



Judgment of the USC Appeals Board in the matter of:

***Omer Abdalla v Elections Governance Committee, 2023:2 Election***

**Hearing Date:** January 24, 2023

**Judgment Released:** January 24, 2023, with written reasons delivered January 31, 2023

**Panel:** William Fawcett (Chair), Priyanka Singh, Ann Sony

**Reasons:** Singh (Fawcett, Sony)

**PART I: INTRODUCTION**

1. This is an appeal by Omer Abdalla in response to the decision by the Elections Governance Committee (“EGC”) to declare him ineligible to run for the upcoming University Students Council (“USC”) Spring 2023 election.

2. For the reasons below, this Board finds that the EGC’s decision, despite the good intentions and eagerness of Mr. Abdalla to participate in this election cycle, was in keeping with Bylaw #2: Elections Bylaw (“**Bylaw #2**”) and the rules governing the elections process. Accordingly, the appeal is dismissed.

**PART II: FACTS**

3. On January 16, 2023, the nomination period for the 2022/23 USC Spring Elections opened. Candidates were required to submit nomination forms through an online portal before 11:59PM on January 20, 2023. Part of the nomination form included a “Candidate Agreement & Waiver”

which, among other things, indicated that candidates needed to attend a mandatory all-candidates advisory meeting (“**All-candidates Meeting**”). Two options were available: Saturday January 21, 2023 from 10:00AM to 12:30PM or Sunday January 22, 2023 from 5:00PM to 7:30PM. It was further indicated that candidates or a designated proxy must attend one of the two All-candidates Meetings and that failure to attend or to send a proxy would result in automatic disqualification.

4. Sometime between the opening and closing of the nomination period, the appellant clicked “I Accept” to the Candidate Agreement & Waiver and successfully submit his nomination form.

5. Bylaw #2 Section 7.8 states as follows:

7.8 All Candidates Meeting - Candidates shall be declared ineligible if they fail to attend the All-Candidates Meeting and the candidate fails to send a proxy to the All-Candidates Meeting. The candidate, whether present in person or not, is entirely responsible for understanding and abiding by all information provided at the All-Candidates Meeting.

6. At 3:02AM on Saturday January 21, 2023, the EGC sent out an email to all confirmed candidates with, among other things, the dates of the All-candidates Meetings and the relevant Zoom links. In this email, it was also stated that late arrivals would not be accepted, and that the meeting would lock five minutes after the start time. Of note, this appears to be the only time where the locking of the meeting was mentioned.

7. Mr. Abdalla claims that due to the timing of the email, he was unable to attend the meeting on Saturday, although he also acknowledges that, irrespective of the timing of the email, the Saturday meeting was not convenient for him. As a result, he subsequently intended to attend the meeting on Sunday January 22, 2023 from 5:00PM to 7:30PM.

8. Mr. Abdalla also serves as the current President of the Ski and Snowboard Club at Western University. His club had a meeting on Sunday January 22, 2023 which ran from 1:00PM until

approximately 4:30PM. At this point, he claims an executive member of the club approached him in distress with an emergency.

9. For the purposes of this appeal and to respect the privacy of this individual , this Board did not require any further details regarding this personal issue and is content to accept that this matter was of significance for the individuals involved.

10. In oral submissions, Mr. Abdalla detailed how he was aware that the All-candidates Meeting was imminent, but felt the acuity of the situation with the executive member deserved his immediate attention. As a result, he went to speak with the individual privately and left his phone and computer behind.

11. Just prior to 5:30PM on January 22, 2023, Mr. Abdalla attempted to log into the All-candidates Meeting but was locked out. After several attempts, he emailed the EGC at 5:30PM requesting to join the meeting. He did not receive a response back and sent another email to the EGC at 5:41PM.

12. The Deputy Returning Officer (“**DRO**”) claims that due to the fact that he was in the process of conducting the All-candidates Meeting, he did not see either of these emails until after the meeting was over. The Chief Returning Officer (“**CRO**”) had been out of office due to a sickness at this time.

