

Date: 21 March 2014

Appellant: Susan Cake

Respondents: Manjeet Chowdhry and Isaac Odoom (Chief Returning Officer [CRO])

Acting Speaker: Virginia Pimmett

Background:

The 2014 Graduate Students' Association (GSA) General Election was held 11 February to 6 March 2014, with campaigning ending at 4:00pm MST 3 March 2014 and the voting period being the final forty-eight (48) hours of that period (4 March at 10:00am MST to 6 March at 10:00am MST), and was administered under the supervision of the Council-elected CRO Isaac Odoom. CRO is one of three positions elected by the GSA Council. The GSA elections are organized and held under the Graduate Students' Association Bylaws & Policies. In the 2014 GSA Election, there were five directly elected officer positions (President, Vice President – Academic, Vice President – Labour, Vice President – Student Services and Vice President - External) and 10 Councillor-at-Large positions. The President and 3xVP ran unopposed. The election for Vice President - External was contended by Susan Cake (Appellant) and Manjeet Chowdhry (Respondent). Respondent was declared elected by a 13 vote margin. Both candidates, as a condition of running in the election, signed a document stating that they will adhere to all of the guidelines, bylaws and policies laid out in the GSA bylaws and policies.

A complaint in regards to the Respondent sending emails after the close of campaigning on 3 March 2014 was brought to the CRO, who issued a decision on 6 March 2014 to allow the election results to stand "as is". This was appealed on 7 March 2014 to Speaker Daniel Prins (based on GSA policy Section 9, subsec. 4), who referred it back to the CRO based on new information being present. The CRO subsequently decided to allow his previous decision and therefore the election results to stand, dated 13 March 2014. Further disputes have been brought forth over the course of this appeal, which will be laid out below.

The Appellant has appealed the CRO's decision to the Speaker, as is the right of any Candidate in an election under GSA Policy on elections, Section 9, subsec. 4(a). As the GSA Speaker Daniel Prins recused himself because he felt he was biased, and the Deputy GSA Speaker Roy Coulthard also felt he was biased, a series of delegations were undertaken that ended with the election of myself as Acting Speaker for the sole purpose of hearing this appeal. No allegations of bias on my part were lodged by any of the parties to this appeal.

GSA Policy on Elections Section 9, subsec. 4(a)(ii) reads in part that "[...] The Speaker [...]

may exercise his/her discretion in all matters in arriving at a decision [...]." My interpretation of this is that I may make decisions on both procedure and substantive issues at my own discretion.

Preliminaries:

Although Appellant was appealing the decision of the CRO, I felt that Mr. Chowdhry had sufficient interest in this matter to stand as a Respondent. There were no objections raised by any individual.

The timeline given to the parties in this matter were as follows:

- Notification of my appointment as acting Speaker at 9pm on 14 March 2014
 - Beginning of period to submit any allegations of bias on my part per GSA policy on elections Section 9, subsec. 3(f)
- All parties were notified that there were no comments as to bias brought forth at 8pm on 16 March 2014
 - Text of Appellant's appeal to Speaker was released to all parties
 - I requested "[...]that the CRO please submit to me ASAP the entirety of the record from the gsa.elections@ualberta.ca email account and forward to me any submissions emails and evidence used in making the ruling; I will also need any rulings. If perchance you also sent emails from your personal account or any other, I would appreciate those as well [...]."
- Respondent Chowdhry was given until 10am on 17 March 2014 (14 hours) for me to receive at my personal email account any response he wished to submit
 - This response was forwarded upon receipt to all other parties
- Appellant was given until 4pm on 17 March 2014 to submit her rebuttal
 - Appellant requested and was granted first a 1/2hr extension due to severe formatting issues in Respondent's response making it illegible, and 1hr further due to release of the anonymized record partway through her rebuttal period, making her response due to me at 5:30pm at my personal email account
- Respondent was given an equal extension of time and was required to submit his rebuttal to me by 1am on 18 March 2014

I received and reviewed approximately 135 pages of submissions and approximately 120 emails in reaching this decision. I have come to my decision based on the record submitted by the CRO, submissions from the Appellant and Respondent and my own inquiries to a senior individual at the office of the Vice President – Information Technology, which the parties were made aware of, offered the opportunity to submit questions to be asked, and were provided a transcript of shortly after the discussion.

