

## 2005 KSA General Election Decisions

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 II – Issues concerning the Chief Poll Clerk

#### Communication 1

##### *Summary:*

Progressive Party objects to appointment of Coreen Mason as Chief Poll Clerk based on her prior relationship with some of the candidates which could result in bias. **No witnesses signed – 1**

##### *Analysis:*

- Regulation X 11 2 – Complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.

##### *Decision:*

- Unsigned or anonymous complaints do not meet the requirements of the regulation.
- **Complaint is dismissed in its entirety on basis of lack of jurisdiction**

#### Communication 35

##### *Summary:*

A protest by the Progressive Party against the hiring of Coreen Mason as Chief Poll Clerk. The communication contains a fairly detailed summary of Ms. Mason's involvement with the KSA and some of its officers and employees. Request to remove Ms. Mason as Chief Poll Clerk. Also a request for an investigation into her effect on the impartiality of the elections process.

**Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – received together with communication 33, 34, and 36 – 35**

##### *Summary of comments received:*

Coreen Mason made a submission. She disagrees with the details provided in the communication in many respects and she points out that she managed to get the polls staffed in a very short time.

***Analysis:***

- The position of chief poll clerk was created to assist the C.R.O. with the logistics of organizing and staffing the polling stations. It is a purely administrative position and nothing more. As such, the requirements of the position are governed by the general provisions in the Regulations regarding poll clerks (Regulation X(8)(11)(iii).
- The relevant section of Regulation X (11)(8)(iii) only requires, “while working at a poll station, no poll clerk shall make remarks supporting or opposing any candidate ...” Subsection (iii) also allows the C.R.O. to discipline any poll clerk who violates the electoral regulations.
- This communication does not allege any actionable breach of the Regulations. As such, the C.R.O. is unable to find that any of the allegations, even if substantiated, are a breach of the Regulations.

***Decision:***

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

**Communication 41**

***Summary:***

A request from the Progressive Party that the Chief Poll Clerk be terminated on the ground that she was not eligible for employment with the KSA as she had held elected office within six months of her appointment. A notation that the Newton ballot box went missing [under her supervision]. A request that internal discipline procedures be followed for the persons who violated the hiring procedure. **Signed by Jeff Nelson, Matt Vu, and Forrest Li – 41**

***Analysis:***

- The administration of the KSA Hiring Policy is outside the jurisdiction of the C.R.O.
- Regulation X 3 1 (xv) requires the C.R.O. to assign poll clerks to polls, and ensure that the polls are adequately staffed during the polling period.
- Regulation X 3 1 (xvii) requires the C.R.O. to cause ballot boxes to be distributed to and collected from polling stations.
- The C.R.O. requested that a Chief Poll Clerk be appointed to assist with these tasks.
- The only violation of the election regulations by the Chief Poll Clerk alleged is the observation that the Newton ballot box was not returned [to the C.R.O. by the Chief Poll Clerk (or anyone else) at the conclusion of balloting].
- Regulation X 8 11 (iii) allows the C.R.O. to discipline any poll clerk who violates the electoral regulations.

***Decision:***

- As decided in communication 35, The Chief Poll Clerk is a “Poll Clerk” for the purposes of the Regulations.
- The complaint relating to the KSA Hiring Procedure is dismissed for lack of jurisdiction.
- The 18 March 2005 Decision found that, indeed, the Newton ballot box was not collected from the [Newton] polling station, which is a violation of the Regulations.
- However, there is no evidence presented that would suggest that the Chief Poll Clerk had any direct involvement in the Newton incident and, therefore, no evidence that she was the cause of the breach,
- Therefore, the **complaint is dismissed in its entirety.**

## Section III Candidate Eligibility Issues

### Communication 7

#### *Summary:*

Request from Aaron Takhar, campaign manager for the R.A.F. Party, for a meeting with the “elections committee” regarding the eligibility of certain R.A.F. candidates for election. There is also a suggestion that candidates’ names could be “shuffled” before polling began. **No witness signed – email communication – 7**

#### *Summary of comments received:*

The Progressive Party asserts that the R.A.F. Party was told at the all-candidates meeting that no candidate could run on a campus at which the candidate was not actively taking classes. The Progressive Party also asserts that this complaint is an attempt to create an appearance of impropriety and to push the Society into holding a new election. The Progressive Party asks for a “severe” reprimand against the students who ran in violation of the rule and against the R.A.F. Party itself.

