

2005 KSA General Election Decisions

Decisions issued 24 March 2005

The following notes and decisions have been compiled by the Chief Returning Officer from communications received relating to the General Election held 24 and 25 February 2005. Communication numbers identifying each item refer to the C.R.O.'s file numbers.

Note, on each decision the C.R.O. considered his jurisdiction over the complaint pursuant to the Regulations, that is, that the protest or complaint: (A) (i) was submitted within 72 hours of the occurrence or the discovery of the occurrence to which it relates; and (ii) is signed by at least 3 members who personally witnessed or otherwise were privy to the incident or (B) (i) where the CRO took notice of a possible election irregularity. **Unless otherwise noted**, the C.R.O. has found that each communication considered below is within his jurisdiction according to KSA regulations.

Section I – Issues concerning the conduct of the C.R.O. and his administrative staff / poll clerks

Communication 20:

Summary:

An allegation that the “elections committee” was dissolved by the C.R.O. because of disagreements between the C.R.O. and the “committee”. Also an allegation that the C.R.O. is biased in favour of certain candidates. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 20**

Summary of comments:

The Progressive Party questions the legitimacy of any information any candidates received about the operations of the “committee” save their official, public rulings. Further, they assert that if the “committee” did dissolve because of a disagreement then the dissolution was justified due to members of the group leaking confidential information. No other comments were received.

Analysis:

“Elections Committee”

- Regulation Section X 1 2 – Elections Committee appointed by council with specific requirements for members. There was no Elections Committee appointed by council.
- Regulation Section IV also applies – except where otherwise indicated in Section X.
- Regulation Section IV 2 1 – Council shall appoint the members of all committees. Council did not appoint an Elections Committee

- Regulation Section IV 3 1 – Chair of the Elections Committee not necessarily a member of Council or KSA staff. This regulation does not prohibit the current C.R.O. from holding office.
- Regulation Section X 2 3 – The C.R.O. shall, within reason, assume the responsibilities of the committee as long as necessary [in the absence of a committee].
- The C.R.O. has assumed the responsibilities of the committee in the absence of an Elections Committee.
- Regulation Section X 3 1 vii – The C.R.O. is the official spokesperson for the committee.
- There are no provisions in the Bylaws or Regulations that suggest the C.R.O. has power to appoint an Elections Committee – only Council has that power.
- Therefore the group that has been described as the “elections committee” in fact only functioned in an advisory capacity and hereafter will be referred to as the administrative staff.
- As a result, the C.R.O. acted within his power to dissolve the administrative staff group.

Analysis:

Bias

- Bias or prejudice is a leaning, inclination, bent, or predisposition towards one side or the other. Bias is a condition or state of mind which sways judgment and renders a judicial officer unable to exercise his or her functions impartially in a particular case. See *R v. Bertram*, [1989] O.J. No. 2123 (QL) (HC).
- Impartiality does not require an empty mind. Judges may be impartial despite having opinions or life experiences relating to the issues that are before them. *R. v. S.(R.D.)*, [1997] 3 S.C.R. 484.
- Judges operate from their own perspectives. Benjamin N. Cardozo in *The Nature of the Judicial Process* (1921).
- The question is whether or not the decision-maker will apply the law in a particular case, not whether or not he or she has certain views about it. *R. v. F. (S.M.)*, 2003 ABQB 725.
- Where it is established that “the judge brought or would bring prejudice into consideration as a matter of fact” that “will inevitably lead to the disqualification of the judge”. *Wewaykum Indian Band v. Canada*, [2003] 2 S.C.R. 259.
- However, actual bias is a largely unworkable test so the standard for disqualification in Canadian law is the “reasonable apprehension of bias”.
- The test for a reasonable apprehension of bias is “what would an informed person, viewing the matter realistically and practically – and having thought the matter through – conclude. Would he think that it is more likely than not that [the decision maker], whether consciously or unconsciously, would not decide fairly.” *Committee for Justice and Liberty v. Canada (National Energy Board)*, [1978] 1 S.C.R. 369 at p. 394.
- The reasonable person does not expect that judges will function as neutral ciphers. The reasonable person expects judges to undertake an open-minded, carefully considered, and dispassionately deliberate investigation of the complicated reality of each case before them. The reasonable person does demand that judges