13. Both parties agree that Mr. Abdalla did not attend either of the All-candidates Meetings and did not send a proxy in his place. In light of this, the EGC notified Mr. Abdalla by email on January 23, 2023 at 7:46PM that, in accordance with Bylaw #2 Section 7.8, he was declared ineligible to run as a candidate for the Spring 2023 Election.

14. It is this decision from which Mr. Abdalla appeals.

### **PART III: ISSUE**

15. The issue in this appeal is whether the EGC's decision to disqualify Mr. Abdalla from running in the Spring 2023 USC Presidential Election was reasonable.

### **PART IV: SUBMISSIONS**

16. In his written submissions, Mr. Abdalla focused on the following two main points:

- a. He missed the All-candidates Meeting due to prioritizing his current position and responsibilities as Ski and Snowboard Club. He states that not allowing him to run for USC president is in "clear opposition to what kind of person the position should be held by". As a result, he believes it was unreasonable for the EGC to disqualify him from running for USC president.
- b. The CRO was ill which meant that the DRO was responsible for the activities of the EGC in the interim. As a result, Mr. Abdalla did not receive a response to his emails sent during the All-candidates Meetings in a timely fashion.

17. In its written submissions, the EGC focused on the following three main points:

- a. Section 7.8 of Bylaw #2 states that "Candidates shall be declared ineligible if they fail to attend the All-candidates Meeting and the candidate fails to send a proxy to the All-candidates Meeting."
- b. Mr. Abdalla acknowledged and accepted these terms while submitting his nomination form.

- c. The EGC had also taken steps to maximize student engagement by offering two All-candidates Meeting time slots. Further, they had also posted the dates of these meetings in advance on social media on December 9, 2022 and on their website in the elections calendar.
  
18. In support of its submissions, the EGC also filed several documents, two of which were especially important:
  - a. A screenshot of the Nomination Application for President of the University Students Council electronic form which showed that, in order to submit a nomination, all candidates would have to click “I Accept” to the Candidate Agreement & Waiver outlining that the dates and times of the All-candidates Meetings and that failure to attend or send a proxy would result in disqualification.
  - b. A screenshot of the email sent by the DRO to candidates on January 21, 2023 at 3:02AM outlining the dates and times of the All-candidates Meetings and that failure to attend or send a proxy would result in “your candidacy being revoked and your name removed from the ballot as per Bylaw #2 Section 7.8.”
  
19. The EGC also included the email from Mr. Abdalla on Sunday January 22, 2023 at 5:30PM, in which Mr. Abdalla stated that due to an emergency he was unable to attend the All-candidates Meeting on time within the first five minute window, asking for an exception to be made so that he could attend.
  
20. In his oral submission, Mr. Abdalla focused on the following points:

- a. He claims that it had been his goal to run for USC President as early as last year, and he was very enthusiastic, keen, and eager to run in this election. He also highlighted his leadership roles with other extra-curricular activities at Western, such as being President of the Ski and Snowboard Club, to demonstrate his involvement on campus.
  - b. He also claims that he was unaware of the dates and times of the All-candidates Meetings prior to receiving the email sent at 3:02AM on January 21, 2003, even though the EGC had released them on a variety of platforms in advance. He also denies seeing the dates and times on the Candidate Agreement & Waiver but does not deny clicking “I Accept”.
  - c. He acknowledged that he thought about asking another member of the Ski and Snowboard to attend the meeting for him as a proxy. However, he stated that he felt that sending a proxy would be “inappropriate” and explicitly said “I did not want to do that”.
  - d. He repeatedly stated that he did not regret his decision to miss the All-candidates Meeting for this emergency, and that he would do it again if needed.
  - e. He raised the possibility of watching a recording at a later date in order to gain the information presented at the meeting as an alternative to attending the meeting live.
21. In its oral submission, the EGC focused on the following points:
- a. Bylaw #2 Section 7.8 as mentioned above would deem a candidate ineligible to run if they did not attend the All-candidates Meeting. This year, there were two All-

candidates Meetings offered via Zoom and there was also a five-minute window after which the meeting would be locked and no new entrants would be permitted.

