

## **Election Administrator's Decision**

Decision# 2023/B/23

I received an appeal from my decision #2023/B/16, in which I declined to disqualify two candidates for Capilano Business and Professional Society (CBPS) Council who allegedly did not meet the eligibility criteria established in the CBPS bylaws. The appellant asks that I reverse my decision and overturn the election of candidates Aryaa Israni and Aishprit Kaur.

The CBPS is a student association established under the Student Association Policy (BD-05), the activities of which are funded by a separate student society fee paid by students enrolled in the Faculty of Business and Professional Studies. The CBPS is governed by a set of bylaws that are first approved by the CBPS Council, and then ratified by the CSU's Board of Directors.

In March of 2023, the CSU Board of Directors ratified changes to the CBPS bylaws that established special eligibility requirements for candidates for CBPS Council. In all other respects, ordinary CSU election procedures continue to apply to the election of CBPS Council members. The sections in the CBPS bylaws dealing with eligibility are as follows:

2. In order to be eligible to serve on Council a person must be:
  - . a member of the Capilano Students' Union;
  - . registered in an academic program in the University's Faculty of Business and Professional Studies;
  - . in good academic standing at the University and, at the time that the person's term of office begins, be enrolled for at least another one-year period of study before graduating from the academic program;
  - . qualified to hold that role according to the minimum requirements as set by each association and approved by the Council, and in particular:
    - . in the case of the President and Vice-President of the Capilano Business and Professional Society, the person must be enrolled in the Faculty of Business and Professional Studies and satisfy one of the following:
      - . Will be at least a 2nd-year student at the start of the position's term; or
      - . Be involved in any of the associations or the CBPS as a whole, in any capacity, for a minimum of one term;
3. The membership of Council includes the presidents of each of the Department Associations approved by Council, together with the President and the Vice-President of the Society, each of whom shall be:
  - a) recommended by the respective outgoing president or officer (or by the President and Vice-President of the Society if an incumbent wishes to run for re-election);
  - b) in the case of the president of a Department Association, interviewed by the outgoing president and executive of that Department Association to narrow down eligible candidates and ensure a fair process; and
  - c) elected during Capilano Students' Union general elections,

The candidates in question meet the criteria set out in Article 2 but have not received the recommendation of the outgoing President and Vice-president as contemplated in Article 3(a). The appellant argues that these recommendations are needed to ensure that the persons holding those positions are engaged and knowledgeable enough to carry out their duties effectively.

Crucially, the document does not establish any timeline for candidates to obtain the recommendation of their predecessors as contemplated under Article 3(a) or for the communication of that recommendation to CSU or the Election Administrator. I am informed by CSU that some effort was made by CSU staff and CBPS to develop a timeline for CBPS decision-making that would align with CSU electoral calendar but that no decision was made.

CBPS informed CSU of the candidates nominated for CBPS Council positions on September 28. On September 29, CBPS notified the CSU that some of the candidates might not be eligible under the CBPS bylaws but that they would confirm eligibility over the weekend. In the following days, CBPS conducted the interviews mentioned above. On the afternoon of Tuesday, October 3, CBPS informed CSU that the two candidates in question were not recommended by the outgoing CBPS president.

By the time CBPS' decision was communicated to CSU, the election administrator and CSU staff had already finalized the ballot, which included the names of both candidates, and ballots had already been sent to the electors. Both candidates won their respective races by acclamation (the results are available on the CSU website).

Based on the information provided by CBPS, the decision to include the candidates on the ballot was the correct one. It is not disputed that both candidates were elected by CBPS members. The question at issue in this appeal is whether the results of this election should stand or should be overturned.

The appellant says that CBPS did everything that it could to put the new rules into practice but that it did not receive sufficient guidance from CSU staff. It argues that allowing the elections to stand would thwart the intention of the new eligibility rules adopted in March 2023, which were clearly intended to prevent those without the recommendation of their predecessors from becoming Council members.

While I sympathize with the appellants' desire to ensure that Council members are engaged and knowledgeable, there are good reasons for allowing this election to stand. To begin, the candidates are now duly elected by CBPS members. Overturning the results of the election would be unfair to candidates and voters alike. Such a step should only be undertaken in the most clear-cut circumstances. In the present case, the circumstances are far from clear cut.

As mentioned above, the CBPS Council eligibility rules were lacking in detail, especially as to timeline and process, and this made it difficult for them to be implemented in a way that worked with the electoral timeline. CBPS and CSU were in communication but failed to develop a plan for operationalizing the new rules. Under the circumstances, CBPS bears a share, perhaps the lion's share, of responsibility for the failure of the new eligibility scheme in these elections.

Further, while it is legitimate to require candidates to meet certain standards of competence or involvement, eligibility rules should be based on objective criteria (e.g. demonstrated

commitment to the values of the society, high standards of written and spoken English, etc.). The current rule is entirely discretionary; it effectively allows Council presidents and vice-presidents to choose their successors. Unfettered discretion of this kind is a recipe for bias and cronyism.

The CSU Student Association Policy, under which CBPS operates, states that:

a student association must have a democratically-elected Council, consisting exclusively of students elected by and from the members of the Capilano Students' Union

I doubt that the recommendation requirement in Article 3 of the CBPS bylaws is consistent with that rule.

Relatedly, the CBPS bylaws include no provision for appeal by a student who has been refused a recommendation. While a student who has been wrongfully refused a recommendation might be able to appeal under Section 5(g) of the Student Association Policy (BD-05), it seems unlikely that that process would reach a result within the timeline needed for the purposes of the election. It would be far preferable for the CBPS bylaws to establish an appeal mechanism with a defined timeline and process to address such situations.

After publishing my initial decision, I received a letter from Candidate Israni, who strongly took exception to the issue with the suggestion that he is unfit to be president of the CBPS. He reiterated his commitment to CBPS Council and members. Understandably, he felt distressed at the prospect of being disqualified for being unqualified after being elected.

For all of these reasons, I do not agree that the election of the two candidates in question should be overturned and the appeal is dismissed.

I note that Article 3 says a person is eligible to be a CBPS president or vice-president if that person is elected in a CSU election and obtains the recommendation of their predecessor. I leave it to CBPS Council to determine whether the two elected candidates are eligible to participate in Council meetings in light of that provision. I also note that both positions are up for election in the next general elections to be held in spring 2024.

Finally, this situation was a predictable consequence of defects in the legal framework for CBPS Council elections. I strongly encourage CBPS and CSU to work together to develop rules that are consistent with CSU's democratic principles and that are workable in practice before the next elections.

CSU Election Procedure BD-06.1 provides for no further appeal and so accordingly, my decision is final.

A handwritten signature in black ink, appearing to read 'D. Ennis', written in a cursive style.

David Ennis  
CSU Election Administrator