#### *Analysis:*

- Regulation X 11 2 – Complaints may be submitted no more than 72 hours after the occurrence to which it relates signed by at least three members who personally witnessed the incident.

#### *Decision:*

- Unsigned or anonymous complaints do not meet the requirements of the regulation.
- **Complaint is dismissed in its entirety on basis of lack of jurisdiction**

### Communication 8

#### *Summary:*

An objection to Jamsheed Khan running as a candidate for Newton Campus Director based on an allegation that he is not a student at the Newton Campus. **Signed by Ken McIntyre, Arka Movsessian, and Kailee Bruce – 8**

#### *Summary of comments received:*

No comments were received.

#### *Note:*

A withdrawal of candidate form signed by Jamsheed Khan, Aaron Takhar, and Pavan Bassi is on file.

#### *Analysis:*

See the review of Bylaw 7 (1) in Section I, communication 43 above.

#### *Decision:*

- Per decision 43, all candidates for campus specific positions must be taking classes on the campus at which they are seeking office at the close of nominations or they must have taken classes on that campus in the immediately preceding semester.
- Since this candidate has withdrawn, no further investigation is required and his name will not be placed on the revised Newton ballot.
- **The complaint is dismissed in its entirety.**

## **Communication 10**

### ***Summary:***

An allegation that various members of the R.A.F. Party were nominated for positions different from the positions submitted by their campaign manager to the C.R.O. **Signed by Jeff Nelson, Kyle Sanker, and an unknown witness – 10**

### ***Summary of comments received:***

The R.A.F. Party filed a submission. The R.A.F. Party challenges the signers to prove their claim.

### ***Analysis:***

- Regulation X 5 2 (iii) – Each candidate shall be a Member of the Society, and shall submit in person to the C.R.O. a nomination form duly signed by the candidate and no less than 25 nominators...
- Regulation X 5 2 (iv) – Even if nominated for more than one position, a candidate may run for only one position in a given election.
- The C.R.O. consistently told potential candidates that nomination forms could not be altered to change the position for which the candidate was nominated.
- The C.R.O.'s interpretation is supported by the regulations – the combination of X 5 2 (iii) and (iv) suggest that the position sought is relevant to the nomination process.
- As such, candidates must run for the position, and only the position, for which they have been nominated.
- The complaint is serious; however, despite the serious nature of the allegations, the complainants neither (i) name the “various students” referred to in the complaint, nor (iii) do they identify the candidates who have allegedly breached the Regulations.
- None of the “students” allegedly lied to have provided submissions substantiating the allegations.
- The R.A.F. Party's blanket denial is uncontradicted.
- As such, no evidence of a breach of the nominations process Regulations is found.

### ***Decision:***

- **The complaint is dismissed in its entirety.**
- This finding does not affect the right and duty of the CRO to finally determine eligibility of candidates.

## **Communication 15**

### ***Summary:***

A request that the C.R.O. review the eligibility of the following candidates for Newton Campus positions on the ground that they are not eligible to hold the offices which they are seeking.

Reference is made to communication 8 above. **Signed by Ken McIntyre, Ashveen Koonja, and Kristina Kearley – 15**

- Sabrina Dhami
- Sat Dhillon
- Narinder Atwal

**Note:**

A Withdrawal of Candidate form signed by Narinder Atwal, Aaron Takhar, and Pavan Bassi is on file.

**Summary of comments received:**

No comments were received.

**Analysis:**

The review of Bylaw 7 (1) in Section I, communication 43 above – Campus Council eligibility – is repeated.

- Sabrina Dhami appears on the list of candidates for a Langley Representative position.
- Sat Dhillon also appears on the list of candidates for a Langley Representative position.
- Narinder Atwal appears on the list of candidates for a Newton Campus Officer Position.

**Decision:**

- As stated under Communication 43, all candidates for campus specific positions must be taking classes on the campus at which they are seeking office at the close of nominations or they must have taken classes on that campus in the immediately preceding semester.
- Since Narinder Atwal has withdrawn, no further investigation is required and his name will not be placed on the revised Newton ballot. As such, the **complaint is dismissed with regard to Mr. Atwal.**
- The CRO is investigating the student status of Sabrina Dhami and Sat Dhillon.

## **Communication 16**

**Summary:**

An allegation that Aaron Takhar had misled potential candidates for the R.A.F. Party about their eligibility to run for certain campus specific positions. Request for a review of the eligibility of R.A.F. Party candidates running for campus specific positions outside the Surrey Campus.