I have granted anonymity to all third parties in the text of this decision as well as to all

who requested it in materials submitted to me and released to the Appellant and Respondents.

Issues:

1. Was the Vice President – External election fair, respectful of the wishes of voters and conducted in a manner that reflects the excellent, positive reputation of the University of Alberta’s Graduate Students’ Association?
2. If not, what (if any) penalties or remedies are appropriate to address the situation?

Relevant Policies:

GSA Policy - Elections

Section 5, subsection 5

“Campaigning is defined as any form of promotion of an individual or slate. This includes all verbal, electronic, and visual forms of communication. All campaign materials, including but not limited to posters, websites, e-mails to moderated graduate student mailing lists, or other printed or electronic material (including but not limited to all forms of social media) shall be reviewed by the CRO prior to their distribution.”

GSA Policy - Elections

Section 5, subsection 5(a)

“The CRO will review campaign materials to ensure they do not conflict with Elections Bylaws and Policies and do not contain any factually incorrect information (eg regarding the election procedures or timeline). The CRO is not responsible for reviewing the editorial content of campaign materials (eg. grammar, punctuation).”

GSA Policy - Elections

Section 5, subsection 8:

“After the campaign period has closed, candidate(s) and slate(s) may distribute communications encouraging students to vote in a General or By-Election. Candidate(s) and slate(s) shall not campaign after the campaign period has closed. [...]”

GSA Policy - Elections

Section 5, subsection 6

“All forms of campaigning (verbal, electronic, and visual) shall not contain misinformation, slander, inappropriate, discriminatory content, or *ad hominem* attacks of individuals or slates.”

GSA Policy - Elections

Section 6, subsection 1(a)

"Candidates will conduct themselves in a manner that upholds the fundamental principles of underlying GSA elections – “that they are to be fair, respect the wishes of voters, and conducted in a manner that reflects the excellent, positive reputation of the GSA” (GSA Bylaws, Part VIII, Elections, General Principle)."

GSA Policy - Elections

Section 6, subsection 1(b)

"Candidates will abide by GSA Bylaws and Policies concerning elections."

GSA Policy - Elections

Section 6, subsection 1(e)(vii)

"Do ensure any election platforms align with the GSA's multiple roles under the *Post-Secondary Learning Act (PSLA)*."

GSA Policy - Elections

Section 6, subsection 1(e)(xv):

"Don't tolerate, ask or encourage campaign volunteers or fellow graduate students to violate any GSA Elections Bylaws and Policies (e.g. distributing materials to unmoderated mailing lists on your behalf), or any other applicable policies or laws.

GSA Policy - Elections

Section 6, subsection 1(e)(xvii)

"Don't place campaign materials behind locked doors that only certain candidates have access to through a key or swipe card."

Findings:

For the sake of simplicity and clarity, I will be setting forth my decision in sections. All policies referred to in this decision are from the GSA Policy section on Elections unless otherwise noted.

1. Emails to [Anon.] time stamped after the 4:00pm MST deadline for the end of campaigning

The Appellant put forth evidence/claims indicating that [Anon.] received three email messages from Respondent Chowdhry at 4:04pm, 4:30pm, and 4:45pm MST, after the close of campaigning, and another email at 4:44pm MST the same day apologizing for the blast of multiple emails. The Appellant indicated she perceived this to be a clear violation of Section 5, subsec. 8.

The Respondent's position is that he sent the emails in question prior to the 4:00pm deadline, and that a technical issue caused the receipt of multiple emails after the deadline; the email at 4:44pm was intended as an apology to [Anon.] for the multiple emails he received. The Respondent submitted a series of screenshots from his own 'sent mail' folder on his Gmail account indicating a series of six emails with the same content as the one submitted by the Appellant with time stamps ranging from 3:59pm MST to 4:03pm MST, along with a link to a Google Product Forum discussion showing a similar problem (<http://bit.ly/1gH00Kv>), as well as the text of the apology email. He asserts that the technical problem is "quite common and highly probable." He also indicated that the email sent at 4:44pm MST contained the phrase "Since it is already past election campaigning time, I will not ask you to vote for me."