- achieve impartiality in their judging. Before concluding that there exists a reasonable apprehension of bias in the conduct of a judge, the reasonable person would require some clear evidence that the judge in question had improperly used his or her perspective in the decision-making process. *R. v. S.(R.D.)*, supra.
- A reasonable apprehension of bias rests on serious grounds. *Wewaykum*, supra.
 - A reasonable apprehension is more than a mere suspicion. *S.(R.D.)*, supra.
 - Where an allegation of bias arises, impartiality “must be presumed”. This presumption is strong and carries considerable weight. *Wewaykum*, supra.
 - The onus of demonstrating bias lies with the person who is alleging its existence. *S.(R.D.)*, supra.
 - The presumption of impartiality can be displaced with cogent evidence that demonstrates that something the judge has done gives rise to a reasonable apprehension of bias. *S.(R.D.)*, supra.
 - No cogent evidence is presented in this case.
 - It is important that decision-makers not immediately recuse themselves where an allegation of bias is raised against them. Canadian Judicial Council, *Ethical Principles for Judges* (Ottawa) p. 29.
 - We hear so much angry objection these days that we must be careful to insure that important rights are not sacrificed merely to satisfy the anxiety of those who seek to have their own way at any cost or at any price. *G.W.L. Properties Ltd. v. W.R. Grace & Co. of Canada*, (1992), 74 BCLR (2d) 283 (BCCA).
 - A decision to disqualify should only be exercised sparingly and in the most clear and exceptional cases. *Middlekamp v. Fraser Valley Real Estate Board*, (1993) 83 B.C.L.R. (2d) 257 (BCCA).
 - It is an abdication of the judicial function and an encouragement to procedural abuse for a judge to take the view that there ought to be an automatic disqualification after merely a submission of bias by counsel. *Disqualifying judges for Bias and Reasonable Apprehension of Bias: Some Problems of Practice and Procedure*, (2001) 24 Advocates Quarterly 326 at pp. 327-328.
 - There is probably a duty on the decision maker to make the assessment [of his or her own bias]. *Administrative Law*, Toronto: Irwin Law, 2001.
 - Bias does not mean that the judge is less than unfailingly polite or less than unfailingly considerate. Bias means a partiality to one side of the cause or the other. It does not mean an opinion as to the case founded on the evidence nor does it mean a partiality or preference or even a displayed special respect for one counsel or another, nor does it mean an obvious lack of respect for another counsel, if that counsel displays in the judge’s mind a lack of professionalism. *Middlekamp*, supra.

Decisions:

- Based on the above set out legal principles, the C.R.O. is required to make decisions assessing bias related allegations against him. The allegations in this communication do not disclose any clear evidence of bias. The allegations are vague and do not specify the source of the alleged bias. No evidence of reasonable apprehension of bias is disclosed by the complaint. The complainant does not succeed in overcoming his onus to demonstrate, based on cogent evidence, a reasonable apprehension of bias. There is no evidence that this is a

clear and exceptional case. The C.R.O. should, therefore, not disqualify himself based on this complaint.

- The C.R.O. acted within his authority in dissolving the administrative staff group.
- There is no reason why ‘disagreements’ with the advisory group, in itself, is evidence of actual or apprehended bias.
- As no evidence of actual bias or apprehension of bias is presented, **The complaint is dismissed in its entirety.**

Communication 21

Summary:

An allegation that the C.R.O. appointed an “elections committee” and that the “committee” should have power to overturn decisions by the C.R.O. A lengthy review of certain regulations concerning the powers of an elections committee is recited. There is a further allegation of bias by the C.R.O. A request to remove the C.R.O. and appoint an independent organization to continue the spring election at a later date is contained. The complainant cites on alleged failure of the Progressive Party with regard to registration and alleged failure of the CRO to act on the complaint is cited as evidence of CRO bias.

Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – copied to Penny Minor, Laura Anderson, Mohammed Kallas, Skip Triplet, and the Kwantlen Chronicle –
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Summary of Comments received:

The Progressive Party suggests that this communication is not well thought out. They point out that the C.R.O. does indeed have a professional relationship with all incumbent candidates including the signers because of his work at the KSA. They also discuss the registration status of the Progressive Party [which is dealt with in Section VIII below]. No other comments were received.

Analysis:

The analysis above concerning the administrative staff and bias are the same as in communication 20.

- Per communication 20, Erin Minor and Pavan Bassi were not appointed by the C.R.O. in any official capacity, only as administrative staff. Coreen Mason was only hired as a chief poll clerk and never functioned in any other capacity.
- Per communication 20, the C.R.O. does not have jurisdiction to appoint the elections committee, only council has this authority.
- Per communication 20, the grounds set out as evidence of bias or apprehension thereof are not sufficient to sustain the complaint.
- Allegations regarding the Progressive Slate registration will be dealt with in Section VIII of this report.

Decision:

- **The complaint is dismissed in its entirety.**

Communication 29a

Summary:

An allegation by the Progressive Party that the unofficial “elections committee” was biased against them on the ground that two of its members (Pavan Bassi and Erin Minor) were biased against the incumbent executive [due to Pavan Bassi and Erin Minor’s union affiliation and possibly other work related issues]. A request that all decisions made with the involvement of Pavan and Erin be reviewed and appropriate action taken – including re-running the election if necessary. **Signed by Sammy Chau, Forrest Li, and Kristina Kearley – 2**

Summary of Comments Received:

No submissions or comments were received.

Analysis:

- No “elections committee” was ever constituted. The elections committee is the C.R.O. as was determined by council. Council purposely appointed no other members to the election committee. As such, the Regulations require the CRO to exercise the duties and responsibilities of the election committee. As such, the CRO did not, as alleged, appoint an elections committee.
- The C.R.O. did not find the assistance of Mr. Bassi and Ms. Minor helpful, as the C.R.O. found that them inefficient and an impediment to his administering of the election. As the administration of the election is a positive duty of the CRO set out in the KSA Regulations, the C.R.O. exercised his power properly to decline to receive further assistance from the administrative staff.
- The administrative staff’s only role was to present background information regarding candidates’ campaign materials to the C.R.O. All decisions were determined by the C.R.O.
- There is no evidence that the administrative staff made any determinations approving or disallowing materials that were not seen by the C.R.O.
- As such, there is no evidence of the administrative staff making decisions in the course of the election.

Decision:

- All election decisions within the jurisdiction of the C.R.O. were made by the C.R.O, therefore, the administrative staff made no decisions and the communication is without foundation.
- Since the administrative staff did not have the power to make decisions and all decisions were made by the CRO, the allegation of bias or apprehension, thereof, is immaterial.
- **The complaint is dismissed in its entirety.**

Communication 34

Summary:

This communication appears to be identical to communication 29(a) above (unofficial “elections committee” biased). **Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – received together with communications 33, 35, and 36 – 34**

Summary of Comments Received:

No submissions or comments were received.

Decision:

- Per the analysis and decision in communication 29a above, **the complaint is dismissed in its entirety.**

Communication 23**Summary:**

An allegation that Duncan McDonald had been advising the C.R.O. about certain complaints and that he had access to confidential complaints and materials during the election. Request that the C.R.O. and the “elections committee” prevent currently elected officials from having access to “committee” meetings, records, and other processes of the 2005 General Election. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 23**

Summary of Comments received:

Essentially the Progressive Party agrees that it would be inappropriate for Duncan McDonald to influence the election or the C.R.O. and challenge the signers to produce evidence of inappropriate conversation or influence.

