

**UNIVERSITY OF TORONTO  
THE GOVERNING COUNCIL**

**REPORT NUMBER 53 OF THE ELECTIONS COMMITTEE**

**January 27, 2009**

To the University Affairs Board,  
University of Toronto.

Your Committee reports that it met on Tuesday, January 27, 2009 at 3:15 p.m. in the Room 229, Simcoe Hall, with the following members present:

Mr. Olivier Sorin (In the Chair)  
Professor Ronald H. Kluger

Regrets:

Mr. P.C. Choo  
Mr. Gary P. Mooney  
Mr. Stephen Smith

Secretariat:

Ms Mae-Yu Tan

In Attendance:

Ms Nancy Smart, Chief Returning Officer  
The Complainant

In this report, all items are reported to the University Affairs Board for information.

**Purpose of Meeting**

The meeting was requested by Ms Nancy Smart, the Chief Returning Officer (CRO), to hear a complaint made against a 2009 Governing Council election candidate in the Full-time Undergraduate Student Constituency I. The complaint concerned an alleged violation of the rules of campaigning set out in the *Election Guidelines, 2009*.

Ms Smart had conducted an investigation into the matter and had subsequently referred the complaint to the Election Overseers for their consideration.

**Introduction**

The Chair welcomed Ms Smart and the complainant to the meeting. He explained that the Elections Committee was charged with acting as overseers of the elections process for the Governing Council and hearing any disputes that arose from the process. Decisions of the Election Overseers were final and not open to review.

**Introduction** (cont'd)

The Chair noted that both the complainant and the respondent had been invited to participate in the hearing. However, because the respondent was out of the country, he was unable to participate; the respondent had asked that the hearing proceed in his absence.

**Allegation of Violation of Campaigning Rules Against The Student Brought Forward by the CRO**

Ms Smart summarized the allegation of the use of an electronic social networking tool, *Facebook*, prior to the start of the permitted campaign period. Having been alerted by the complainant on Sunday, January 25, 2009, to the existence of the student's *Facebook* page, she checked the online material and found that it did contain his campaign material. Ms Smart then wrote to the student, referring to the rules regarding campaigning that were outlined in the *Election Guidelines, 2009* (Appendix A: Guidelines for Campaigning, pages 48-51). She noted that "campaigning for all elections may not begin until 1:00 p.m. on Friday, February 13, 2009, and will end at 5:00 p.m. Friday, March 20, 2009" and asked the student to provide a written response to the allegation of a campaign violation. Ms Smart added that the student's nomination form had been accepted and had been verified.

In his written response to Ms Smart, the student stated that he had not yet completed reading the *Guidelines*, and as such had not read Appendix A. He apologized for his error and indicated that he was taking action to remove his *Facebook* group. He had not realized that there were restrictions on when candidates could begin campaigning, and he had simply wanted to inform his friends of his candidacy in the Governing Council elections. In a communication to Ms Smart on Monday, January 26, 2009, the student informed her that he had deleted the *Facebook* group, and he sent her a copy of the text that had been posted, for her records.

Invited to comment, the complainant told the Committee that he had learned of the existence of the student's *Facebook* group through a mutual friend. After viewing the student's online material, which contained a statement of his intent to run as a candidate in the Governing Council elections, the complainant then informed the CRO of the material. In the complainant's view, it was a violation of the regulations contained in Appendix A of the *Guidelines*.

In response to a question from a Committee member, the complainant stated that he (the complainant) was also a candidate in the 2009 Governing Council student election. It was the complainant's opinion that all candidates should follow the *Guidelines*, and that no candidate should be put at a disadvantage during the election process as a result of the actions of other candidates.

The Chair thanked Ms Smart and the complainant for their comments. The non-members then withdrew from the meeting, and the Committee moved *in camera* to deliberate, with the Secretary remaining.

**Decision**

After deliberation, the Committee unanimously reached the following decision.

**(a) The Student: Campaign Violations****(i) Campaign Period**

The Committee determined that the student had begun campaigning prior to the start of the campaign period, thus violating the rules contained in Appendix A of the *Election Guidelines 2009*. In the opinion

**(a) The Student: Campaign Violations (cont'd)****(i) Campaign Period (cont'd)**

of the Committee, this constitutes a serious violation of the *Guidelines*, regardless of whether or not there was an attempt on the student's part to gain an unfair advantage in the elections process.

**(ii) Misuse of Electronic Media**

The Committee determined that the student had also violated the "Use of Web and Electronic Media" section of Appendix A of the *Guidelines* (p. 48), which states that "candidates are required to inform the CRO of their election web-site, election blog and/or social networking tool, if they use any of these for campaign purposes. Candidates are required to provide to the CRO viewing access to social networking tools used for campaign purposes." In the opinion of the Committee, this also constitutes a serious violation of the *Election Guidelines 2009*.

**Penalty:**

The Committee has determined that the student has committed two serious campaign violations. According to Appendix A of the *Elections Guidelines, 2009* (p. 51), the Committee has the authority in such circumstances to disqualify the candidate from the election. However, in the present matter, the Committee uses its discretion not to disqualify the student as a candidate in the Governing Council election, as, in its view, it is very doubtful that the combined effect of the violations will have a material effect on the outcome of the election and that, taken together, the violations are not grave enough to warrant disqualification.

The Committee therefore assesses the following sanctions against the student:

- a. That the student be prohibited from using any electronic media for campaign purposes between Friday, February 13, 2009 at 1:00 p.m. to Friday, February 27, 2009 at 1:00 p.m. This includes the use of such electronic media as an election website, election blog, electronic social networking tools, or other electronic aids whose use would normally require the notification of and access by the CRO.**

**And**

- b. That the student's reimbursement for campaign expenses be reduced by \$500 for the current campaign in the Full-time Undergraduate, Constituency 1 election for Governing Council for the campaign violations.**

Pursuant to Appendix A of the *Election Guidelines 2009* (Publication of Confirmed Violations, page 51), details of the confirmed violations, including the name of the offender, will be published on the Governing Council elections website. The Committee has determined that such information will remain posted on the website until Friday, February 27, 2009, at 12:00 noon.

**(b) Recommendations for 2010 Elections Process**

i) *Election Guidelines 2010*

The Committee recommends that the definition of a Serious Violation in the *Election Guidelines 2010* be revised, to take into account factors such as admission of a violation and intent on the part of the candidate, possibly removing the reference to “an attempt to gain an unfair advantage in the elections process. An amended definition could perhaps read as follows”:

A Serious Violation is a specified contravention of these *Guidelines* that is the result of an admitted error, but that does not constitute a substantial effort to commit fraud or undermine the elections process.

ii) Distribution of the *Election Guidelines* in the future

The Committee recommends that, in the future, further steps be taken to draw prospective candidates’ attention to the regulations outlined in the *Election Guidelines*. Perhaps a cover sheet that emphasizes the importance of carefully reading the *Guidelines* document in its entirety could be attached to copies of the *Guidelines* that are distributed to prospective candidates when they submit their nomination forms to the Office of the Governing Council. The Committee is also in favour of continuing the current practice of a) making the *Guidelines* publicly available on the Governing Council website immediately following its approval by the University Affairs Board in the fall, and b) posting a statement on the Governing Council website that urges prospective candidates to read the *Guidelines* well before the start of the nomination period.

The decision was confirmed by a quorum of the Election Overseers following the meeting.

The meeting adjourned at 4:15 pm.

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Secretary  
January 29, 2009

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Chair