an on-line system (potentially harming student societies and endowment funds due to lost revenue, for example), they were much more hesitant in accepting the implementation of such a system.
 - UW student societies objected to students from outside their own faculty having the ability to vote on changing the current system.
 - Autonomous student corporations external to FEDS have a legal and fiduciary responsibility to ensure any paperless system (i.e. Quest) reliably collects their membership fees before being implemented.
- The current system:
 - More education to students about refunds and the organizations that dispense them is needed, especially during the first fifteen days of each term.
 - Refunds continue to be directly dispensed by student groups who collect those fees is the most common practice among university systems investigated (see Appendix 2).
 - FEDS has as many mechanisms in place as other schools to accommodate the introduction of new fees (see Appendix 2).

- FedS Council Procedure Seven:
 - While Council Procedure Seven on referenda is appropriate for matters pertaining to the FedS, it does not adequately address issues that would arise from referenda that challenge the autonomy of student corporations external to the FedS. (see Appendix 3)
 - Whereas FedS acknowledges the autonomy of the Societies in the Federation-Societies Agreement, no such agreement is in place with the student corporations external to the FedS.

Recommendations:

1. Improve the Current System:

Based on the Committee's findings and deliberations, the Committee does not support holding a referendum to change the current system on incidental fee collection. However, in recognition of the interest expressed for changes in the current system, the Committee instead recommends that the FedS coordinate the following improvements:

1. aid in the development of an active educational program informing students about all student-funded organizations at the University of Waterloo
2. advertise refund days and refund period (including information on organizations that collect incidental refundable fees in campus publications)
3. develop and implement a common refund protocol for all organizations¹
4. educate students on using existing mechanisms to introduce new fees (see below)
5. hold at least one refund day per term for each faculty on campus, in a building of the choice that faculty s student society, union, or membership
6. hold at least one refund day per term in the SLC
7. work with UW admin to improve student comprehension of fee system

2. Formalize Contracts:

The above improvements should be negotiated with stakeholder groups and formalized contractually. For instance, the Federation — Societies Agreement can be amended to include any improvements agreed to by the FEDS and Societies.

As for UW student corporations external to the FedS, a Memorandum of Agreement (see Appendix 4) can be negotiated that will include the above changes (including any necessary details), plus a modification to Council Procedure 7 which would take into account referenda processes for external organizations. Under the Corporations Act, these organizations are assumed to be autonomous from any other organization unless a relationship is enforced through the by-laws of the organization or through a contractual agreement. As there is no explicit reference to Imprint Publications, Waterloo, Radio Waterloo, and the WPIRG in the by-laws, policies, and procedures of the FedS and vice versa, and there is no existing contract, financial arrangement nor formal working relationship between the organizations that infringe on their respective operations, it is clear that these groups are fully autonomous from each other.² Therefore, a Memorandum of Agreement would solidify such a relationship.

3. FedS Protocol For New Fees

Fees collected by UW and given directly to the Imprint Publications, Waterloo, Radio Waterloo, and WPIRG are membership fees in these bona fide corporations that are audited and follow corporate protocols of accountability. This is much different than students simply making a "donation" to an unincorporated student organization or initiative. To ensure accountability, these types of fee initiatives could be administered directly through the FedS. Created through referenda, these new fees for unincorporated bodies could be collected, disbursed, and refunded via the FedS.

The FedS should also be available to educate students of the current referendum procedure in terms of its applicability to the creation of new incidental fees.

¹ A possible common protocol could be a standardized form that students could get validated by any organization that they wish to receive a refund from. This would also include new fees administered through the Federation of Students. At the close of the refund period (first 3 weeks of classes), FedS could process the forms (verify student status) and issue cheques to students. Autonomous external student corporations would then reimburse the FedS for respective refunds issued. This system would ensure a paper trail that could be verified by each organization and if necessary, independently verified by a third party.

² FedS and WPIRG have never been formally connected. Funding for WPIRG was approved by the UW Board of Governors in June 1973. The FedS supported the creation of WPIRG and the collection of a refundable fee. However, both Imprint Publications, Waterloo and Radio Waterloo were initially funded through the FedS and later gained organizational and financial autonomy.

4. Survey Students

This Committee also recommends that students be periodically surveyed to gauge their level of satisfaction of the refundable fee system.

