



University Students' Council Of Western University

Elections Violations Procedure

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| Authority: Elections Governance Committee | Date Ratified: November 8, 2024 |
| | Next Review Date: November, 2027 |
| Previous Amendments: January 14, 2024; November 21, 2023; September 29, 2021; December 29, 2017; November 25 2015; | |
| Related Document(s): Bylaw 1, Bylaw 2, Elections Rules and Violations Policy, Elections Governance Committee Terms of Reference | |
| Review Committee(s): Elections Governance Committee | |
| Delegates: | |

1. SCOPE

- 1.1. This document outlines the proper procedures for receiving, processing, reviewing, and publicizing the results of violations of **Bylaw 1, Bylaw 2, Elections Committee Campaign Finance Procedure, Elections Rules and Violations Policy**, and all applicable regulations.
- 1.2. This document outlines the sanctions and remedies available to the Committee when dealing with Candidate misconduct.
- 1.3. This document specifies the standards that the Committee shall use to govern its interactions with Candidates, Campaign Volunteers, and Voters during the investigation process.
- 1.4. Terms used in this document shall be defined in the same manner as in **Bylaw 2** and the **Elections Rules and Violations Policy**.

2. MANAGER OF INVESTIGATIONS

- 2.1. The Manager of Investigations shall be a member of the Elections Governance Committee designated by the CRO (or the CRO themselves) to be responsible for the receipt and investigation of alleged violations through the Committee.

2.2. The Manager of Investigations shall be responsible for ensuring that alleged violations are processed in the manner set out in this procedure.

3. RECEIPT OF ALLEGATIONS

3.1. All allegations of a violation being or having been committed shall be submitted to the Committee in writing via the Committee's online submission form.

3.2. Allegations must be submitted to the Committee no later than four (4) hours following the close of balloting.

3.3. The Manager of Investigations shall notify the individual who submitted the allegation of its receipt and shall follow up with the individual to gather additional information that may not have been included in the original submission.

3.4. The CRO reserves the right to discard any alleged violations where the individual making the allegation refuses to be identified by the Committee or if there is reasonable suspicion that the allegation aims to delay or distract the Committee from processing legitimate allegations.

3.5. The Committee shall not be obligated to inform Candidates of alleged violations until the legitimacy of the allegation is verified and there is sufficient evidence to conduct a hearing.

4. WITHDRAWAL OF COMPLAINTS

4.1. A complainant may withdraw their complaint at any time prior to the completion of the investigation.

4.2. The Violations Subcommittee retains the authority to continue the investigation if it determines that the alleged violation warrants further examination, regardless of the complainant's withdrawal status.

5. INVESTIGATION

5.1. The Manager of Investigations shall appoint one or more members of the Committee to investigate the allegation.

5.2. The Committee shall not divulge the status of an ongoing investigation to any individual who is not a member of the Committee, including the individual who raised the allegation, or the Candidate being investigated.

5.3. The Committee shall take as much time as is reasonably necessary to ascertain the facts of a case.

5.4. Findings of an investigation shall be documented in writing and filed with both the Manager of Investigations and the CRO.

- 5.4.1. Notes must include only corroborated facts and witness statements, avoiding speculation or unverified information.
- 5.4.2. Evidence such as time-stamped screenshots, emails, and written statements must be included.
- 5.5. Before proceeding to a hearing with the Candidate in question, the Manager of Investigations shall review the findings to determine if there is enough evidence to substantiate the allegation.
 - 5.5.1. If evidence is insufficient, a brief written report outlining the reasoning will be provided to the individual(s) who submitted the allegation but shall not be made public or include identifying information of individuals involved.

6. HEARING

- 6.1. Where it is determined that there is sufficient evidence to substantiate the allegation:
 - 6.1.1. the Manager of Investigations and/or their delegate, as the case may be, shall prepare a written summary of the allegation and a report outlining the findings of the investigation; and
 - 6.1.2. the Committee shall call a hearing with the Candidate in question.
- 6.2. The Investigations Subcommittee of the Committee shall conduct all hearings in line with this policy.
- 6.3. The Committee shall inform the Candidate in writing of the hearing no **fewer than twelve (12) hours in advance** of the hearing. With the written notice of hearing, the Committee shall provide the Candidate with the Manager of Investigation's summary of allegation, and the investigators' finding of investigations referenced in Section 5.1.
 - 6.3.1. The Committee shall redact the names or other identifying information of individuals involved in the investigation.
 - 6.3.2. In the event the Candidate is unable to attend the scheduled hearing, the Candidate may send a proxy.
 - 6.3.3. The Candidate must provide written notice to the Committee notifying them of their intention to send a proxy, including the identity of the proxy, prior to the scheduled hearing.
- 6.4. An audio recording of the hearing shall be kept with the Manager of Investigations and the CRO as part of the investigation file and shall not be released to any member of the public, with the exception of the USC's Appeals Board in the event of an appeal.
- 6.5. The order of proceedings at a hearing shall be as follows:

- 6.5.1. The investigator leading the hearing shall read the alleged violation to the Candidate and outline the findings of the investigation.
 1. If the Candidate fails to appear or send a proxy, the Subcommittee shall proceed to deliberations assuming no additional evidence is provided.
- 6.5.2. The Investigations Subcommittee shall have the opportunity to ask any questions regarding the findings of the investigation in an effort to ascertain all pertinent information.
- 6.5.3. The Candidate shall have the opportunity to refute any information introduced by the Committee and add any information that the Committee may have missed or overlooked, including any mitigating factors that the Committee should consider in their deliberations.
- 6.5.4. The Investigations Subcommittee shall have the opportunity to ask follow-up questions based on the information provided by the Candidate.
- 6.5.5. The Candidate shall have the opportunity to make a final statement to the Investigations Subcommittee regarding the case.
- 6.5.6. After completion of the above steps, the Investigations Committee shall proceed to deliberations.

7. DELIBERATIONS

- 7.1. During deliberations the Investigations Subcommittee should first decide whether the Candidate is guilty of the alleged violation by reviewing the information gathered during the investigation and hearing.
- 7.2. Candidates found guilty of a violation may be subject to a written warning or disqualification
 - 7.2.1. Disqualification of a candidate may only be considered in the following instances:
 1. Failing or ceasing to meet Candidate eligibility requirements;
 2. Acting in Contempt of the Committee by refusing to comply with written warnings;
 3. Interfering with voters, ballots, voting procedures, or ballot counting;
 4. Repeated violations of Bylaw 2 and/or applicable elections policy;
 5. Violating any municipal, provincial, or federal laws.
- 7.3. The Investigations Subcommittee shall consider, but not be limited to, the following criteria to determine the appropriate penalty to be assigned to the candidate:

- 7.3.1. **Degree of scope:** the number of students impacted by the violation.
- 7.3.2. **Degree of influence:** The influence or impact of the violation on the final election results.
- 7.3.3. **Degree of intent:** Whether the candidate intended to commit the violation or whether the violation was preventable. In the event the Investigations Subcommittee believes there was no malicious intent, the Investigations Subcommittee should assess whether the candidate lacked the intent to take reasonable precautions to prevent the violation from occurring.
- 7.3.4. **Degree of repetition:** Whether the candidate in question committed a violation similar in nature to the one in question during the current campaign period.
- 7.3.5. **Degree of obstruction:** Whether the candidate in question attempted to impede the Committee's ability to investigate the violation at any point during the investigation.

7.4. Where the Candidate has been found guilty of a violation, the Investigations Subcommittee shall determine the appropriate sanction(s) as available in Section 7 below.

8. SANCTIONS

- 8.1. The Investigations Subcommittee, where it finds there has been a violation may impose the following sanctions:
 - 8.1.1. For violations not warranting the disqualification of candidates or the invalidation of a result, the Investigations Subcommittee may:
 - 1. Issue a warning or an order to change behavior;
 - 2. Reduce a candidates reimbursement:
 - a. Minimum reduction of \$25
 - b. USC Presidential Candidates: Up to 50% of their total campaign costs
 - 3. All other candidates: Up to 100% of their total campaign costsFor all other violations, the Investigations Subcommittee may:
 - a. Disqualify a Candidate; or
 - b. Invalidate an election, referendum, or plebiscite.

9. NOTICE OF VERDICT

- 9.1. Where the Investigations Subcommittee finds there has been a violation of Bylaw 2, the Elections Rules and Violations Policy, or any applicable regulation(s), the Committee shall make the details of the violation public and produce a written report within a forty-eight (48) hour period. Written reports may be subject to redactions to protect the privacy of various stakeholders involved in the investigation.

9.1.1. The Committee shall provide the Candidate with the verdict in the form of a written decision.

9.1.2. The committee shall post the written report on the **Elections** Website.

9.2. Where the Investigations Subcommittee finds that the Candidate is not guilty of a violation the Committee shall:

9.2.1. Inform the Candidate of the verdict.

9.3. Inform the individual who made the allegation that the Committee will not be pursuing the allegation further.

10. CLOSE OF INVESTIGATION

10.1. All records pertaining to closed investigations (i.e. where a verdict has been delivered or the allegation has been dismissed) shall be turned over to the USC along with the final report of the CRO.

10.2. Once an investigation has been closed it shall not be reopened unless new evidence has been presented that substantially alters the facts of the case. In such an event:

10.2.1. The CRO will decide if new evidence substantially alters the case.

10.2.2. No Investigation shall be re-opened more than thirty (30) days following the close of balloting.