

March 24, 2023

Election Administrator's Decision

Decision #2023/11

The appellant is appealing the Decision of the Election Administrator (Decision #2023/10) to:

- (i) issue a warning to three candidates for placing posters on top of other posters on university billboards;
- (ii) dismiss her complaint against a number of candidates for slating (i.e. running together as a group).

Although the appeal was not filed on the official form but in an email to me (Annexed to this Decision), I have accepted it in the interest of efficiency. The two grounds for appeal are dealt with separately below.

Poster Violation

The appellant argues that the sanction imposed in Decision #2023/10, namely a formal warning and a threat of stronger sanction for repeat offences in future elections, is not an appropriate response to the improper placement of posters. She says that a warning amounts to toleration of these violations and that something should be done to punish the violators in this election.

CSU Election Procedure BD-06.1 includes the following provisions relating to penalties for violations:

Penalties

1. The elections administrator may penalize any candidate for committing an offence, including for campaigning in violation of the campaign rules or for any other violation of the election policy, these election procedures, or any other election rules. **The elections administrator shall have complete discretion in determining the appropriate penalty for any given offence.** [emphasis added]
2. If the elections administrator determines that a candidate has committed an offence, then the elections administrator shall determine an appropriate penalty based on whether the offence is considered a minor offence or a serious offence:
 - a) A minor offence is generally considered to be an offence which was accidentally or unintentionally committed, and which is unlikely to have a material impact on the results of the election.
 - b) A serious offence is generally considered to be an offence which was intentionally or deliberately committed, and which is likely to have a material impact on the results of the election, where a candidate has ignored warnings, or where a candidate has broken rules repeatedly.
3. **The elections administrator may, at their discretion, issue a warning to a candidate instead of issuing a penalty, especially for a first or accidental offence.** [emphasis added]
4. The elections administrator may impose any of the following penalties:
 - a. Withdrawing one or more of the candidate's campaign rights, including issuing prohibitions on one or more methods of campaigning either temporarily or for the duration of the campaign period;

- b. Disqualification of the candidate; or
 - c. Any other penalty that the elections administrator believes is appropriate.
5. The elections administrator must not, as a penalty, alter the number of votes that a candidate receives during the voting period, or penalize a candidate financially or with respect to campaign expense limits or reimbursements.

These provisions make it clear that the election administrator has discretion in the application of remedy and that penalties should be proportionate to the severity of the violation. Section 3 specifies that warnings will in some cases be an appropriate remedy.

In the present case, following the procedure set out in Section 2 above, I determined that the candidates had committed a violation by placing their posters on top of other posters, but that the offence was a minor one because (i) it appears to be a first offence and (ii) it is unlikely that the placement of these posters had a material effect on the election. [The preliminary election results relating to the four candidates mentioned in the complaint were not close. Two were not elected and two were elected by commanding margins.]

Taking into account the facts in this case, I decided that a warning was the most appropriate remedy available. I did not consider that disqualification, the only practical alternative in this case, would be an appropriate remedy.

For all of these reasons, the appeal as regards the penalty for the poster violations is dismissed.

Slating

The appellant is appealing the dismissal of her complaint of slating by four candidates on the ground that the decision did not take into account evidence from a witness that she encouraged to come forward.

One person, who asked to remain anonymous, sent me an email that made various allegations, including that some candidates were forming into groups. The email mentioned one of four candidates identified by the complainant. However, the witness, either in the initial email or when I followed up, did not have evidence of cooperative campaigning and was not able to identify any candidates in the alleged slate. The witness did not provide compelling evidence in support of the complainant's allegations of slating.

The appeal regarding the complaint on slating is dismissed.



David Ennis
CSU Election Administrator

ANNEX 1 – TEXT OF THE APPEAL

From: **Niko Williamson** <nikowilliamson@capilanou.ca>
Date: Thu, Mar 23, 2023 at 7:33 AM
Subject: Re: Your Election Complaint
To: David Ennis <elections@csu.bc.ca>

Hello David,

I am making an appeal.

I believe it is not an appropriate decision to say you'll give sanctions for future elections, but not this one. This is the election we are in and this behaviour is either tolerated, or it isn't. The board of directors is going to impact the entire years work, and I believe it is not appropriate to say you'll give sanctions for future elections, when this is the election we are in. Saying they'll have consequences in the future doesn't help the organization now. If poster violations don't arise to that level of severity, you should state that outright and instead of implementing a half-way measure of warning them that putting their posters over other posters won't be tolerated in future elections.

As for the slating, I hope the statements of the witnesses I encouraged to come forward is enough evidence. In the report it says I didn't have additional evidence, however I was under the impression that the witnesses I encouraged to make statements was the additional evidence.

Best regards,
Niko