My conclusion is that while there was a technical violation of the policy in Section 5, subsec. 8, based on timestamps from Respondent's 'sent mail' file, I accept the Respondent's explanation and decline to hold the Respondent accountable for the emails received by [Anon.] after the 4:00pm MST campaigning deadline.

During the course of the appeal, I was in contact with a senior Vice Provost - Information Technology security officer. He and I discussed (and a transcript of our original discussion was provided to all three parties) if and how such an error may occur. He indicated to me that while it may not necessarily be a common error to have multiple messages such as this (as asserted by the Respondent), the explanation proposed by the Respondent is certainly reasonable and not outside the realms of possibility. The unnamed recipient has declined to be involved with the appeals process, and the CRO did not or was unable to confer with this person on the matter, and so I cannot reasonably ascertain for myself the precise series of emails they received.

The rules of campaigning indicate that all campaigning must cease at 4:00pm. While I agree that not incorporating time for server glitches may have been an unwise choice on the part of the Respondent, I also believe that there is a basic assumption that when one single email is sent, the recipient will receive one single email in a reasonably quick amount of time, since this is how email functions a majority of the time in absence of technical problems.

Since the first email's time stamp was at 3:59pm MST, prior to the deadline set in policy, I believe that the first email was sent within the bounds of the elections policy and there is a probability the subsequent emails were the result of a technical glitch. I believe the 'apology' email sent at 4:44pm MST was not a violation as it explicitly stated that it was not intended to solicit a vote and was meant to make amends for an error. I also do not believe that this was a subtle "vote for me anyways" pressure, as the rest of the body of the email seems sincere in trying to explain the possibility of a technical glitch. Failing to change the subject line doesn't have sufficient impact as a vote-solicitation mechanism in my mind to be considered "campaigning" under Section 5, subsec. 8, since it is standard practice to not alter the subject line when responding to a thread.

Finally, as I have had no further identified or anonymous individuals presenting similar post-deadline emails, I think it reasonable to assume this is an isolated or at the very least a small-scale incident. I do not believe that these emails impacted the outcome of the election.

2. Text messages from [multiple Anon.] indicating campaigning for Respondent after the 4:00pm MST deadline.

Three text messaging conversations have been submitted, all of which the Appellant believes indicate campaigning by the Respondent Chowdhry or others acting on his behalf after the campaigning deadline, in violation of Section 5, subsec. 8.

First is the conversation labelled in the Appellant's original submission as Evidence 3a/3c, which was also submitted independently by a party to the conversation as parallel screenshots appearing to come from an Android-based phone. I am satisfied that in this particular exchange there was no violation of campaign policies. I base this on the statement made to the CRO by the individual involved in the text message conversation, to wit that the Respondent did not in fact campaign to him/her.

In an email submission by the party involved in the text message conversation, he/she specifically state that:

“[...] the texts in the screenshot were misleading. It portrays Mr Chowdhry spoke to me about voting for him after the official campaigning deadline. This was not the case and therefore I have attached the original unedited conversation to bring clarity to this situation.”

Whether or not original consent was given to provide the conversation to the CRO for official purposes, and not simply as a conversation between friends with a reasonable expectation of privacy is moot given that the individual in question passed the entirety of the conversation on themselves and therefore had to have consented to its use for official/investigative purposes.

Second is the conversation originally labelled as 3a/3b in submissions by Appellant, stating simply “If by manjeet chowdhury [sic] you mean all the Indian people I know, then yes :))))”. I do not find this evidence compelling in terms of whether or not the Respondent specifically campaigned about him after the elections deadline. There is simply insufficient evidence in this one message to indicate a violation of the campaign rules.