5. FedS should not support a referendum on strikeable fees

Finally, if Council is presented with a valid petition invoking a referendum asking students if they want the ability to opt-out of refundable fees at registration, this Committee urges Council to endorse and support the No side of such a debate.

Appendices:

Appendix 1: Incidental Refundable Fee Systems (p. 4)

Appendix 2: Chart of Fee Systems at other Canadian Universities (p. 5)

Appendix 3: Council Procedure Seven & External Student Corporations (p. 6)

Appendix 4: Example Memorandum of Agreement (p. 7)

Appendix 1 Incidental Refundable Fee Systems

1. All incidental refundable fees remain refundable, with improvements made (e.g. SLC refund days).
2. All refundable fees become strikeable.
3. Faculty, society and endowment incidental fees remain refundable, while fees levied by FEDS-external organizations/cross campus organizations become strikeable.
4. All existing incidental refundable fees remain refundable, with improvements made. New incidental refundable fees become strikeable.
5. All incidental refundable fees become mandatory.
6. All existing and new incidental refundable fees become strikeable.
7. All faculty, society or endowment incidental refundable fees remain refundable, while FEDS-external organizations/cross campus organizations become strikeable. New incidental refundable fees become strikeable.

Refundable — The current system in place whereby students seek refunds in person from the organizations in question.

Strikeable — The ability to opt-out of the payment of a particular fee via QUEST before payment is made to UW.

Mandatory — Fee(s) are not refundable or strikeable in any way. They must be paid.

Appendix 2 - Chart of Fee Systems at other Canadian Universities

| NAME | Mandatory | Refundable | SYSTEM TYPE | DETAILS | FEE MECHANISM |
|-----------|-----------|------------|---|--|--|
| Carleton | 9 | 11 | Refund in office | 2 week period (but varies according to organization) | New fees and increases via referenda. |
| Guelph | 38 | 2+? | Refund in office | 3 week period. Need to advertise (sign on door, ad in paper). | Referenda via board of directors (council) or petition of 10% of students. |
| MacMaster | 19 | 1 | Refund in office | 3 week period | Referenda via Council, GM, or petition of 3% of students |
| Queen's | 25 | 37 | Opt-out on-line | Online opt-out during registration | Fee referenda via petition (625 sigs) and subsequent referenda every 3 years. |
| Toronto | 8 | 12 | Refund in office | 3 week period | Referenda via council or petition. |
| Trent | 21 | 7 | Refund in office | Organizations set their own deadlines by which refund requests must be made. | Referenda via board of directors or petition of 10% of students. |
| Waterloo | 7 | 19 | Refund in office | 3 week period | Referenda via (1) board of directors, (2) student's council, (3) petition of 10% students, (4) vote at a general meeting |
| Western | 17 | ? | | | Referenda via council or petition of 10% of students ++ |
| Windsor | 11 | 1 | Refund in office & 2 days in Student Centre | | |
| York | 11 | 4 | Refund in office | | New student groups can hold referendum on fees if petition signed by 10% or 1000 registered students |

| | | | | | |
|--------------|--|--|------------------|---|--|
| UBC | | | Refund period | Eng Soc fee mandatory | |
| Alberta | | | Refund period | Fill out form in 5 five different locations and send cheque; advertise refundable fees in student paper | |
| Dalhousie | | | Refund in office | Refund period and certain advertising requirements | |
| Simon Fraser | | | Refund in office | Refund period and advertise with newspaper & radio station | |
| Victoria | | | Refund in office | Refund period (fill out form, send cheque) and advertise in student paper | |

Research up to 30 January 2003

Appendix 3

Council Procedure Seven & External Student Corporations

While this procedure on referenda is appropriate for matters pertaining to the FedS, it is problematic in its application to issues that challenge the autonomy of external student corporations (for example, referenda that could lead to negative financial impacts for those organizations). More importantly, it has been questioned whether or not this procedure can even be called into effect where organizations autonomous from the FedS are concerned.

One example worth examining is if the FedS were to hold an "opinion" referendum on the continued fee collection of an autonomous external student corporation (AESC). Currently, there are four mechanisms to invoke a referendum by the FedS: board of directors; students council; petition of 10% of students, and; at a general meeting. If referenda are to be used to revoke the fee of AESCs, referenda rules should be developed in cooperation with the potentially affected organization given the serious nature of the outcome.