Analysis:

The complainant cites no evidence of the allegation. There is no information regarding the alleged access to confidential complaints, beyond the bald statement itself. There is no evidence regarding the alleged advice, or even the nature of the alleged advice, to the C.R.O.

The C.R.O. agrees with the comments of the Progressive Party that it would be inappropriate for Duncan McDonald to influence the election or the C.R.O.; however, there has been no evidence of such influence occurring.

The complainant had the opportunity through the comment process to provide evidence of the allegations, but failed to do so.

Decision:

Based on the lack of any evidence whatsoever regarding the allegations, the **complaint is dismissed in its entirety**

Communication 39**Summary:**

An allegation that the Newton ballot box was stolen and that the C.R.O. was not fulfilling his obligation to keep the ballot box secure. The communication also contains an allegation that Duncan McDonald told [a] poll clerk not to hand out multi-campus ballots for a four hour period on Thursday and that Mr. McDonald is biased in favour of the Progressive Party. **Signed by Steve Lee, Arka Movsessian, and Lisa Coan – 39**

Summary of Comments received:

The Progressive Party suggests that it would be inappropriate for poll clerks to take directions from the Director of Finance, Duncan McDonald. They also wonder why the Progressive Party is mentioned in the communication.

Analysis:

- The Newton ballot issue was dealt with in Decision A and Decision 39 (regarding the Newton Ballot Box) issued on 18 March 2005 (the “18 March 2005 Decision”).

- With regard to the allegations involving Mr. McDonald, one comment was received from the Progressive Party. This comment does not provide any assistance with regard to the merits of the complaint.
- In the C.R.O.'s investigation of the communication, the C.R.O. interviewed several poll clerks, and other individuals including Duncan McDonald, Duncan Keist, and Rob Evans.
- The C.R.O. confirms that during polling he intended to convey a message to poll clerks confirming his written directions in the Instructions to Poll Clerks manual that members were only permitted to vote on their home campuses.
- The C.R.O. confirms that, as a matter of convenience, he allowed Mr. McDonald to phone KSA campus offices to communicate the C.R.O.'s message. Given the volume of tasks being performed, the C.R.O. felt it would not be inappropriate to allow Mr. McDonald, who was present at the time, to conduct a very simple administrative task on his behalf (just as he would have allowed Mr. McDonald to make a photocopy or coffee for him).
- All evidence in the C.R.O.'s investigation of this matter disclosed that the written Instructions to Poll Clerks were followed on the Langley and Surrey campuses.
- With regard to the Richmond campus, Mr. Keist informed the C.R.O. that on February 24 & 25th, in relation to the executive and liaison positions, non-Richmond registered students were permitted to vote.
- Clearly an error in communication occurred. However, there was no evidence that the error was made purposely or with any ill intent. In fact, this error may well have occurred regardless of who conveyed the message.
- Furthermore, the miscommunication error does not in anyway have any material effect on the election as there is no evidence on the record which demonstrates that any candidate was advantaged or disadvantaged by the error.
- As such, the CRO regrets this miscommunication; however, despite the error, there is no evidence of any material effect on the election.
- With regard to the bias allegation, the complainant has presented absolutely no evidence as to how an unintentional and inadvertent error in the carrying out of an administrative task could have the effect of actual or apprehended bias.
- Even if the allegation regarding Mr. McDonald's distaste for some candidates was proved to be true, Mr. McDonald was not acting in a decision-making capacity. The application of the administrative task Mr. McDonald was allowed to carry out could not have any possible impact on the election results. The multi-campus rule is merely a rule to assist the C.R.O. in confirming that double voting has not occurred in an election. The breach of this rule has no material bearing on the election.
- Finally, the complaint only specifically addresses the multi-campus balloting issue with regard to the Newton campus. Since the Newton campus will be re-pollled per the C.R.O.'s 18 March 2005 Decision, the matter is moot.