Third is the conversation labelled 3c in Appellant's original submission, which refers to a conversation in an elevator. I find that there is insufficient evidence and conflicting

information as to whether or not this constitutes a violation of campaign policies. I am unclear from the information provided whether the conversation was a “get out the vote” type drive or whether it was a specific campaigning on behalf of Respondent, who was present for that conversation and unknown to the other party; asking individuals to vote in the election is not prohibited after the campaigning deadline so long as the individuals are not asked to vote for a specific candidate (Section 5, subsec. 8). For the record, I did have a Facebook conversation in regards to this that I found to not be material to my decision. I do not find this text conversation to be in violation of the elections policies.

All of these text message conversations listed above are also lacking date and time stamps, something that makes it difficult for me to verify that the conversations in question took place during times when they would have been in violation of campaign guidelines. Verifying these submissions then becomes a matter of accepting the assertions of interested parties and unknown individuals, which is not in my opinion the optimal standard to arrive at a reasonable conclusion, and I therefore decline to do so.

3. Campaigning by both Appellant and Respondent Chowdhry in NINT and graduate student offices

The National Institute for Nanotechnology (NINT) is a campus building with floors/areas that are secured with access restricted to swipe card/key holders. Section 6, subsec. 1(e)(xvii) explicitly states that campaigning in areas not accessible to all candidates is forbidden. The appellant alleges that a poster promoting the Respondent was placed on the 5th floor of NINT in violation of Section 6, subsec. 1(e)(xvii). As well, she alleges an individual placed a poster promoting the Respondent in a graduate student office, which requires a key to access. She acknowledges that she campaigned on this floor; however, her campaigning was limited to speaking with available individuals to give them business card-type handouts and not leaving campaign materials behind.

The Respondent admits that there was such a poster on the 5th floor of NINT, and he cleared it with the Chemical and Materials Engineering Graduate Students’ Association (CMEGSA) as well as building security before placing it. When the poster was brought to the attention of the CRO as a potential campaign policy violation, Respondent Chowdhry claims it was removed promptly (as of 3 March 2014 at 3:47pm MST). A second poster was also placed in a graduate student office. Further, the Respondent argues that the Appellant's visiting of graduate student offices and leaving cards with students in the same area constitutes placing campaign materials behind locked doors that only certain candidates have access to as well, meaning the area was either not inaccessible or she was also in violation of the campaign policies and had not attempted to rectify her mistake.

In my opinion, the 5th floor of NINT constitutes a space only certain candidates have

access to, and leaving any campaign materials behind this door is a violation of campaign policies and policies stated in Section 6, subsec. 1(e)(xvii).

The definition of campaign materials is provided in Section 5, subsec. 5. Based on my interpretation of this policy, I believe that both Respondent and Appellant proffered campaign materials (in the form of a poster and business-type cards respectively) to individuals on the 5th floor of NINT. Following this, can the 5th floor of NINT reasonably be considered a secured area given that both parties openly admit they campaigned there and in graduate student offices on the floor?

I directed two members of the GSA staff to go to NINT and attempt to access the 5th floor without any other graduate student who could have access accompanying them. They did so, and determined that while the first floor is accessible to all, a locked door requiring a key restricts access to students on the 5th floor in any form. I understand that beyond the locked doors are both laboratories as well as graduate student offices. Since this space is not publicly accessible, not every candidate could enter it should they so desire. As such, campaigning behind these doors constitutes a violation of campaign policies. Whether or not there was permission for materials granted by building security and/or CEEGSA is immaterial, as the action still directly contravenes the policy of the GSA in Section 6, subsec. 1(e)(xvii).

The CRO as far as I am aware was only involved to the point of asking Respondent to remove posters from NINT, which was done. However, given that both parties acknowledge campaigning in the restricted space of the 5th floor of NINT, I find them both in violation of Section 6, subsec. 1(e)(xvii).

4. Emails sent by [Anon.] during the voting period

An email was sent from [Anon.] on March 5th at 12:25pm to undisclosed recipients asking them to vote for Respondent Chowdhry. This email was sent during voting and therefore is outside the bounds of campaigning. The Appellant believes that [Anon.] was a member of a campaign team for the Respondent, as he was updating the Facebook group in support of the Respondent. Based on that, she believes there was a violation of Section 6, subsec. 1(e)(xv) and Section 5, subsec. 8.