**Signed by Ken McIntyre, Steve Lee, Kristina Kearley, and Ashveen Koonja – 16**

**Summary of comments received:**

No comments were received.

**Analysis:**

See review of Bylaw 7 (1) in Section I, communication 43 above – Campus Council eligibility.

- Ultimately candidates are responsible to inform themselves of the rules regarding the election. Candidates taking advice from their campaign managers do so at their own peril. Reliance on inaccurate or incorrect advice of a campaign manager or, for that matter, anyone else, will not operate as a defence for an election violation.

**Decision:**

- The allegations with regard to Mr. Thakar do not disclose a breach of the election Regulations. The **complaint is dismissed with regard to Mr. Thakar.**
- As stated under Communications 8, 15 above, per decision 43, all candidates for campus specific positions must be taking classes on the campus at which they are seeking office at the close of nominations or they must have taken classes on that campus in the immediately preceding semester.
- The eligibility of all candidates for campus specific positions will be investigated and candidates not meeting the test above will be disqualified on the ground that they are ineligible for the position sought.

### **Communication 33**

#### ***Summary:***

An allegation that the R.A.F. Party was using candidates that were ineligible for the positions they were seeking to enhance the R.A.F. campaign. The allegation also says that the candidates in question were told that the bylaws and word of the C.R.O. did not apply to them. The allegation is further that the R.A.F. coordinators and executive candidates were responsible for these communications. The Progressive Party considers this a systematic violation and requests that all R.A.F. Party candidates be disqualified. **Signed by Kristina Kearley, Jeff Nelson, and Forrest Li – together with communications 34, 35, and 36 – 33**

#### ***Summary of comments:***

The R.A.F. Party submitted that the R.A.F. Party has not broken any regulations or bylaws and invites the “elections committee” to investigate.

#### ***Analysis:***

See review of Bylaw 7 (1) in Section I, communication 43 above – Campus Council eligibility.

- Without an analysis of the Regulations and whether the complaint discloses a breach thereof, the C.R.O. observes that:
  - (i) The complainant alleges that the R.A.F. campus specific candidates were told that the bylaws and word of the C.R.O. did not apply to them. There is no evidence presented that candidates were systemically misinformed. The R.A.F. Party has directly denied this allegation; and
  - (ii) the complainant alleges that the R.A.F. coordinators and executive candidates were responsible for these miscommunications. Again, there is no evidence presented that candidates were systemically misinformed or the identity of those who allegedly misinformed the candidates. The R.A.F. Party has directly denied this allegation.

#### ***Decision:***

- The Progressive Party alleges systematic violations, but no evidence of a grand conspiracy of the nature set out in the complaint has been provided. The bald allegations set out are not substantiated with any clear or cogent evidence whatsoever. **The C.R.O. is unable to sustain the complaint. The complaint is dismissed in its entirety.**
- As stated in several decisions above, candidates who were not nominated for specific positions or who were not eligible according to the Society’s bylaws will be disqualified.

### **Communication Item B**

#### ***Summary:***

A document has come to the C.R.O.’s attention that purports to have been created by Aaron Takhar on behalf of the R.A.F. Party. It contains a mix of campaign advice and misinformation regarding nominations among other things. **Campaign Document Apparently Circulated by the R.A.F. Party – Item B**

#### ***Summary of comments:***

No comments were received.

#### ***Analysis:***

- The C.R.O. can investigate allegations of irregularities that come to his actual attention.
- The issues raised by this communication are dealt with in other communications above.

- The creation, existence, and circulation of the document is not, in itself, a violation of any election Regulation.

***Decision:***

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

## **Section IV**

### **Inappropriate campaigning before the campaign period**

#### **Communication 2a**

##### ***Summary:***

R.A.F. Party alleges that Kristina Kearley was campaigning prior to the campaign period. Also alleges that Ms. Kearley unfairly criticized the R.A.F. Party; **No witnesses signed – 6 email signatures – 2a**

##### ***Summary of Comments received from the Progressive Party:***

The Progressive Party suggests that the conversation referred to in the communication was initiated by the students Ms. Kearley was speaking with. Further that Ms. Kearley was responding to questions about the dismissal of certain former members of Council. They further suggest that it would be unreasonable for potential candidates to ask students to sign a nomination package without being able to say something about what they intend to do [if elected].

