

**UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

REPORT NUMBER 54 OF THE ELECTIONS COMMITTEE

February 5, 2009

To the University Affairs Board,
University of Toronto.

Your Committee reports that the following members considered an appeal electronically on February 5, 2009:

Mr. Stephen Smith (Chair)
Mr. P.C. Choo
Professor Ronald H. Kluger
Mr. Gary P. Mooney
Mr. Olivier Sorin

Secretariat:

Ms Mae-Yu Tan

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

Details of the Appeal

On the decision of the Chair, the Election Overseers were asked to consider electronically an appeal that was submitted to the Office of the Governing Council on February 2, 2009. The nomination period for the 2009 Governing Council elections was held between Friday, January 9, 2009 at 12:00 noon and Friday, January 23, 2009 at 12:00 noon. Shortly before noon on January 23rd, Mr. Perry Darkwa, a full-time undergraduate student in the Faculty of Arts and Science, submitted a nomination form. On Tuesday, January 27th, Ms Nancy Smart, the Chief Returning Officer (CRO), informed Mr. Darkwa by email that his nomination as a candidate for the Governing Council election could not be accepted, as he did not have twenty nominators from his constituency (i.e. full-time undergraduate students in the Faculty of Arts and Science).

Mr. Darkwa subsequently submitted an appeal of Ms Smart's decision. He indicated that he had been aware of the possibility that some of his nominators might be invalid, and he had therefore obtained nominators in excess of the required twenty; he had in fact obtained twenty-three signatures on his nomination form. Mr. Darkwa stated that he had not been notified prior to the close of the nomination process that his nomination might be invalid. As well, in his view, the *Election Guidelines 2009* was not clear as to the course of action that might be "...taken against candidates who receive more signatures than required but still receive less than the minimum."

Response from the Chief Returning Officer

In response to Mr. Darkwa's appeal, Ms Smart referred to procedures and regulations outlined in the *Guidelines*. Section 6.c.iii (p.39) of the *Guidelines* document states that the CRO is not obliged to inform a candidate of errors or irregularities with his/her nomination form prior to the close of the nomination period. Ms Smart noted that it had not been possible to check all nomination forms prior to the close of the nomination period due to the abundance of nominations that had been received.

Ms Smart noted that the consequences of filing an incomplete nomination form were clearly listed in the *Guidelines* (Section 6.c.iii, p.39). Nomination forms could be automatically invalidated by the CRO on technical grounds if they were in error, incomplete, not appropriately verifiable, or not accompanied by the other papers required by the *Guidelines* and by the CRO. Ms Smart stated that a candidate who had failed to provide the required number of valid nominators' signatures had submitted an incomplete nomination form. She emphasized that it was Mr. Darkwa's responsibility to know if his prospective nominators were members of the constituency in which he was seeking election, in order to know if they were eligible to serve as nominators.

Decision

The Election Overseers unanimously agree to dismiss Mr. Darkwa's appeal. They concur with Ms Smart's decision and her assessment of Mr. Darkwa's nomination form as invalid. It is the candidate's responsibility to ascertain the validity of those supporting the nomination and to ensure that he/she obtains the requisite number of valid nominations by the stated deadline. While the University wishes to encourage community participation in Governing Council elections, and is pleased when individuals, particularly students, undertake to contribute to University governance, rules and regulations governing the election process, which are made explicit in the *Election Guidelines 2009* and are publicly available, must be followed.

Secretary
February 5, 2009

Chair