The Respondent indicates that he feels he did not maintain a campaign team, as the individuals he asked to assist him were too loosely organized (or not organized at all) to constitute a team. Further, he also claims to have instructed all people that volunteered to help him not to violate the rules or policies set forth by the GSA surrounding elections.

The issue is twofold: was [Anon.] a member of a campaign team for the respondent, and did [Anon.] act to send the email with the knowledge of Respondent? I find that [Anon.]

is in fact a campaign volunteer who at some point acted directly under the advisement of the Respondent since he handed out campaign materials that necessarily had to come directly from Respondent, but there is insufficient evidence to find the Respondent in violation of Section 5, subsec. 8.

GSA policy does not specifically mention a “campaign team”, and instead only references “[...]campaign volunteers or fellow graduate students[...]” (Section 6, subsec. 1(e)(xv)), and so whether or not [Anon.] was a member of a campaign team as such is moot. I do not feel that adding members to a campaign Facebook page means the individual was a campaign volunteer, since the group was “open” and therefore can have people added/invited by any other member. As well, whether or not [Anon.] was the person in question who updated the Manifesto document on the Facebook page for the Respondent is disputed; there is insufficient evidence to prove whether or not [Anon.] was the individual in question and as such I am unable to decide whether or not the assertion by the Appellant is true. However, an individual has come forward claiming that [Anon.] was involved in face-to-face campaigning on behalf of the Respondent via the provision of materials relating to the campaign, and encouraged them to vote for the Respondent; I accept the statement of this individual attesting to campaigning performed by [Anon.]. Although the Respondent denies that a “campaign team” specifically ever existed, he did agree that individuals volunteered directly for him to promote his candidacy. Since [Anon.]’s volunteering is established by his handing out of campaign materials necessarily acquired from Respondent, he would at the time fall under Section 6, subsec. 1(e)(xv)).

For the email to be a violation of elections policies, I believe the actions of the volunteer who sent it would need to be accepted, requested or encouraged by the Respondent. I find that there is insufficient evidence to show that this email was sent at Respondent’s direction, and as such I cannot declare there has been a campaign violation of Section 6, subsec. 1(e)(xv). There has been a technical violation of Section 5, subsec. 8, but I am unable to hold the candidate responsible for the violation.

Respondent stated several times in his submissions that he at all times reminded the individuals campaigning/volunteering on his behalf to remember and respect the policies and guidelines set forth by the GSA surrounding elections and campaigning, and that he did not direct [Anon.] to send this email. The CRO in his decision indicated he did not feel that a violation of campaign policies occurred, as “it is important to note that campaigns may have volunteers to help their campaign BUT as per GSA Policies and Bylaws candidates are not required to have or manage a campaign team in GSA elections.” I accept the Respondent’s explanation and agree with the CRO’s assessment.

5. Emails sent by [Anon.] on behalf of Appellant (and slate)

In his rebuttal, the Respondent provided me with a copy of an email sent out on behalf

of the Appellant (and slate) to graduate students in Civil and Environmental Engineering. The email stated that the Appellant and slate would be campaigning in graduate student offices, and that the Civil and Environmental Engineering Graduate Students' Association (CEEGSA) endorsed the candidate (and slate). The Respondent indicated that the Appellant (and slate) are claiming to be endorsed by CEEGSA when he alleges the endorsement is from only one member of the executive and not the group as a whole. The Respondent further objects that the body of the email did not include any reference as to when campaigning was to cease and therefore the time the email not to be forwarded to others past (ie. 4:00pm on 3 March 2014). The Respondent believes that the lack of such guidance constitutes a breach of Section 6, subsec. 1(e)(xv), where all individuals campaigning on your behalf are to adhere to the guidelines of the election, and Section 5, subsec. 6.

While I appreciate that the Respondent feels there has been a violation of elections policy here, I also feel that this allegation was apparent during the elections period. If he wished to raise this issue as a complaint to the CRO then evidence should have been presented at that time as outlined in the complaints process in the GSA elections policy, and not raised directly to Speaker without first approaching CRO during campaigning. This issue falls outside the bounds of this appeal.