Difficulties with the existing rules:

Any autonomous external student corporation (AESC) would operate normally both prior to, and during the campaign period. This raises several substantial concerns centering on the nature of what constitutes unfair campaigning which would need to be addressed by the Referendum Committee, (FedS Council Procedure 7, section A.) including:

- ¥ Would event programming and normal AESC promotion be considered printed campaign material? (Section B.2.d)
- ¥ Would the AESC web pages be considered campaigning on the Internet? (Section B.2.h)
- ¥ Would posts on the AESC listservs be considered campaigning? (Section A.2.h)
- ¥ Would promotion of anything connected with an AESC on voting days be considered a violation? (Section B.2.j)
- ¥ Would the YES committee be charged for any material that contains an AESC's name, logo, or other identifying mark? (Section B.2.q)
- ¥ Would event programming and normal AESC promotion occurring prior to the campaign period be considered a violation? (Section B.2.w)
- ¥ Would the normal promotion of AESC events posted off-campus be considered a violation? (Section B.2.y)
- ¥ Would the normal practice of promoting AESC and AESC events on bulletin boards in the Student Life Centre be considered a violation? (Section B.3.e)
- ¥ And more specific to AESC's in the SLC, would their normal practice of promoting themselves and their events within the Student Life Centre be considered a violation? (Section B.3.e)

A Referendum Committee would be obliged to make decisions on the above. If they decided that any of the above constitutes unfair campaigning then the YES committee — regardless of who is on the committee — will likely eventually be disqualified. If they decide that none of the concerns constitute unfair campaigning then the YES committee will have a distinct advantage over the NO committee.

The source of this conundrum is that the FedS Referenda Procedure (Council Procedure 7) was not designed for referenda on external organizations, that is, referenda that bring into play the day-to-day operations of an on campus organization fully autonomous from the FedS.

Additionally, the Referendum Committee may limit the extent of involvement from outside organizations, and/or may require that their involvement be costed into the expenses of the committee being assisted. (Section B.2.k) Would AESCs be barred from campaigning in their own defense?

The FedS Referenda Procedure would also preclude the staff of AESCs from fulfilling the mandates of their respective positions, resulting in undue interference with the required work of staff of separate corporations.

The FedS Referenda Procedure is well intentioned. However, it is clear that the Referenda Procedure was not designed for, and is not adequate to address the specific issues arising from an external-organizational referendum.

Conclusion:

The most straightforward solution is to outline a referenda procedure in a Memorandum of Agreement between FedS and AESCs (see Appendix 4).

MEMORANDUM OF AGREEMENT

made this _____ day of _____ 2003

between:

WPIRG / Imprint / or CKMS a non-profit corporation without share capital (hereinafter WIC)

and:

The Federation of Students, a corporation without share capital (hereinafter FEDS)

WHEREAS the WIC was established in xxxx (YEAR) with the consent of full-time undergraduate students at the University of Waterloo;

AND WHEREAS the FEDS recognizes and respects the autonomy of the WIC;

THIS AGREEMENT WITNESSES that in consideration of the mutual covenants and promises herein, FEDS and WIC agree as follows:

OBLIGATIONS OF WIC:

1.0 WIC shall administer all fee refunds as outlined in its bylaws for any full-time undergraduate student enrolled at the University of Waterloo who chooses not to support WIC. The period for refund requests shall be held in the first three weeks of classes (15 days) of each term, as outlined in the University of Waterloo Undergraduate Calendar.

1.1 WIC shall:

- i. hold at least one refund day in SLC within the first 15 days of class each term
- ii. hold at least one refund day in each faculty within the first 15 days of class each term
- iii. advertise refund days as outlined in 1.1 i. and ii., the University of Waterloo refund period, and information on WIC in campus publications
- iv. actively educate students about [org]

OBLIGATIONS OF FEDS:

2.0 FEDS shall invite submissions from WIC for any promotional material sent en masse to full time undergraduate students at the University of Waterloo and in its orientation materials.

AGREEMENTS BY BOTH FEDS and WIC:

3.0 It is understood that [organization s name] is a separate and independent corporate entity, without any legal or other relationships to FEDS other than those relationships arising out of agreements mutually contracted to by FEDS and [organization s name].

3.1 It is understood and agreed that the Board of Directors of [insert organization s name here] will have full control over matters of policy, finances and staffing for [organization s name] in accordance with that organization s constitution, by-laws and policies.

