

University of Wisconsin-Green Bay
Student Government Association
Student Court

Chief Justice Mach, Associate Justices Czypinski, Dorgu, Noack & Schmidt

No: SC2008(4)

IN THE MATTER OF BSU v. SUFAC

Filed: April 28, 2008

Opinion Released: November 18, 2008

ASSOCIATE JUSTICE CZYPINSKI delivered the opinion of the Court, in which CHIEF JUSTICE MACH, JUSTICE DORGU, JUSTICE NOACK and JUSTICE SCHMIDT joined.

I. Background

The Student University Fees Allocation Committee (SUFAC) has the primary responsibility for the Segregated University Fee Budget. This includes the allocable, non-allocable and the Segregated University Fee level which is established by SUFAC and approved by the Chancellor. SUFAC is also responsible for holding public hearings regarding the allocable and non-allocable budgets, and shall approve or disapprove items in the allocable university budgets.

On March 1, 2008, SUFAC held its annual Decision Day (D-Day) meeting to discuss and approve or disapprove proposed student organization budgets for the 2008-2009 school year. The Black Student Union's (BSU) budget was reviewed and approved with modifications on D-Day. According to SUFAC's D-Day meeting minutes, SUFAC entered Committee of the Whole for ten minutes to deliberate BSU's budget. After discussing their budget, SUFAC approved \$4759.33 to be allocated to BSU. BSU contends that during the deliberations on D-Day, SUFAC violated its own standing rule of viewing all student organization budgets line-by-line.

II. Issue

The Court has jurisdiction over any issues or disputes arising under the SGA

Constitution (Article III, Section 1 (4)). Furthermore, the Court may hear any appeals by individuals or groups regarding funding decisions made by SUFAC and the Senate (Article III, Section 2 (1)). The petitioner (Black Student Union) seeks judgment on whether SUFAC violated its own standing rule of viewing all student organization budgets line-by-line during D-Day. We refer to the SGA Constitution, the guidelines used by SUFAC during budget deliberations and SUFAC's meeting minutes on February 28, 2008 and March 1, 2008 in resolving this dispute.

- 1) The Segregated University Fee Allocation Committee shall have primary responsibility for the Segregated University Fee Budget, which shall include the non-allocable budget, the allocable budget, and the Segregated University Fee level which is established by the committee and recommended to the Chancellor for approval. The Segregated University Fee Allocation Committee shall hold annual public hearings regarding the non-allocable university budgets, and make recommendations to the Chancellor regarding those budgets. The Segregated University Fee Allocation Committee shall hold annual public hearings regarding the allocable university budgets, and shall approve or disapprove requested items in such budgets. The committee shall have responsibility for allocating any remaining fee monies whose distribution is requested during each fiscal year. The committee shall follow all state laws and court decisions applicable to its work. The Segregated University Fee Allocation Committee shall be chaired by the Chair of Segregated University Fee Allocation Committee. (Article I, Section 3 (11))
- 2) In an attempt to equally distribute limited funds to all student organizations and increase attendance by promoting co-sponsorship, the Segregated University Fee Allocation Committee has determined that a maximum of \$2000 is available to each student organization to be used for any and all contractual services per fiscal year. Exceptions will be made on a case-by-case basis. Contractual services involved are all lectures, performers, demonstrations, films etc. which will foster one or more of the following services: Educational development for the organization members and the University community (namely, the student body). Promote membership in the organization(s). Further the goals of the organization(s) as listed in its constitution. Provide services to the organization or the student body. (SUFAC's Contractual Services Guidelines)
- 3) Brad said guidelines need to be set for the meeting and what will go across the board. Brad said in the past, S & E for anything \$100 can be approved. Brad said the salaries & honorariums were talked about and could be kept the same or around campus 2% increase for the pay plan so it could be upped by that amount. Brad said contractual could be limited by an amount or number of speakers. Brad said 1 food event per semester for meetings. Brad said travel is important to be clearly defined and if not it can come back next year. (February 28th SUFAC meeting minutes Section IX, Announcements)
- 4) Brad said everyone will go through the budgets on the attached sheet to the agenda and the board can go line by line to decide. (D-Day March 1st SUFAC meeting minutes Section VII (b) Information Items, D-Day procedures)

The Constitution clearly states SUFAC shall follow all state laws and court decisions that apply to its work. The Contractual Services Guidelines set forth by SUFAC indicate that \$2000 is available to each student organization to be used for any contractual services per fiscal year. Any exceptions to this guideline will be made on a case-by-case basis. Also, the meeting

minutes establish additional guidelines used by SUFAC during D-Day deliberations. In the February 28th meeting minutes, Chairman Brad Zuleger reviewed guidelines for food, travel, and contractual requests with the Board. In addition, Chairman Zuleger stated that ranking programs can provide an idea of what should and should not be approved. In the March 1st meeting minutes, Chairman Zuleger made an information item stating that the Board will review student organization budgets line-by-line. The petitioner argues SUFAC did not follow the guidelines established in the March 1st meeting minutes by reviewing the BSU budget line-by-line. The respondent contends that it did follow all guidelines and procedures in allocating student organization budgets because it has no standing rule or formal rule about making budget decisions “line-by-line”.