##### ***Analysis:***

- Regulation X(11)(2) requires that complaints of irregularities be signed by at least three members who personally witnessed or were otherwise privy to the incident.
- The Oxford Dictionary of Current English defines the verb “to sign” as “write one’s name on (document) to show its authenticity or one’s agreement or acceptance.”
- An email signature may evince a signature, in the meaning of the above definition, if the email originates from the signer’s email address. However, where an email lists a number of witnesses, there is no evidence that the email was “signed” by the other witnesses in that there is no evidence as to the “authenticity” of the signer’s “agreement or acceptance” of the communication.

##### ***Decision:***

- The complaint was not signed by three witnesses per Regulation X(11)(2). As such, the **complaint is dismissed in its entirety.**

#### **Communication 3**

##### ***Summary:***

Allegation that Kristina Kearley was openly campaigning prior to the campaign period. Also alleges that Ms. Kearley slandered the R.A.F. Party. **Signed by Madiha Butt, Amar Sandhu, Jaivin Khatri, and Rolie Prasad – 3**

##### ***Summary of Comments received:***

The Progressive Party points out that the complainant, Madiha Butt, became a Progressive Party Candidate in the election.

##### ***Analysis:***

- Regulation X 5 4 (i) – The official campaign period begins immediately after the conclusion of the All-Candidates Meeting and continues until the end of voting. Campaigning is not permitted at any other time.
- Regulation X 5 2 (iii) – Each candidate shall submit in person to the C.R.O. a nomination form duly signed by the candidate and no less than 25 members of the Society.
- Regulation X 5 3 (i) – The C.R.O. shall organize an all-candidates meeting following the close of nominations.

*Decision:*

- The Regulations allow for communication between potential candidates and students for the purpose of obtaining nominations.
- The complaint clearly sets out that Mr. Kearley was in the process of collecting nomination signatures when the remarks were made. The remarks were likely made for the purpose of obtaining nomination signatures, therefore, does not disclose a breach of the Regulations.
- The fact that one of the complainants ran for office with the Progressive Party along with Ms. Kearley is irrelevant, although, it certainly is odd that running mates submit complaints about each other's conduct.
- The C.R.O. has no jurisdiction over complaints of slander.
- **The complaint is dismissed in its entirety.**

## **Section V**

### **Using KSA facilities and events inappropriately**

#### **Communication 2b**

##### ***Summary:***

R.A.F. Party alleges that Rigel Vincent used his MSN Messenger identification as a campaign tool prior to the campaign period. A printout of the identification is included; **No witnesses signed – 6 email signatures – 2b**

##### ***Summary of comments received:***

The Progressive Party submitted that Mr. Vincent's MSN Messenger name was only promoting the election itself. Also the MSN screen name is not [public].

##### ***Analysis:***

- Per decision 2a.

##### ***Decision:***

- Per decision 2a, the complaint was not signed by three witnesses per Regulation X(11)(2). As such, the **complaint is dismissed in its entirety.**
- However, the C.R.O. notes, even if he had jurisdiction, candidates are, of course, free to email their known supporters and voters who contact them for information.

#### **Communication 2c**

##### ***Summary:***

R.A.F. Party alleges that Jeff Nelson used the KSA offices for campaign meetings [prior to and during the campaign period]; **No witnesses signed – 6 email signatures – 2c**

##### ***Summary of comments:***

The Progressive Party denies holding any election meetings in KSA offices. They point out that several members are incumbents and do need to work together in the office.

##### ***Analysis:***

- Per decision 2a.

##### ***Decision:***

- Per decision 2a, the complaint was not signed by three witnesses per Regulation X(11)(2). As such, the **complaint is dismissed in its entirety.**

#### **Communication 14**

##### ***Summary:***

An allegation that R.A.F. Party supporters were wearing R.A.F. Party T-shirts one metre inside of the Surrey KSA Office while asking about the availability of fitness centre passes. The people in question left when asked. **Signed by Ken McIntyre, Matt Vu, and Philip Sun – 14**

##### ***Summary of comments:***

No comments were received.

##### ***Analysis:***

- Regulation X 5 5 (i) – Candidates are not to use the resources of the Society for campaigning. This prohibition does not apply to materials and resources available to Society members generally, such as free phones.

- Regulation X 5 5 (ii) – Candidates shall not use the Society’s offices for any purpose related to the election.
- Regulation X 6 11 – Slates, as a whole, are responsible for the electoral conduct of their members.
- The C.R.O. has stated that campaign materials, including campaign T-shirts, were not allowed in KSA offices pursuant to these regulations.
- There is no evidence that the breach committed by the unknown R.A.F. Party supporters was sanctioned by the R.A.F. slate. However, the consequence of allowing others to campaign on behalf of one’s slate is that the slate must take responsibility for the campaigners’ actions. Unless there is clear evidence that the campaigners’ were not working on behalf of the slate, it must be presumed that they were R.A.F. sanctioned campaigners.