6. Text of Respondent (and slate)'s 'Manifesto'

The Respondent (and slate) produced a single page document they called a 'Manifesto', indicating amongst other things the shortcomings (as perceived by him) of the current GSA activities and their platform for solutions. This document was posted to Respondent's Facebook group, as well as mailed to an unspecified number of departments to be forwarded to their graduate students. As required by GSA policy in Section 5, subsec. 5(a), this material was reviewed by the CRO prior to its release to the general graduate student body, and approved by him. At some later point, however, the CRO became aware that the Manifesto contained incorrect information in the form of a statement indicating:

"Our basic expenses including rent, groceries, and even the GSA membership fees have kept on increasing due to inflation. On the other hand, stipends and funding for grad students have remained unchanged putting a significant pressure on students."

which was in violation of Section 5, subsec. 6, requiring no misinformation in campaign materials (explained below). The CRO ruled that the material needed to be revised, which was done by the Respondent to read:

"[...]stipends and funding for majority of grad students have increased by negligible amounts putting pressure[...]."

The Appellant's complaints are twofold: that the revision is still inaccurate as it "implicitly states that graduate students have not seen increase in their salary that keep pace with CPI" [sic], and that the CRO erred in both approving the original version and in not requiring that the revised version be circulated to all students via departmental email as the original incorrect Manifesto was.

Although I can see both sides of the argument, in regards to the Appellant's complaint that the revised Manifesto is still inaccurate I find here the CRO made a decision in his best judgment that the correction to the Manifesto written by the Respondent was reasonable, to the best of his knowledge technically correct and no longer contained misinformation. I also find that there is a reasonable interpretation that the revised Manifesto text constitutes the opinion of the Respondent and as such the revised wording is not objectionable on elections policy grounds.

Only academically-employed graduate students (AEGS), such as teaching assistants and research assistants, have their stipend covered by the Collective Bargaining Agreement (CBA), and as such received a 3.75% raise (as negotiated through the 2013-2014 CBA). Students whose stipends are covered by funding external to the university (Tricouncil, Alberta Innovates, private/other studentships, etc.) are not covered by the CBA and as such are not guaranteed a raise. The CBA stems from the *Post Secondary Learning Act* (PSLA), which directs the University of Alberta Board of Governors to negotiate with the GSA in regards to AEGS stipends. This CBA affects approximately half of graduate students, and therefore information about the outcome of the CBA has a relevant impact on a large portion of the student body. While I am not necessarily sure I would call a 3.75% annual raise "negligible", I am also aware that the meaning of "negligible" is subjective and/or political at best, and the raise in question does not apply to a large percentage of graduate students as stated in the revised Manifesto. However, it is also beyond the bounds of what the GSA is legally able to negotiate for based on the PSLA, something the Respondent should have been familiar with in the course of familiarizing himself with the mission and functions of the GSA as a candidate for an elected position (as required by Section 6, subsec. 1(e)(vii)). While the statement is technically true, it also does not capture the boundaries of the GSA's ability to effect stipend change for non-AEGS students.

However, in attempting to fully understand this matter, I feel I have received conflicting and possibly incomplete information. I am unaware as to how the CRO came to know the Manifesto was factually incorrect after his review process was complete. Through information given to me by parties to this appeal (and not found in the record, which I had requested from the CRO) I also learned that the CRO did originally instruct the Respondent to recirculate the corrected version of the Manifesto via email as well as through Facebook and any other websites used for campaigning. The Respondent protested recirculating the corrected Manifesto by email to graduate students, and the CRO agreed to this request. In an email to the Appellant who inquired as to why the

Manifesto was not recirculated by email (as she determined that graduate students in Earth and Atmospheric Sciences had only received the *incorrect* version), CRO stated (in an email I do not have as part of the record received from the CRO, and as such the text following comes from the body of Appellant's appeal):

"This is an issue the CRO has already dealt with and ruled in regards to correcting information the Manifesto. No ruling has been made concerning not updating all students who were sent the originally misinformed Manifesto. I'm not clear if Speaker or CRO should be looking at this issue."