The question before the Court is as follows:

- 1) In light of Article I, Section 3 (11) of the Constitution, the Contractual Services Guidelines used by SUFAC during budget deliberations, and the SUFAC meeting minutes of February 28th and D-Day March 1st, did SUFAC violate its own standing rule of viewing all student organization budgets line-by-line during the BSU budget allocation on D-Day?

III. Analysis

First the Court must determine if SUFAC has any policies, procedures, guidelines or precedents for reviewing budgets line-by-line. In examining the SUFAC meeting minutes from February 28th, Chairman Zuleger stated that although guidelines exist, exceptions can be made. The guidelines referred to include Contractual Services, Committed Funds Request, Travel Request, and Food Request. These guidelines provide monetary limits and require supporting information and itemized lists for requested items. In the March 1st meeting minutes, Chairman Zuleger established a set of guidelines, prior to the review of any organizational budget, in order to create a review process that was consistent, efficient, and equitable. That set of guidelines consisted of a simple list of points for SUFAC to consider when reviewing student organization budgets. A part of those guidelines included the condition that SUFAC may review the budgets line-by-line. Moreover, the respondent noted in their brief that there is an established ideal that

SUFAC will review each student organization's budget line-by-line.

The guidelines used by SUFAC during D-Day deliberations state that any exceptions to the \$2000 limit for Committed Requests and Contingency Requests would be reviewed on a case-by-case basis. Additionally, the March 1st meeting minutes indicate several student organizations' budgets were approved beyond the \$2000 limit. Thus, it is clear from the meeting minutes that SUFAC established a standing rule of reviewing student organization budgets line-by-line.

Prior to oral arguments, the Court conducted a motion hearing regarding the accuracy and completeness of SUFAC's March 1st meeting minutes. The Respondent argued that the meeting minutes taken during Committee of a Whole were not, nor were intended to be, a verbatim transcript. In support of their argument, the respondent refers to *Robert's Rules of Order* which states that when an assembly is in Committee of a Whole "the secretary of the assembly keeps the minutes of the committee's votes and recommendations" (p. 96). Thus, the respondent argued that any additional documentation of the discussion during Committee of a Whole within the meeting minutes, not including the votes and recommendations, did not encompass the full conversation of the committee because the secretary was only obligated to record the votes and recommendations. We rejected this argument for the following reasons: 1) The March 1st meeting minutes were approved by SUFAC at a subsequent meeting; 2) the minutes were posted on SUFAC's website for public use; and 3) SUFAC was unable to provide additional documentation of the procedures followed during D-day. *Given these circumstances, the Court treats the March 1st meeting minutes as a complete and accurate document of D-day discussions.*

Turning now to the review of the BSU's budget, the Court refers to Section VIII (q) of the March 1st meeting minutes. The part of contention, as described in the petitioner's brief and oral arguments, is the Contractual Worksheet. It is clear from the minutes that SUFAC paid significant attention to BSU's proposed fashion show, one of six contractual programs. With specificity, SUFAC discussed BSU's requested forms of musical entertainment for the fashion show, namely a band and disc jockey. However, the discussion abruptly stops with a proposal to allocate a lump sum of \$2000 for all contractual programs. Indeed, SUFAC agreed to allocate \$2000 for all six contractual items without reviewing the other five programs. The Petitioner argues the lump sum allocation is a violation of the Board of Regents' Financial Administration

Segregated Fee Expenditure policy (F20). Specifically, Section III, Subsection B (5) states that lump sum payments to student organizations (as opposed to payments for specific purposes supported by invoices) are an inappropriate SUFAC expenditure. We disagree with the petitioner in part. The intent of the Board of Regents' policy is to avoid a lump sum allocation for a student organization's full budget. In this case, SUFAC allocated a lump sum for the contractual worksheet, not BSU's entire budget. Moreover, SUFAC approves lump sum expenditures by category, be it travel, contractual, or capital items. In our view, this is consistent with the Board of the Regents' F20 policy so long as student organizations' budgets are reviewed line-by-line.