Decision:

- The complaint with regard to the multi-campus balloting communication **is sustained** insofar as the finding of the CRO that Mr. McDonald was permitted to perform the administrative task as set out and that a miscommunication occurred. As no evidence of a material effect on the elections has been cited or found, the C.R.O. declines to grant a remedy with regard to the complaint.

- **All other aspects of the complaint are dismissed in their entirety.**

Communication 47

Summary

An allegation that Duncan McDonald told poll clerks not to give out multi-campus ballots. That Mr. McDonald did not have the authority to make this request / order. That there was an approximately four hour period when multi-campus ballots were not handed out – particularly at Newton. That the C.R.O. should have better instructed the poll clerks. There is an allegation that preparation of the ballots was delegated to Laura Anderson, current Director of External Affairs and candidate for Langley Representative, and to other staff, and that this was inappropriate. There is a suggestion that poll clerks on every campus misinformed voters about the multi-campus ballots. A request that the election be declared invalid. **Signed by Tappy Tiwana, Jamsheed Khan, Aaron Takhar, and Mat Huff – 47**

Summary of comments received:

The Progressive Party believes that this communication is in the nature of slander. They do not deny that some communications [from R.A.F. Party and C.S.I. Party supporters] may have some validity but believe that the totality of the communications points to an effort to [force a new election]. The Progressive Party asserts that the best approach would be for the General Manager to come to Council with new options for running future elections.

Analysis:

- Per communication 39, the same logic applies regarding the complaints involving Mr. McDonald both with regard to issues of bias and the actually task performed.
- Regarding Ms. Anderson, the C.R.O. allowed Ms. Anderson to format the ballots using the candidates' list. As in communication 39, with regard to Mr. McDonald, the task was completely administrative. Furthermore, no errors in the carrying out of this task are alleged.
- With regard to the allegation of conflict of interest, Regulation X 5 contains all rules pertaining to conflicts of interest. There is no evidence that Ms. Anderson's administrative formatting ballots breaches any conflict of interest rules contained in the Regulations.

Decision:

- The complaint with regard to the multi-campus balloting communication **is sustained** insofar as the finding of the CRO that Mr. McDonald was permitted to perform the administrative task as set out and that a miscommunication occurred. As no evidence of a material effect on the elections has been cited or found, the C.R.O. declines to grant a remedy with regard to the complaint.
- The complaint with regard to Ms. Anderson's preparation of ballots **is sustained** insofar as the finding of the CRO that Ms. Anderson was permitted to perform the administrative task as set out. Since this complaint does not allege any errors in the preparation and as no evidence of a material effect on the elections has been cited or found, the C.R.O. declines to grant a remedy with regard to the complaint.

Communication 22

Summary:

A note (dated 25 February) that candidate statements had not been posted in the polling booths at the Richmond Campus and a request that the C.R.O. post candidate statements as allowed in the regulations at the polling stations. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 22**

Summary of Comments Received:

No submissions or comments were received.

Analysis:

- Regulation X 8 7 – Each candidate shall be permitted to submit a candidate statement of no more than 100 words which, if approved by the C.R.O., the C.R.O. will cause to be posted clearly at each polling station.
- Regulation Section X 3 1 (xiv) – C.R.O. is responsible for preparing and distributing information on relevant rules and regulations to poll clerks.
- Regulation Section X 5 4 (ii) (g) – a statement of no more than 100 words may be submitted to the C.R.O. for posting at poll stations and submission to campus publications.
- The regulations allow the C.R.O. to post the candidate statements at the polling stations once they are approved by the C.R.O.
- Candidate statements that had been received were approved on the evening of Thursday 24 February.
- The statements that were approved were sent electronically to each campus on the evening of Thursday 24 February.
- If they weren't posted at Richmond on Friday 25 February, as alleged, then the campus officers failed to perform the task as requested by the C.R.O. The complaint contains a statement of three witnesses who make this allegation. No contradictory evidence has been received.

