



Elections Governance Committee Violations Procedure

29 September 2021

USC Council

1. Scope

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

2. Manager of Investigations

1. The Manager of Investigations shall be a member of the Elections Governance Committee designated by the CRO (or the CRO himself/herself) to be responsible for the receipt and processing of alleged violations through the Committee.
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

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.
2. Any Committee member who receives an allegation outside of the online submission form format shall instruct that individual to submit said allegation via the online submission form, as outlined in Section 3.1.
3. Any and all allegations must be submitted to the Committee no later than four (4) hours following the close of balloting.
4. Where a member of the Committee raises an allegation, the Committee member shall put the allegation into writing via the Committee's online submission form.
5. The Manager of Investigations shall notify the individual who submitted the allegation of the allegation's receipt and shall follow up with the individual to ascertain any information that has been left out of the allegation including, but not limited to, the following:
 - i. The names of all those involved in the alleged violation;
 - ii. The approximate date and time that the alleged violation occurred;
 - iii. The approximate location in which the alleged violation occurred; and



- iv. The names of any other individuals who may have knowledge of the alleged violation that the Committee may contact during the course of its investigation.
6. The CRO reserves the right to discard any alleged violations where the individual making the allegation refuses to be identified by the Committee or where there is reasonable suspicion that the allegation has been made for the purposes of delaying or distracting the Committee from processing legitimate allegations.
7. The names of individuals making allegations to the Committee shall not be to Candidates, the media, or the public unless required by law. Names shall only be required to allow the Committee to process the allegation.
8. The Committee shall not be obligated to inform Candidates of alleged violations until such time that the Committee has verified the legitimacy of the allegation and reasonably believes there is enough evidence to conduct a hearing with the Candidate in question.

4. Investigation

1. 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.
2. The Committee shall take as much time as is reasonably necessary to ascertain the facts of a case.
3. The Committee may not violate any municipal, provincial, or federal laws during the course of its investigation.
4. All findings of an investigation are to be noted in writing and shall be kept in the corresponding investigation file and filed with the Manager of Investigations.
5. Notes of findings shall be as detailed as possible and meet the following criteria:
 - i. Include only facts about the case and statements of witnesses. The notes should not contain speculation or rumours that cannot be corroborated by evidence or witness testimony.
 - ii. Include any items of evidence as presented in the case (i.e. time-stamped screenshots of computer activity, email activity/correspondence, and written witness statements).
6. Before proceeding to a hearing with the Candidate in question, the CRO shall review the findings of the investigator(s) and determine whether there is enough evidence to substantiate the allegation that was made.
 - i. Where it is determined that there is not sufficient evidence to substantiate the allegation the CRO shall provide a brief written report outlining the reasoning that the allegation will not be pursued further.
 - ii. This report shall be made available to the individual(s) who submitted the allegation but shall not be made public.

5. Hearing



1. Where it is determined that there is sufficient evidence to substantiate the allegation the Committee shall call a hearing to review the facts of the case with the Candidate in question.
2. The Committee shall inform the Candidate in writing of the hearing no fewer than six (6) hours in advance and at this time must provide the Candidate with a written summary of the allegation prepared by the Manager of Investigations, and a copy of the findings of the investigation.
 - i. The Committee shall redact the names or other identifying information of individuals involved in the investigation.
 - ii. In the event the Candidate is unable to attend the scheduled hearing, the Candidate may send a proxy.
 - iii. The Candidate must provide written notice to the Committee notifying them of their intention to send a proxy, including the identity of the proxy, at least one (1) hour prior to the scheduled hearing.
3. An audio recording of the hearing shall be kept with the Manager of Investigations 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.
4. The order of proceedings at a hearing shall be as follows:
 - i. The investigator leading the hearing shall read the alleged violation to the Candidate and outline the findings of the investigation.
 - ii. The Committee shall have the opportunity to ask any questions regarding the findings of the investigation in an effort to ascertain all pertinent information.
 - iii. 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.
 - iv. The Committee shall have the opportunity to ask follow-up questions based on the information provided by the Candidate.
 - v. The Candidate shall have the opportunity to make a final statement to the Committee regarding the case.
5. Where a Candidate is given notice of the hearing pursuant to Section 5.2 and fails to appear or send a proxy, the Committee shall assume that the Candidate has no further evidence to add to the case and the Committee shall proceed directly to deliberations.
6. Upon completion of a hearing, the Committee may take a reasonable amount of time to confirm any details or corroborate the legitimacy of evidence presented by the Candidate. Following this verification process, the Committee shall:
 - i. Provide the Candidate with a written summary of any additional information ascertained during the Committee's evidence verification process.
 - ii. Provide the Candidate with an opportunity to submit a written statement to address the additional information presented by the Committee or request a supplementary hearing to address the additional information.
 - iii. The Candidate shall have eight (8) hours from the time a written summary as outlined in Section 5.6 (i) is sent to submit a written statement or elect to have a hearing with the Committee; and
 - a. In the event the Candidate fails to respond to the Committee within the specified time allotted, the Committee shall assume that the Candidate has no further evidence to add to the case and the Committee shall proceed directly to deliberations.