We cannot conclude that BSU's budget was reviewed line-by-line given the March 1st meeting minutes. There is no discussion and barely a reference to the other five contractual programs. In addition, BSU was not asked to rank their requested contractual items. Perhaps, the Court would be less leery of SUFAC's review of BSU's budget if the Board had requested a ranking of contractual programs; however, that does not alleviate SUFAC's responsibility to review budgets line-by-line. We support this observation by examining the March 1st minutes in other places. For example, SASU's contractual worksheet (discussed in Section VIII, Subsection p) was reviewed line-by-line. Here, SUFAC discussed four contractual programs in detail. In addition, SUFAC had SASU rank their contractual items. This is not an isolated situation. SGA's capital requests, Bowling Club's travel requests, and Organization Latin America's contractual requests were discussed in detail. However, BSU's Contractual Worksheet was given little consideration without justification for dismissing five contractual requests.

IV. Opinion

We granted certiorari to the Petitioner for the following issue:

In light of Article I, Section 3 (11) of the Constitution, the Contractual Services Guidelines used by SUFAC during budget deliberations, and the SUFAC meeting minutes of February 28th and D-Day March 1st, did SUFAC violate its own standing rule of viewing all student organization budgets line-by-line during the BSU budget allocation on D-Day?

SUFAC had clearly established a standing rule to review all student organization budgets line-by-line. This is not in dispute as the standing rule is reflected in their meeting minutes and guidelines. Furthermore, SUFAC articulated in its brief that this guideline was established to create a process that was consistent, efficient, and equitable. However, the March 1st meeting

minutes do not indicate that BSU's budget was reviewed in the same consistent, efficient, and equitable manner as other student organizations. Moreover, we are not persuaded that SUFAC reviewed BSU's entire contractual worksheet as the minutes seemingly focus solely on the fashion show. What is more, BSU was not asked to rank their contractual programs. Given the history of this budgetary practice, it may be reasonable to assume that some programs are given less attention than the top-ranked programs; however, the lesser ranked programs should still be reviewed under SUFAC's standing rule.

In distinguishing budgetary review from budgetary approval, we agree with the Respondent that student organization budgets do not need to be approved line-by-line. SUFAC has no standing rule, by-law or governing policy that mandates line-by-line approval. Likewise, a lump sum allocation is not a violation of procedure so long as segregated fees are allocated by section (travel, S&E etc.). Furthermore, we agree with Respondent that line-by-line approval would ultimately constrict and micro-manage a student organization from carrying out its mission. However, the question before the Court is whether SUFAC reviewed BSU's budget line-by-line. The March 1st meeting minutes indicate that BSU's budget was not given due consideration in light of SUFAC's standing rule. *We find in favor of the Petitioner.*

It is hereby ordered.

V. Recommendations and Considerations

First and foremost, the Court wishes to address SUFAC's minute taking practices. Although the petitioner did not challenge the principle use of Committee of a Whole, the Board of Regents requires SUFAC to create a detailed record, which may be a tape recording, of all student fee funding allocation deliberations (F20, Section II (2)). Thus, the minimum requirements for record keeping during Committee of a Whole may be in direct contradiction to the Board of Regents' policy. We strongly recommend that D-Day deliberations be documented by a voice or tape recording. With sufficient records, SUFAC may avoid future court cases and allocation challenges.

Ultimately, the Court is limited in providing a remedy to BSU. The SGA Constitution is silent in regards to correcting procedural violations. However, we have formulated some

recommendations which may resolve student fee allocation decisions in an effective and efficient manner. One, we recommend a process for “exhaustion of remedies.” Meaning, student organizations that appeal SUFAC allocation decisions should first present their argument to SUFAC. As it stands, SUFAC may deny a student organization’s appeal. We believe SUFAC should be required to hear an appeal as the Board may correct or justify its decision’s in the most expedient manner. Moreover, SUFAC should be required to hear a student organization’s appeal before the allocable budget is submitted to the Chancellor. If a resolution is not met with SUFAC, the Student Court would employ a higher standard of review as SUFAC would have all necessary documentation, namely a recording, to provide a just ruling. It should be noted that student organizations may fill out a contingency request if they feel their budget was not justly allocated (See SUFAC by-laws).

And finally, in direct relation to the outcome of this case, it is our recommendation that the Student Senate incorporate “line-by-line review” into SUFAC’s charge under Article I, Section 3(11) of the SGA Constitution.

The Court therefore returns these recommendations to the Executive and Senate for further consideration.