***Decision:***

- The C.R.O. finds that the campaigners were working on behalf of the R.A.F Party.
- The C.R.O. finds that a technical offence under the election regulations occurred.
- Since the R.A.F. candidates chose to campaign as a slate, the C.R.O. finds that the slate is in violation.
- **The complaint is sustained against the R.A.F. Party slate.**
- However, mitigating the offence is the fact that the campaigners, as noted in the complaint, left immediately when asked. Furthermore, the infraction was likely inadvertent.
- The offence is characterized as minor.
- The remedy is a warning against the R.A.F. Party not to allow its supporters to enter KSA offices while wearing campaign T-shirts.

**Communication 25**

***Summary:***

An allegation that the Progressive Party was distributing campaign materials and otherwise campaigning at a KSA BBQ event in Richmond on 23 February which may violate rules against using KSA materials, offices, etc. in campaigns and which may be contrary to practice in previous elections. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 25**

***Summary of comments received:***

The Progressive Party basically denies that they campaigned at the event in question. They further state that the complainants were also effectively campaigning during the event by handing out food to students even if they didn’t have party / candidate identification on at the time. They also state that the C.R.O. did not warn them against attending the event.

***Analysis:***

The review of Regulations regarding the use of KSA resources and offices under communication 14 above is repeated.

- The C.R.O. told Steve Lee in Richmond that campaigning would be allowed in KSA lounges but not using KSA equipment and facilities.

***Decision:***

- The BBQ event is not captured by the rule against campaigning with the use of KSA resources and offices. In fact, the BBQ is a perfectly legitimate venue for campaigning.
- The complaint does not disclose an offence.
- **The complaint is dismissed in its entirety.**

**Communication 26**

***Summary:***

A communication suggesting that the C.R.O. should not have asked Steve Lee – or other candidates – to stop working on campaign materials in the KSA lounges as they are not covered by regulations preventing candidates from using KSA facilities and offices for campaign purposes. **Signed by Steve Lee, Johnny Woo, and Ashveen Koonja – 26**

***Summary of comments received:***

The Progressive Party states that they agree with the C.R.O.’s decision to make the Richmond lounge space “off limits”. They believe that Steve Lee working in the Richmond lounge had a material effect on the election because constituents would have been able to see elected officials crowded around a computer in the lounge.

***Analysis:***

The review of Regulations regarding the use of KSA resources and offices under communications 14 and 25 above is repeated.

- The C.R.O. told Mr. Lee not to work on campaign materials in the lounge as the C.R.O. thought, given Mr. Lee’s in depth involvement with the KSA, that Mr. Lee’s preparation of campaign materials in the lounge might cause a perception to others that he was using KSA materials or resources in his campaign.
- The C.R.O. believed that it would be best practice for a candidate not to work on campaign materials in the lounge.
- The C.R.O. indicated to Mr. Lee that contacting voters in the lounge would be acceptable provided it did not unduly interrupt the Members’ enjoyment of the lounge.

***Decision:***

- The C.R.O. was within his power to administer the election. The C.R.O. in no way prevented Mr. Lee from campaigning in an area in which campaigning was permitted.
- Even if the C.R.O. is incorrect and there was an irregularity, no material impact on the election is proven.
- **The complaint is dismissed in its entirety.**

**Communication 45**

***Summary:***

An allegation that Matt Vu asked Members and KSA staff, including R.A.F. Party members, to sign his nomination form in the KSA office and that [Jeff] Nelson used the KSA offices for “party meetings”. A request that the “elections committee” and the ombudsperson investigate and hold the results of the election invalid. **Signed by Mat Huff, Aaron Takhar, Jaivin Khatri, and Manny Dhaliwal – 45**

***Summary of comments received:***

The Progressive Party suggests that collecting signatures on nomination forms is not material to the election and that it is not campaigning within the meaning of the Regulations.

***Analysis:***

The review of Regulations regarding the use of KSA resources and offices under communications 14, 25, and 26 above is repeated.

The review of Regulations regarding the campaign period under section IV communication 3 is repeated.

***Decision:***

- Until properly nominated, Members are not candidates.
- There is no indication that the activity described in the complaint took place after the close of nominations.
- In any case, the activity mentioned in the complaint was not material to the election.
- **The complaint is dismissed in its entirety.**