6. Deliberations

1. During deliberations the Committee should first decide whether the Candidate is guilty of the alleged violation with regards to Section 6.2 and 6.3.
2. Candidates found guilty of a violation may be subject to sanctions on the following grounds:
 - i. Violations not warranting the disqualification of candidates or the invalidation of a result shall include:
 - a. Failure to adhere to Bylaw 2 and/or other applicable regulations, including the Elections Governance Committee Violations Policy;
 - b. Making frivolous complaints;
 - c. Breaking the rules of Fair Play, as defined the Elections Governance Committee Violations Policy section 2.3 and/or other applicable regulations;
 - d. Actions of a campaign volunteer qualifying as falling under the responsibility of the candidate, as set out in the Elections Governance Committee Violations Policy section 2.3;
 - e. Campaign activities, materials, and/or advertisements failing to comply to all policies and regulations of both the University and USC, as established in the Elections Governance Committee Violations Policy section 2.7 ;
 - f. The use of benefits acquired by virtue of office, in violation of the Elections Governance Committee Violations Policy section 2.5;
 - g. The failure of a campaign to maintain separate finances and produce unique campaign materials, in violation of the Elections Governance Committee Violations Policy section 2.1;
 - h. Campaign activities, materials, platform, and/or advertisements failing to be composed of original work, in violation of the Elections Governance Committee Violation Policy Section 3.3.4.
 - i. Campaigning, in any form, in the USC Main Offices, during any meeting of Council, or the Standing Committees of Council regardless of location, in violation of Elections Governance Committee Violations Policy section 2.11
 - j. Campaigning, in any form, in student residences conducted in a manner that does not comply with the regulations released by the Committee and Western University's Housing and Ancillary Services;
 - k. Failing to comply with the restrictions on off-campus campaigning established in Elections Governance Committee Violations Policy section 2.12;
 - l. Campaigning within the sightline of all designated polling stations or willfully interfering with voting, in violation of Elections Governance Committee Violations Policy section 2.13
 - m. The usage of USC or University logo and any other USC or University copyrighted material or image used by a campaign for the purposes of campaigning, in violation of Elections Governance Committee Violations Policy section 3.0
 - n. The usage of purple, or any colour that can reasonably be mistaken for purple, as the official colour of a campaign per Elections Governance Committee Violations Policy section 3.0 or in any campaign materials in which its appearance could have reasonably been avoided by the candidate ;
 - o. The creation, printing, and use of campaign materials in a manner failing to comply with Elections Governance Committee Violations Policy section 3.1 and 3.2; and/or