- b. The EGC claims that it is integral for prospective candidates to attend the All-candidates Meeting as important and confidential information is presented to candidates with respect to elections policy, violations procedures, and campaign finance rules.
- c. Mr. Abdalla failed to attend either of the two meetings and did not send a proxy in his place.
- d. As the DRO was running the meeting and the CRO was sick, the EGC was unable to see and respond to Mr. Abdalla's email during the meeting.

## **PART V: ANALYSIS**

22. As the campaign period for the Spring 2023 elected positions began on January 23, 2023, this matter was heard on an urgent basis. The appeal request was submit on January 23, 2023 at 8:02PM. Written submissions were received from Mr. Abdalla on the same date and the EGC on January 24, 2023. The hearing was conducted on January 24, 2023. All parties are to be commended for the quality of their submissions given the tight timeline.

23. The starting point for the Board's analysis begins with Section 7.8 of Bylaw #2 which states that "Candidates shall be declared ineligible if they fail to attend the All-Candidates Meeting and the candidate fails to send a proxy to the All-Candidates Meeting."

24. This Board acknowledges that Mr. Abdalla was eager, keen, and energetic to run for USC President and commends his involvement in the Western community, including his role as President of the Ski and Snowboard Club.

25. Mr. Abdalla stated that he was aware of the requirements outlined by Section 7.8. The specifics of the dates and times of the All-candidates Meetings had been communicated by the EGC in at least four forms: on their website, on social media, in the Candidates Agreement & Waiver which all candidates had to acknowledge and accept before submitting nominations, and by direct email sent on the morning of Saturday January 21, 2023.

26. While Mr. Abdalla stated that he was not aware of the EGC posting information on their website or on social media, by the afternoon of Sunday January 22, 2023, he was aware of the All-candidates Meeting to be held at 5:00PM, he was aware that attendance in person or by proxy was mandatory and that failure to attend was grounds for disqualification, and he was aware that the meeting would be locked five minutes after it commenced.

27. Bylaw #2 Section 7.8 is clear in stating candidates must attend an All-candidates Meeting or send a proxy in their place. It makes no exception for having a “good reason”, and therefore it is not for this Board to decide whether or not Mr. Abdalla made the correct decision by prioritizing his club member’s emergency over attending the meeting. What is at issue is the reasonableness of the EGC’s decision to declare Mr. Abdalla to be ineligible, and that decision was supported by section 7.8 of Bylaw #2.

28. Mr. Abdalla raised the ability to attend the meeting after it was held by virtue of watching a recording. While the Board considered this submission carefully, watching a recording of a



virtual meeting afterwards is not supported by the wording of Section 7.8, which requires a candidate “to attend” an All-candidates Meeting.

29. The Board notes that this case is different from *Shedeed v Elections Governance Committee, 2021:1* (“**Shedeed**”) where this Board ruled in favour of the appellant who had been disqualified for failing to make required a bond payment. In that case, the appellant tried to submit his bond payment electronically and thought he had done so. However, a technical error resulted in his bond payment not being processed in time. In this current case, Mr. Abdalla was aware that he was required to attend the All-candidates Meeting, was aware that he was not in attendance, and intentionally did not send a proxy as a replacement.

30. It is not for this Board to determine if Mr. Abdalla’s rationale for missing the meeting was a good one. Rather, it is our job to evaluate the reasonableness of the EGC’s decision. While Mr. Abdalla’s rationale may be commendable and may represent qualities desirable in a USC president, this Board and the EGC are bound by the requirements outlined in Bylaw #2.

31. This appeal is dismissed. It should be noted that Mr. Abdalla demonstrated that he was quite enthusiastic to participate in student politics and this decision does not preclude him from running in future EGC-governed elections.

P. Singh

A. Sony

W. Fawcett