

**UNIVERSITY OF TORONTO
THE GOVERNING COUNCIL**

REPORT NUMBER 38 OF THE ELECTIONS COMMITTEE

February 10, 2005

To the University Affairs Board,
University of Toronto.

Your Committee reports that it met on February 10, 2005 in the Falconer Room, Simcoe Hall, as Elections Overseers, in accordance with Chapter III(8) of the *Election Guidelines 2005*, with the following members present:

Professor Michael Marrus (In the Chair)
Dr. Alice Dong
Mr. Stefan Neata
Mr. Stephen Smith

Secretariat:

Mr. Paul Holmes (Chief Returning Officer)
Mr Andrew Drummond (Secretary)

In Attendance:

Mr. Matthew Ying

The meeting was held in open session.

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

Purpose of Meeting

The meeting was called by the Secretary of the Elections Committee to hear an appeal from a student, Mr. Matthew Ying, whose nomination papers were invalidated by the Chief Returning Officer on the grounds that he was not a student in the constituency in which he was attempting to run. Mr. Ying requested as a remedy that his nomination papers be approved.

Deliberation

The Chair invited Mr. Holmes to summarize his actions in invalidating Mr. Ying's nomination.

Mr. Holmes noted that the appellant's status as part-time undergraduate student had been verified on the ROSI system both on January 28, 2005 and on February 8, 2005. He referred members to the appellant's nomination form, which was for the full-time undergraduate student election to Governing Council. Lastly, he referred to the relevant sections of the *Elections Guidelines 2005*, which clarified that candidates must be members of the constituency in which they are running.

The Chair then invited Mr. Ying to present his case. He referred members to the letter he had submitted and argued his nomination should be approved on several grounds:

- the appellant's freedom of expression had been denied;
- the appellant's ability to participate in democratic processes was unduly limited by his inability to seek office in the constituency he would be in;
- the appellant's freedom to examine, investigate, comment, speculate and criticize the University and community at large were unduly limited because he would be ineligible to serve on the highest governing body of the University;
- because of the appellant's plans to change his status to that of a full-time student, he should be able to run in the constituency he would be in; and
- the University's support for mature students was insufficient and the invalidation of the nomination caused mental anguish.

Mr. Ying added that divisions had different determinations of who was a part-time student. He was taking the equivalent of three courses, but because he was in the Faculty of Applied Science and Engineering, he was considered part-time. In the Faculty of Arts and Science, he would be considered full-time. This differentiation, he asserted, was discriminatory. Furthermore, for financial aid purposes, he was considered full-time.

The Chair invited members to pose questions to Mr. Holmes and Mr. Ying. During discussion, it was clarified that Mr. Ying, because of his plans to switch status, was effectively barred from running in any constituency during the 2005 elections.

There then followed an *in camera* discussion, during which Mr. Ying and Mr. Holmes were asked to absent themselves.

Decision

The Committee was unanimous in upholding the decision of the Chief Returning Officer (CRO) in invalidating the nomination. In its view the CRO had fairly and correctly made a decision on the basis of the eligibility requirements. The Committee nevertheless thanked Mr. Ying for bringing the matter forward, noting that the case highlighted what some might see as an anomaly in the *Guidelines*. It recommended that next year's Elections Committee examine the eligibility rules as part of its overall annual review of the *Elections Guidelines*.

February 14, 2005