Decision:

- The complainant has successfully made out his complaint and **the complaint, therefore, is sustained.**
- There is no evidence that the irregularity has materially affected the election.
- As such, no remedy is awarded.

Communication 19

Summary:

A request that all complaints and official responses be posted on-line. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 19**

Summary of Comments Received:

No submissions or comments were received.

Analysis:

- Regulation X 6 1 (ii) – The Elections Committee may determine its own procedures ... provided that all complaints are posted publicly and all decisions are also posted publicly.
- No complaint is disclosed by the request.

Decision:

- **The complaint is dismissed.**
- In any case, the practice of the C.R.O. has been to post all complaints and submissions regarding complaints on the Society's website.
- All decisions relating to the communications will also be posted on the website.

Communication 28**Summary:**

An allegation that the C.R.O. was gruff, frank, and abrasive with Steve Lee during a telephone conversation concerning the C.R.O.'s late attendance at a meeting in Richmond. The C.R.O. apologized at the time, but the complaint states some concern remains. There is a discussion of resources that should be made available to the C.R.O.

Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 28

Summary of comments received:

The Progressive Party suggests that Steve Lee stop using the complaint process in a frivolous manner.

Analysis:

- The C.R.O. accepts that Steve Lee certainly could have reasonably interpreted the C.R.O.'s tone during the conversation referred to as described.
- The complaint discloses no electoral offence.

Decision:

- Since no electoral offence is alleged by the communication, **the complaint is dismissed.**

Communication 36**Summary:**

An allegation that the no-campaigning zone in Richmond was extended into areas that the C.R.O. had indicated would be allowed and that photographs of the Progressive Party candidates were taken inappropriately by R.A.F. and C.S.I. supporters. The following series of possibilities are suggested as to how this extension came about:

- (i) The C.R.O. changed his mind and failed to communicate this to the candidates;
- (ii) The boundary change was made by another member of the "elections committee" involving a deliberate act of campaign sabotage or an overstepping of the C.R.O.'s own authority;
- (iii) The Chief Poll Clerk made the decision as a deliberate act of campaign sabotage or an overstepping of the C.R.O.'s own authority; or
- (iv) Steve Lee extended the boundaries on his own.

Depending on which of the above is found to be correct the request is to discipline the "elections committee", the Chief Poll Clerk, and / or Steve Lee. **Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – received together with communication 33, 34, and 35 – 36**

Summary of comments received:

Steve Lee said on the first day of campaigning Steve Lee instructed the Richmond BOS to place the tape more than 10 metres away from the polling place on the first floor in Richmond according to what he believed was common practice. Early Friday morning, Pavan Bassi asked the Richmond Campus office to clearly mark off the 10 metre boundary on the 2nd floor apparently based on Pavan Bassi's interpretation of Regulation X 5 4 (iii) (discussed below). This was before Steve Lee heard that the administrative staff had been dismissed. There is a note that the area in question was directly above the polling station.

Analysis:

- Regulation X 5 4 (iii) – Each polling station shall be surrounded by a buffer zone in which no campaigning shall be permitted. The zone is to be 10 metres in all directions from the polling station, or a greater distance as determined by the elections committee in individual cases. Where possible, such buffer zones shall be clearly identified and marked in a visible way by the Elections Committee.
- The C.R.O. did not change his mind concerning the “no-campaigning zone” in Richmond. All candidates who asked were told the same thing – that the 10 metre zone would be interpreted to end at solid walls. All candidates who asked were told that they could not campaign in locations that were within 10 metres of the poll in all directions that could be [easily] seen from the polls.
- The zone was not extended by the C.R.O. so the basic regulation provision applies in this case.
- The evidence available suggests that the zone as marked was not as intended by the C.R.O.
- The C.R.O.'s decision with regard to polling zones was clear. Another directive was followed. The evidence available suggests that Steve Lee alone established the zone on the advice of Pavan Bassi apparently before Steve Lee heard that Pavan Bassi was no longer assisting with the administration of the election.
- The C.R.O.'s intention was to allow campaigning directly above the poll so long as it wasn't in an area easily seen from the polls or so long as noise relating to the campaign wasn't obvious at the poll.
- Regulation X 6 allows the Elections Committee to penalize candidates. No regulation was found that would allow the Elections Committee, or the C.R.O. acting in their absence, to penalize KSA staff for election violations.
- Steve Lee is a candidate for Richmond Director and subject to discipline by the C.R.O. pursuant to the regulations.