Given that I am aware CRO did originally rule that the email had to be recirculated, stating that no ruling had been made is contradictory at best. Furthermore, the email requiring that the corrected Manifesto be recirculated was sent out on 1 March 2014 at 1:31pm, and the protest made by Respondent resulting in revision of the CRO's decision was sent at 3 March 2014 at 10:00am (which CRO notes he did not read until ~3:00pm), I am left to wonder why such a large time gap occurred between ruling and protest. I was also unaware and am unable to find in GSA Bylaws and Policy where the decision of a CRO may be a) not be circulated to all interested parties, as Appellant was not copied in any of these emails as far as I can discern, and b) be contested outside the formal complaints and appeals process outlined in the GSA Policy section on Elections. I note that Section 7, subsec. 1(d) requires the CRO to copy the Speaker and Executive Director on emails regarding complaints of breach of Elections Policies, but this appears not to have been done by the CRO in addressing the Manifesto complaint.

In my opinion, there was sufficient time for the corrected Manifesto to be recirculated to all students. Although the ruling was issued on a Saturday night and therefore departmental staff would be unable to circulate the revision until Monday, the Respondent had the opportunity to get this information to departmental staff for it to go out first thing Monday morning. I do not believe this would in any way be prejudicial to the Respondent; if anything getting a mailing out to all students immediately prior to the campaigning deadline would be helpful. I find this to be an error in judgment made by the CRO at this point. Also, because I feel that the information I have is incomplete and potentially inaccurate or not a full reflection of the process as it occurred, I have reservations as to whether this process was open, equal and fair. My findings are that a campaign violation of Section 5, subsec. 6 did occur on the part of the Respondent, but that this violation was corrected in the text of the Manifesto at the behest of the CRO. I also find that the election was compromised by the following: not requiring the corrected Manifesto to be recirculated to students in the same manner as the uncorrected version; the CRO not communicating his decision in regards to the distribution of the corrected Manifesto to the other candidate; and the CRO allowing a protest of his decision, thereby not allowing the Appellant to initiate the formal complaints and appeals process outlined in GSA elections policy compromised the election.

Penalties and/or Remedies

In my opinion, based on all submissions, all three parties have committed error(s) and/or violations of the campaign policies set out in GSA policy. Specifically, both the Appellant and Respondent are by their own admission in violation of Section 6, subsec. 1(e)(xvii) in regards to campaigning in NINT, and there was a violation of Section 5, subsec. 6 by the Respondent in his Manifesto, which was sufficiently corrected at the direction of the CRO.. Further, there were procedural errors committed by the CRO in handling the issue of the Manifesto, in that the redistribution to all graduate students of the revised Manifesto was inadequate, his decision on its revision was not circulated to the other candidate, and there was a revision to the decision at the behest of a candidate outside of the formal complaint/appeals process outlined in elections policies. Finally, I have found that there was insufficient or incomplete information given to me by the CRO as part of the record. This leaves me to use my own discretion on the part of determining whether or not to impose a penalty or remedial action, and what if any that penalty or remedy may consist of.

In this, I am informed by the guiding principle of GSA elections is set out in GSA Bylaws, Part VIII, Elections, Section 1.1:

"The fundamental principle underlying GSA elections is that they are to be fair, respect the wishes of voters, and conducted in a manner that reflects the excellent, positive reputation of the GSA."

The guiding principle above states that elections must "reflect the excellent, positive reputation of the GSA." Based on my findings that all parties have committed violations of campaign policy, that I have received inadequate, insufficient and incomplete information, and that there are serious issues with the conduct of the initial complaint to the CRO from a procedural fairness point of view, I find that the Vice-President - External election contravened the guiding principle of the GSA elections and therefore the will of the graduate student body. As such, I am deciding the following:

- 1) That the results of the Vice President – External race in the 2014 University of Alberta Graduate Students' Association General Election be overturned and the election results removed from the GSA website as expeditiously as possible.
- 2) That a new election solely for the purpose of electing a Vice President – External be run in accordance with the policies outlined in the GSA policies and bylaws, starting with the All Candidates Meeting.
- 3) That the new election not allow any nomination process and be restricted to the two candidates who ran in the overturned election.

