

**UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

REPORT NUMBER 60 OF THE ELECTIONS COMMITTEE

March 24, 2010

To the University Affairs Board,
University of Toronto

Your Committee reports that it met on Wednesday, March 24, 2010 at 9:00 a.m. in Room 229, Simcoe Hall, with the following members present:

Mr. Stephen Smith (In the Chair)
Ms Diana Alli
Professor Ronald Kluger
Mr. Olivier Sorin ¹

Regrets:
Mr. Gary P. Mooney

Secretariat:
Mr. Anwar Kazimi, Chief Returning Officer
Mr. Henry Mulhall, Acting Secretary

In Attendance:

Respondent 1

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

Purpose of Meeting

The meeting was requested by Mr. Anwar Kazimi, the Chief Returning Officer (CRO), to consider two charges of campaign violations with respect to rules contained in the *Election Guidelines 2010*. Mr. Kazimi had investigated each case and had subsequently referred the matters to the Election Overseers for their consideration.

Introduction

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

¹ Recused himself for the consideration of allegation 1.

Details of Allegation 1

Mr. Kazimi outlined his charge against Respondent 1, a graduate student candidate in the 2010 Governing Council elections. Mr. Kazimi had received a complaint that some of Respondent 1's campaign posters had violated the rules outlined in the *Election Guidelines 2010*, Appendix B, Guidelines of Posters and the Use of Information and Communication Technology. Upon investigation, Mr. Kazimi had determined that some of Respondent 1's posters had been placed on municipal utility poles along Devonshire Place, Harbord Avenue, and Hoskin Avenue. Mr. Kazimi had notified Respondent 1 on March 8, 2010 that this constituted a violation of Section 3.03 of the *Procedure on the Distribution of Publications, Posters and Banners at the University of Toronto St. George Campus*. He had asked Respondent 1 to remove the posters, and Respondent 1 had subsequently responded that he had removed from the prohibited areas as many of his posters as he could find.

Invited by the Chair to respond to the CRO's charge, Respondent 1 first noted that he had revisited the locations in question once the inclement weather on March 8, 2010 had cleared, and had removed more of his posters that had been partially obscured by the numerous other posters on the utility poles. He acknowledged that he had violated the poster rules, and specifically took responsibility for not having instructed his poster assistants with sufficient care regarding the rules. During the subsequent questioning and discussion, members of the Election Overseers determined that Respondent 1 had read the *Election Guidelines 2010* and had a general understanding of the rules that it contained.

Respondent 1 withdrew from the meeting.

Details of Allegation 2

Mr. Kazimi informed the Overseers that he had received an allegation that Respondent 2, a full-time undergraduate student candidate, had invited students to vote for him using four computers that had been placed on a table being used by a student group in the student centre at the University of Toronto at Scarborough on March 11, 2010. Mr. Kazimi had contacted Respondent 2 that day, informing him that this could constitute a violation of clauses (g) and (h) of Appendix A: Guidelines for Campaigning and Enforcement of the Election Guidelines 2010. Clause (g) prohibited candidates from interfering with a voter's freedom to cast a ballot for the candidate of her or his choice or from compromising the secrecy of the ballot process; clause (h) stated that candidates should respect the privacy of voters and should not be present when votes were being cast. Respondent 2 had provided a written response to Mr. Kazimi regarding the alleged violation, but did not attend the hearing. In addition to this written response, the Election Overseers also considered video evidence of the events of March 11, 2010. Respondent 2's written response had confirmed that he had been present and that the computers had been accessible for voting purposes, but he had disputed that the computers had been used to facilitate his election.

The Committee moved *in camera* to deliberate on the allegations.

Decisions

After deliberation, the Committee unanimously reached the following decisions.

(a) Respondent 1: Postering Violation

The Committee determined that Respondent 1 had violated the postering rules contained in the *Election Guidelines 2010*. It was the decision of the Committee that this constituted a “serious”² violation of the *Guidelines*. The Committee noted that Respondent 1 had accepted responsibility for the fact that some of his posters had been placed in unauthorized locations by his assistants, and that he had taken steps to remove them after having been alerted to the violation by the CRO. He had accepted responsibility for the actions of his staff, and had stated that he could have given them better instructions. The Committee considers such clear admissions and improved understanding of the *Guidelines* by a candidate to be an important factor in assessing penalties.

Penalty:

The Committee reprimands Respondent 1 for the campaign violation.

(b) Respondent 2: Interference with Voters’ Privacy to Cast a Ballot

The Committee determined that Respondent 2 had violated clause (h) of Appendix A: Guidelines for Campaigning and Enforcement of the *Election Guidelines 2010*: “candidates shall respect the privacy of voters and shall not be present when votes are being cast”. It was the decision of the Committee that this constituted a “severe” violation as defined in Appendix A, page 103. Respondent 2’s response to the charges had demonstrated that he was still not aware of his obligations as a candidate. It should have been clear that he had committed a violation despite his denial of having directed students to use the computers to vote for him. Being present at a voting location is itself a severe violation of the *Guidelines*.

Penalty:

The Committee imposed a financial penalty to be applied to Respondent 2’s reimbursement for campaign expenses during the 2010 Governing Council election process.

The decision of the Election Overseers is final and is not subject to any further review or appeal.

Other Business:

2010 Elections Process

The Committee held a preliminary discussion of the 2010 Governing Council Elections Process,

² The Election Overseers may determine that a serious violation has been committed even if it appears that the candidate did not intentionally seek to gain unfair advantage in the electoral process (p. 102, *Election Guidelines 2010*).

and of means by which it might be improved in future years. The Chair noted that the Secretary had distributed a memo from him to the University community on March 18, 2010 requesting feedback on the process. An online form was now available from the election website, and members of the University community could submit their feedback until April 8, 2010.

The following possible means by which to improve the elections process were discussed:

- eliminating of the use of paper posters, or placing limits on the number allowed;
- restricting postering to official, temporary Governing Council bulletin boards;
- reducing the limit for election related expenses if postering were eliminated;
- limiting candidates' spending on website development, or requiring the use of an official, uniform website;
- regulating candidates' use of listserves;
- restricting the timing of official endorsements to the campaign period;
- restricting candidates' email communications with voters to official email messages with links to candidates' websites; and,
- raising awareness of the Elections Process by means of enhanced electronic and print advertising, and official postering.

The Committee would consider the feedback received from the University community, and discuss recommendations to improve the elections process in greater detail, at its next meeting on June 22, 2010.

The meeting adjourned at 10:15 a.m.

Secretary
March 26, 2010

Chair