- p. The distribution of campaign material to individuals in violation of Elections Governance Committee Violations Policy section 3. 3.4 and 3.5.
 - q. The posting of materials, announcement of a candidacy, or solicitation of voters prior to the campaign period, in violation of Elections Governance Committee Violations Policy section 2.8.
 - ii. Violations warranting the disqualification of candidates or the invalidation of a result shall include:
 - a. Failing or ceasing to meet Candidate eligibility requirements;
 - b. Acting in Contempt of the Committee, as defined in Section 2.2 of the Elections Governance Committee Violations Policy;
 - c. Interfering with voters, ballots, voting procedures, or ballot counting;
 - d. Solicitation of the login information necessary for voting;
 - e. Action or conduct which represents a flagrant undermining of the purpose and effect of the electoral process set up under Bylaw 2 and/or Elections Governance Committee Violations Policy;
 - f. Willful violation of Bylaw 2 and/or other applicable regulations;
 - g. Failing to comply with the restrictions on off-campus campaigning established in Elections Governance Committee Violations Policy Section 2.12; and/or
 - h. Violating any municipal, provincial, or federal laws.
- 3. The Committee shall consider, but not be limited to, the following criteria to determine the appropriate penalty to be assigned to the candidate:
 - i. **Degree of scope:** The Committee should determine the reach of influence as measured by the possible range of students affected by the candidate's violation. The Committee should determine whether the nature of the candidate's actions were on a small or large scale.
 - ii. **Degree of influence:** The Committee should determine the strength of influence the violation had in creating an unfair advantage for the candidate's campaign and its potential of impacting elections results. This may include but is not limited to: increasing voter support for the candidate in question, creating a negative impression of another candidate, and/or negatively impacting another candidate's ability to campaign.
 - iii. **Degree of intent:** The Committee should determine whether it believes the candidate intended to commit the violation and whether that intent was malicious. In the event the Committee believes there was no malicious intent, the Committee should assess whether the candidate lacked the intent to take reasonable precautions to prevent the violation from occurring.
 - iv. **Degree of repetition:** The Committee should determine whether the candidate in question committed a violation similar in nature to the one in question during the current campaign period.
 - v. **Degree of legality of action:** The Committee should determine whether the violation breaks any municipal, provincial, or federal laws or any regulations set by the University. Actions that break municipal, provincial, or federal law shall be automatically classified as major violations.
 - vi. **Degree of obstruction:** The Committee should determine whether, at any point in time during the investigation, the candidate in question attempted to impede the Committee's ability to investigate the violation. This may include but is not limited to: providing material misstatements to investigators, failing to be forthcoming during the Committee's investigation, attempting to coerce witnesses from assisting the Committee, and lacking overall cooperation with the investigation.



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

7. Sanctions

1. The Committee, where it finds there has been a violation, and with regard to Section 6.2 and 6.3, may impose the following sanctions:
 - i. For violations not warranting the disqualification of candidates or the invalidation of a result, the Committee may:
 - a. Issue a warning or an order to change behaviour;
 - ii. For all other violations, the Committee may:
 - a. Disqualify a Candidate; or
 - b. Invalidate an election, referendum, or plebiscite.
2. If a winning candidate in any election is disqualified, the process for determining a winner shall be as follows:
 - i. If a winning candidate in any election is disqualified, the candidate who received the greatest number of votes and who has not been disqualified shall be deemed the winner.
 - ii. If preferential balloting was used, the disqualified candidate shall be removed and their votes will be reallocated and the candidate who receives the greatest number of votes and who has not been disqualified shall be deemed the winner.
3. Disqualification of a candidate shall not take effect until the candidate has exhausted their right of appeal.

8. Notice of Verdict

1. Where the Committee finds there has been a violation of Bylaw 2, 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.
 - i. The Committee shall inform the following parties:
 - a. **The Candidate:** The Committee shall provide the Candidate with the verdict in the form of a written decision.
 - b. **Voteusc.ca Website:** The Committee shall upload a summary of the allegation made against the Candidate and the verdict.
 - c. **The Media:** The Committee shall provide the media with a summary of the allegation made against the Candidate and the verdict. The CRO may comment on behalf of the Committee regarding the violation.
 - d. **The USC Vice-President Communications and Public Affairs:** The Committee shall provide the USC's Vice-President Communications and Public Affairs with a summary of the allegation made against the Candidate and the verdict.
2. Where the Committee finds that the Candidate is not guilty of a violation it shall inform the Candidate of the verdict.
3. Where the Committee finds that the Candidate is not guilty of a violation it shall inform the individual who made the allegation that the Committee will not be pursuing the allegation further.

9. Close of Investigation



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.
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.
 - i. The CRO shall have the discretion to decide whether or not the new evidence presented substantially alters the facts of the case.
 - ii. No Investigation shall be re-opened more than thirty (30) days following the close of balloting.

10. Context and Enactment

1. Documents Repealed – N/A
2. Supporting/Related Documents – **Bylaw 2, Elections Governance Committee Terms of Reference, Elections Governance Committee Violations Procedure**
3. Date Passed – 25 November 2015;
4. All Previous Amendments - 29 December 2017