



University Students' Council Of Western University

Elections Violations Procedure

Authority: Elections Governance Committee	Date Ratified: November 21, 2023
	Next Review Date: September, 2026
Previous Amendments: September 29, 2021; December 29, 2017; November 25 2015	
Related Document(s): Bylaw 2, Elections Governance Committee Terms of Reference, Elections Governance Committee Violations Policy	
Review Committee(s): Elections Governance Committee	
Delegates:	

1. SCOPE

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

2. MANAGER OF INVESTIGATIONS

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

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

3. RECEIPT OF ALLEGATIONS

- 3.1. All allegations of a violation being or having been committed shall be submitted to the Committee in writing via the Committee's online submission form.
- 3.2. Any and all allegations must be submitted to the Committee no later than four (4) hours following the close of balloting.
- 3.3. The Manager of Investigations shall notify the individual who submitted the allegation of the allegation's receipt and shall follow up with the individual to ascertain any information that may aid in the investigation of the allegation that was not included in the original submission.
- 3.4. The CRO reserves the right to discard any alleged violations where the individual making the allegation refuses to be identified by the Committee or where there is reasonable suspicion that the allegation has been made for the purposes of delaying or distracting the Committee from processing legitimate allegations.
- 3.5. The Committee shall not be obligated to inform Candidates of alleged violations until such time that the Committee has verified the legitimacy of the allegation and reasonably believes there is enough evidence to conduct a hearing with the Candidate in question.

4. INVESTIGATION

- 4.1. The Committee shall not divulge the status of an ongoing investigation to any individual who is not a member of the Committee, including the individual who raised the allegation, or the Candidate being investigated.
- 4.2. The Committee shall take as much time as is reasonably necessary to ascertain the facts of a case.
- 4.3. All findings of an investigation are to be noted in writing and shall be kept in the corresponding investigation file and filed with both the Manager of Investigations and the CRO.
- 4.4. Notes of findings shall be as detailed as possible and meet the following criteria:
 - 4.4.1. Include only facts about the case and statements of witnesses. The notes should not contain speculation or rumours that cannot be corroborated by evidence or witness testimony.

- 4.4.2. Include any items of evidence as presented in the case (i.e. time-stamped screenshots of computer activity, email activity/correspondence, and written witness statements).
- 4.5. Before proceeding to a hearing with the Candidate in question, the Manager of Investigations shall review the findings of the investigator(s) and determine whether there is enough evidence to substantiate the allegation that was made.
 - 4.5.1. Where it is determined that there is not sufficient evidence to substantiate the allegation the Manager of Investigations shall provide a brief written report outlining the reasoning that the allegation will not be pursued further.
 - 4.5.2. This report shall be made available to the individual(s) who submitted the allegation but shall not be made public.

5. HEARING

- 5.1. Where it is determined that there is sufficient evidence to substantiate the allegation the Committee shall call a hearing to review the facts of the case with the Candidate in question.
- 5.2. The Investigations Subcommittee of the EGC shall conduct all hearings in line with this policy.
- 5.3. The Committee shall inform the Candidate in writing of the hearing no fewer than twelve (12) hours in advance and at this time must provide the Candidate with a written summary of the allegation prepared by the Manager of Investigations, and a copy of the findings of the investigation.
 - 5.3.1. The Committee shall redact the names or other identifying information of individuals involved in the investigation.
 - 5.3.2. In the event the Candidate is unable to attend the scheduled hearing, the Candidate may send a proxy.
 - 5.3.3. The Candidate must provide written notice to the Committee notifying them of their intention to send a proxy, including the identity of the proxy prior to the scheduled hearing.
- 5.4. An audio recording of the hearing shall be kept with the Manager of Investigations and the CRO as part of the investigation file and shall not be released to any member of the public, with the exception of the USC's Appeals Board in the event of an appeal.
- 5.5. The order of proceedings at a hearing shall be as follows:

- 5.5.1. The investigator leading the hearing shall read the alleged violation to the Candidate and outline the findings of the investigation.
- 5.5.2. The Investigations Subcommittee shall have the opportunity to ask any questions regarding the findings of the investigation in an effort to ascertain all pertinent information.
- 5.5.3. The Candidate shall have the opportunity to refute any information introduced by the Committee and add any information that the Committee may have missed or overlooked, including any mitigating factors that the Committee should consider in their deliberations.
- 5.5.4. The Investigations Subcommittee shall have the opportunity to ask follow-up questions based on the information provided by the Candidate.
- 5.5.5. The Candidate shall have the opportunity to make a final statement to the Investigations Subcommittee regarding the case.
- 5.6. Where a Candidate is given notice of the hearing pursuant to Section 5.2 and fails to appear or send a proxy, the Investigations Subcommittee shall assume that the Candidate has no further evidence to add to the case and the Investigations Subcommittee shall proceed directly to deliberations.
- 5.7. Upon completion of a hearing, the Investigations Subcommittee may take a reasonable amount of time to confirm any details or corroborate the legitimacy of evidence presented by the Candidate. Following this verification process, the Investigations Subcommittee shall:
 - 5.7.1. Provide the Candidate with a written summary of any additional information ascertained during the Investigations Subcommittee's evidence verification process.
 - 5.7.2. Provide the Candidate with an opportunity to submit a written statement to address the additional information presented by the Investigations Subcommittee or request a supplementary hearing to address the additional information.
 - 5.7.3. The Candidate shall have twelve (12) hours from the time a written summary as outlined in Section 5.6.1. is sent to submit a written statement or elect to have a hearing with the Investigations Subcommittee; and
 - 1. In the event the Candidate fails to respond to the Investigations Subcommittee within the specified time allotted, the Investigations Subcommittee shall assume that the Candidate has no further evidence to add to the case and the Investigations Subcommittee shall proceed directly to deliberations.

6. DELIBERATIONS

- 6.1. During deliberations the Investigations Subcommittee should first decide whether the Candidate is guilty of the alleged violation by reviewing the information gathered during the investigation and hearing.
- 6.2. Candidates found guilty of a violation may be subject to a written warning or disqualification
 - 6.2.1. Disqualification of a candidate may only be considered in the following instances:
 1. Failing or ceasing to meet Candidate eligibility requirements;
 2. Acting in Contempt of the Committee by refusing to comply with written warnings;
 3. Interfering with voters, ballots, voting procedures, or ballot counting;
 4. Repeated violations of Bylaw 2 and/or applicable elections policy;
 5. Violating any municipal, provincial, or federal laws.
- 6.3. The Investigations Subcommittee shall consider, but not be limited to, the following criteria to determine the appropriate penalty to be assigned to the candidate:
 - 6.3.1. **Degree of scope:** The Investigations Subcommittee should attempt to determine the number of students impacted by the violation.
 - 6.3.2. **Degree of influence:** The Investigations Subcommittee should attempt to determine how influential the violation will be on the final election result..
 - 6.3.3. **Degree of intent:** The Investigations Subcommittee should determine whether it believes the candidate intended to commit the violation and whether that intent was malicious. In the event the Investigations Subcommittee believes there was no malicious intent, the Investigations Subcommittee should assess whether the candidate lacked the intent to take reasonable precautions to prevent the violation from occurring.
 - 6.3.4. **Degree of repetition:** The Investigations Subcommittee should determine whether the candidate in question committed a violation similar in nature to the one in question during the current campaign period.
 - 6.3.5. **Degree of obstruction:** The Investigations Subcommittee should determine whether, at any point in time during the investigation, the candidate in question attempted to impede the Committee's ability to investigate the violation.

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

7. SANCTIONS

7.1. The Investigations Subcommittee, where it finds there has been a violation may impose the following sanctions:

7.1.1. For violations not warranting the disqualification of candidates or the invalidation of a result, the Investigations Subcommittee may:

1. Issue a warning or an order to change behaviour;
2. Reduce a candidates reimbursement amount by a minimum of \$25
 - a. A USC Presidential candidate reimbursement can be reduced by a maximum of 50%;
 - b. For all other candidates the maximum reimbursement reduce is 100%;

7.1.2. For all other violations, the Investigations Subcommittee may:

1. Disqualify a Candidate; or
2. Invalidate an election, referendum, or plebiscite.

8. NOTICE OF VERDICT

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

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

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

8.2. Where the Investigations Subcommittee finds that the Candidate is not guilty of a violation the Committee shall inform the Candidate of the verdict.

8.3. Where the Investigations Subcommittee finds that the Candidate is not guilty of a violation the Committee shall inform the individual who made the allegation that the Committee will not be pursuing the allegation further.

9. CLOSE OF INVESTIGATION

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

9.2. Once an investigation has been closed it shall not be reopened unless new evidence has been presented that substantially alters the facts of the case.

9.2.1. The CRO shall have the discretion to decide whether or not the new evidence presented substantially alters the facts of the case.

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