- 4) That during the campaigning period as set out by the CRO (or an Acting CRO), the following materials for both candidates be provided on the GSA website for access by all voters:
 - a. Candidate biographies and photographs as provided during the 2014 GSA General Election
 - b. Video interviews as filmed during the 2014 GSA General Election
 - c. The full text of the Platform/Manifesto associated with each candidate during the 2014 GSA General Election
- 5) That this election be run as expeditiously as possible and in accordance with GSA policies and bylaws.

In weighing the options for penalties and/or remediation, I have had to consider the will of the electorate, and whether or not the graduate student body has had their views accurately informed. Candidates promote their views and promises through personal discussions, volunteers and especially campaign materials; these are the primary ways graduate students are able to access candidates' undertakings for their potential tenure as elected officials. If campaign information is factually wrong and circulated to all students, and subsequently called for correction, does that require notifying all students in the same manner as done originally with the incorrect document? Is updating a Facebook page sufficient remedy to an error that took place over email?

Students must by necessity use their University of Alberta email address, as it is mandated by the University of Alberta that all official communications be done through a university email account, and it can reasonably be assumed that they at least look at the emails they receive. However, not all students use Facebook, and of those that do not all of them (or even the majority) are connected to the Facebook campaign of the Respondent. As such, the majority of students would be unaware of the change in the Manifesto. I do not then believe that only updating the Facebook page was a sufficient remedy to an error that occurred over email since a vast disparity in audience and influence would occur.

The Respondent was originally instructed via email to resend the Manifesto to all students via email, which he argued against as the time constraints were too tight. As outlined above in my findings, I do not believe this to be the case since it would be possible for the email to be forwarded to students on Monday morning by departmental administrators, who were the individuals to pass the email on to students in the first place. I also do not believe that the CRO sufficiently communicated this decision to all interested parties. While there may not have been a formal complaint in regards to the Manifesto – in fact, I am unsure as to how the issue came to the attention of CRO at all – the fact is that the Appellant had substantial interest in knowing of any campaign violations by her opponent and their remedy such that she might follow up on its implementation if she wished. I am also concerned about the propriety of contesting the

decision of a CRO, and CRO granting changes to a decision, outside the formal appeals process outlined in the GSA elections policies; again, although I am unable to determine whether or not there was a formal complaint filed, the CRO did render a decision. I question why there was no rationale of the CRO in granting such a change, especially given that CRO's decision was released on the afternoon of Saturday March 1, and the protestation was not made until Monday 3 March. I find it unlikely that candidates suspended campaigning for the weekend, and as such should have been able to respond in a much more timely manner if they had questions or wished to appeal a decision of CRO through proper mechanisms and channels.

I am aware that this is a significant imposition on the standard democratic process and on the candidates themselves. During GSA elections, everyone is cautioned to run a "clean" election – that is, one that does not impugn the will of the electorate, does not violate any of the agreed upon bylaws and policies, and that respects the integrity and fairness of the democratic process itself. **Because of the above outlined findings, I feel that the most fair and proper way to address these issues is to restart the election from the All Candidates Meeting.**

This preserves the democratic process to a large extent in that the electorate still has the opportunity to interact with candidates and learn about their points of view, and then exercise their own judgement in who would best represent their wishes as the President and Vice Presidents of the GSA at the University of Alberta. I also appreciate the concept of "voter fatigue" but do not feel it to be significant enough of an issue to skew the elections, since there is generally only one electoral period per year, campaigning is generally not intrusive in nature, and electronic voting practices such as those adopted by the GSA do not require students to take a large block of time from their day. Additionally, since campaigning through electronic media like Facebook is certainly permitted, and students by and large have not left for summer field work, etc. that restarting the elections process so it is concluded before the end of Winter term does not pose an unfair biasing of the electorate pool.

I would like to thank all parties for cooperating with this appeals process. This decision will be made public.