3.2 This Agreement shall be binding upon the parties hereto and their respective heirs, executors, administrators, successors, and assigns, and the parties hereto agree for themselves and their respective heirs, executors, administrators, successors, and assigns to execute any instruments which may be necessary or proper to carry out the purposes and intent hereof.

3.3 Ten percent (10%) of the voting members of the FEDS may petition the Board of Directors of the FEDS in writing to call a general meeting for the purpose of considering a referendum to vote on whether to continue having the [insert individual organization s name here] fee on the fee statement of all full-time undergraduate students at the

University of Waterloo. The requisition for the meeting shall state the nature of the business to be presented at the meeting and shall be signed by the requisitioners and deposited at the head office of the FEDS.

- 3.4 The Board of Directors are then obligated to call and hold a general meeting of members within twenty-one (21) days from the date of the deposit of the requisition. It is the duty of the President to verify and rule on the validity of the requisition and of each signature.
- 3.5 The individual full-time undergraduates of the University of Waterloo will have sole authority to initiate, through a two-thirds majority vote at a FedS general meeting, duly called to consider this business, such a referendum. Notice for this general meeting shall state that a referendum will be considered. The motion to call a referendum shall include an affirmatively worded referendum question.
- 3.6 Such a referendum shall be subject to the following rules and procedures:

a) Notice

- i. No vote to withdraw [organization s name] from the fee statement of full-time undergraduate students at the University of Waterloo may be held between:- April 15 to September 15 and December 15 to January 15
- ii. Notice of a vote to withdraw [organization] from the fee statement of full-time undergraduate students at the University of Waterloo must be delivered by registered mail to the office of [organization s name] not less than one (1) month prior to any voting, including advance polls.
- iii. Notice of the vote must include at least the exact dates and times of voting.

b) Administering the Campaign and Voting

Any referenda concerning [organization s name] fee shall be overseen by a committee comprised of the Chief Returning Officer (CRO) of FedS together with two (2) members appointed by [org] and two (2) members appointed by FedS. A mechanism to insure the CRO is not in conflict of interest shall be put in place. The committee shall

- i. decide the number and location of polling stations;
- ii. approve all materials to be distributed during the campaign;
- iii. oversee the voting;
- iv. count ballots;
- v. adjudicate all appeals; and
 - vi. Establish all other rules and regulations for the vote.
 - vii. Be named the Special Referendum Committee

c) Campaigning

- i. There shall be no less than two (2) weeks of campaigning immediately preceding the voting during which time classes are in session.
- ii. Only one Yes and one No committee shall be authorized with spending limits determined by the referendum committee.

d) Voting

- i. Voting will be conducted at voting stations and online.
- ii. There shall be no less than sixteen (16) hours of polling over no less than two (2) days, except in case of voting being conducted at a general meeting.

e) Quorum

The results of the referendum shall be binding on the Corporation, provided that the minimum number of voters in the simple majority of a binding referendum be 7% of voting members.

f) Termination

In the event that a withdrawal referendum results in the elimination of [org]'s fee from the fee statement of full-time undergraduate students at the University of Waterloo, that elimination shall take effect at the end of [org] s fiscal year of the calendar year in which the referendum was held.

4. [org] hereby undertakes to save harmless and agrees to indemnify FEDS by reason of operation of this Agreement.

5. This Agreement shall take effect the academic year following it being signed, sealed and dated by the directors of FEDS and WIC.

6. All unresolved disputes or differences arising in regard to this agreement shall be taken to the University of Waterloo's Mediation Service. Failing settlement the dispute shall proceed to arbitration in accordance with the Rules of Procedure for the Conduct of Arbitrations of the Arbitration and Mediation Institute of Ontario Inc., in effect at the date of commencement of such arbitration by one arbitrator appointed in accordance with said Rules. The arbitration shall take place in the City of Waterloo unless otherwise agreed. Ontario law will govern the procedures and the substance of the arbitration. The award shall be, if within the limits provided in this agreement, final and binding on the parties and there shall be no appeal therefrom. The parties shall bear equally the costs of the services of the arbitrator and the arbitrator's expenses but in all other respects the parties shall bear their own legal and other costs.

In witness whereof the Parties hereto have affixed their corporate seals duly attested to by the hands of their proper officers duly authorized in that undertaking.

The Federation of Students per

Dated: _____

President

Dated: _____

Secretary

Dated: _____

Treasurer

The WIC per

Dated: _____

President

Dated: _____

Secretary

Dated: _____

Treasurer