



Membership Advisory

Students' Right to Organise

Background

Since the late nineteenth century, university and college student organisations have evolved from social clubs into unions representing the interests and concerns of their student constituents. Manitoba's eight post-secondary education students' unions are no exception. Much like labour unions, students' unions provide individual and collective services and advocacy to members. Unlike labour unions—which have important rights and duties set out in the Manitoba Labour Relations Act (MLRA)—students' unions in Manitoba are not recognised under any one piece of provincial or federal legislation. Students' unions must often take difficult positions to protect the interests of their members. For students' unions to effectively represent their members and to maintain their democratic character, provincial legislation protecting the right to organise and establishing basic duties must be enacted.

Why Protect The Right To Organise?

Students' unions are democratically-run organisations in which members enjoy the right to shape every aspect of the organisation. The collective membership of students forms the highest decision-making body of the organisation.

Members of students' unions have the right to decide on policies, services, and fees via general meetings of the membership, referenda, and elections (through which the representatives of the organisation are selected from among its members). Members run the organisation and fund it through their membership fees. Unlike tuition fees and other user fees, students' union membership fee levels are determined through democratically agreed-upon means, by way of meetings of elected representatives, and via members' referenda.

Universities and colleges are politicised and complex institutions. The University of Manitoba could be considered Manitoba's third largest city, and is more populated during term-time than many constituencies represented in Parliament. While the decision-making structures of universities and colleges provide opportunities for student input—and students' unions contribute to these structures—most decisions are ultimately made by unelected officials.

Like labour unions, students' unions are funded primarily by membership dues, and rely on university managers to collect and remit these dues, much like labour unions rely on management. Because labour unions and students' unions are often in the position of holding management accountable, fee collection may be jeopardised by the legitimate advocacy activities of the union.

Decades ago, labour unions recognised that the constant tension between union and management stifled the ability of the union to grow and effectively represent and serve its members. After World War II, workers at the Ford plant in Windsor, Ontario went on strike to win union security and compulsory fee collection. Today, the Manitoba Labour Relations Act establishes: compulsory fee collection; consequences for failure by the employer to collect and remit dues; standards for allowing the union unrestricted communication with its members; mechanisms for resolving conflicts between union and management and among unions; and mechanisms for establishing unions in workplaces. The MLRA sets out the basic terms of the relationship among unions, management, and government, thus helping everyone fulfill their roles and work together most effectively.

University administrations have recently tried to prevent communication between students' unions and their members, impede the use of students' union space, and end compulsory collection of students' union dues. Clearly, legislated protection is needed for students.

The Current Situation

The very limited legal rights of students' unions in Manitoba have been established by common law, the Corporations Act (CA), and an assortment of local agreements and practices based on good faith. Students' union fee collection is largely shaped by fee collection agreements with college and university management in conjunction with policy outlined by the Department of Advanced Education and Literacy.

The legal responsibilities of students' unions—as incorporated, not-for-profit organisations—are already legislated through the CA. The CA regulates the activities of students' unions (with the exception of the University of Manitoba Students' Union), including: the frequency of general meetings; filing changes of directors; appointment of auditors; adoption of bylaws

to regulate membership, dues, duties and remuneration of directors; time and place of meetings of directors and the quorum for meetings; and basic record-keeping standards.

Although the internal functions, democratic accountability, and fiduciary responsibilities of students' unions and their respective Boards of Directors are already legislated, the capacity of students' unions to fulfill their responsibilities under their own bylaws and the CA lies more or less with colleges' and universities' willingness to collect and remit students' union fees.

When conflict arises between the management of post-secondary institutions and students' unions, it becomes clear that a more comprehensive legal framework would benefit everyone involved.

The UMSU Act

The University of Manitoba Students' Union Act (UMSU Act) defines, more specifically than the CA, the rights and duties of the students' union, and establishes the duty of the University of Manitoba administration to collect and remit fees to the students' union. However, the UMSU Act makes membership fees subject to the approval of the University. As well, the UMSU Act does not require the University of Manitoba to provide space to the union, and provides no specific protections for provincial and national students' organisations.

Although the UMSU Act is a good starting point, a unified act for all students' unions in Manitoba is needed. Such legislation could improve on the UMSU Act by providing for: meaningful meetings of the membership; full protection of fee collection; standards for access to members by students' unions, using the communications tools of the institutions; more secure access to and control of space on campuses; and penalties for the violation of students' rights.

Right To Organise In Other Provinces

In both Québec and British Columbia, the rights of students' unions are enshrined in law.

In British Columbia, the rights of students' unions have been included in the legislation that governs colleges,

institutes, and universities. Amendments made in 1999 to the College and Institute Act and the University Act define: students' unions; mandate institutional Boards of Governors to collect and remit students' union members' fees, including fees for provincial and national students' organisations; and provide for minimum democratic requirements that must be met in order for recognised students' unions to have fees collected. This legislation provides protection to individual students, students' unions and institutional administrations.

The legislation in Québec is much more extensive, with a model that more closely resembles the certification structure of trade unions. The Act Respecting the Accreditation and Financing of Students' Associations is separate and distinct from the acts establishing and regulating universities in Québec. It outlines the process by which students' unions become "accredited," establishes the right of students' unions to have fees collected, and ensures a minimal amount of free space and furnishings are available for use by students' unions on campuses. Importantly, the legislation protects students' union autonomy in all matters relating to student issues and student representation.

Conclusion

Although the right to organise is about more than fee collection, students' union fee collection encompasses more than meets the eye. Without clear protection through legislation of students' right to organise, students and their unions will continue to be obstructed or silenced for simply enacting their democratic rights.

The current Manitoba government has moved to establish operating norms for post-secondary institutions that are more formal, more transparent, and therefore more accountable.

The government has included universities under new whistleblower legislation, and post-secondary institutions are now required to operate under Generally Accepted Principles of accounting.

In the same way that government is seeking to ensure that universities act in the public interest, government can easily protect the rights of students' organisations in Manitoba. Creating legislation that will protect the legal right of students' unions to exist, have fees collected and remitted, and control space on campus will create a more formal, transparent and accountable environment for both institutions and students' unions.

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