Decision:

- Pavan Bassi clearly exceeded his authority in suggesting an area other than that approved by the C.R.O. be marked as the “no campaigning zone”.
- The proper approach would have been for Mr. Bassi to confirm his advice to Steve Lee with the C.R.O. as soon as possible – which was not done.
- The C.R.O. had the power under the Regulations to mark a “no campaigning zone” but did not do so in this case.
- Steve Lee had no authority to extend the buffer zone by marking off a larger area than had been set by the Regulations (X, Article 5 4 (iii)) as a “no campaign

- zone” – regardless of common practice. Mr. Lee was not acting on instructions of C.R.O., but rather it appears he was acting on the misdirection of Mr. Bassi.
- As such, it appears that the act was inadvertent as Mr. Lee was under the misapprehension that he was following a directive that was initiated by the C.R.O.
 - **As such, the complaint is dismissed against Steve Lee.**

Communication 43

Summary:

An allegation that R.A.F. Candidate Shiva Prasad’s name was not placed on the Newton ballot when it should have been. A request for an investigation and re-running the election. Also a notation that the Newton ballot box is missing as mentioned below. A note that time is now less important than the investigation after observing that no complaints or responses have been posted on line to date (24 February 2005). **Signed by Aaron Takhar, Manny Dhaliwal, Mat Huff, and Mariana Nakhla – 43**

Summary of comments received:

The Progressive Party suggests that the name may have been left off the ballot because the candidate was not nominated on time or was determined to be ineligible to run for the office sought. If the candidate’s name should have been on the ballot, only the Newton campus balloting was affected and so only [the Newton portion of the election would need to be re-run].

Note:

A “Withdrawal of Candidate” form has been received purporting to be signed by Shiva Prasad, Aaron Takhar, and Pavan Bassi.

Analysis:

- Bylaw 7 (1) requires that Campus Councils be elected by and from the members enrolled at that campus.
- The C.R.O. was under the impression that the candidate in question was not a Member enrolled at the Newton Campus and so his name was removed from the Newton ballot.
- The “Withdrawal of Candidate” form can be taken as information confirming the C.R.O.’s impression.

Decision:

- The candidate’s name was properly not included on the Newton ballot.
- **The complaint is dismissed in its entirety.**
- The complaint relating to the Newton ballot box is dealt with in the 18 March 2005 decision.

Communication 44

Summary:

An allegation that the “elections committee” overwhelmingly believes that the C.R.O. is not impartial and should be removed. Discussion about the powers of an elections committee. Request that the election be declared invalid. Also states that the C.R.O. had

no right to dissolve the “elections committee”. **Signed by Aaron Takhar, Jaivin Khatri, Mariana Nakhla, and Mat Huff – 44**

Summary of comments:

The Progressive Party points out that there was no Elections Committee in place for this election. They further suggest that it would have been unlikely that Pavan Bassi and Erin Minor would have been approved by council as an “Election Committee”. Therefore their role could only be advisory and the C.R.O. could therefore dismiss the administrative staff at will. There is also a suggestion that the entire election should be reviewed by a third party appointed by Council.

Analysis:

The analysis above concerning the administrative staff and bias replicates the complaints set out in communication 20, 21, 29a, & 34.

Decision:

- Per decisions 20, 21, 29a, & 34, **the complaint is dismissed.**