

2018 GSA General Election: CRO Decision In the Matter of United Graduate Students and Zhihong Pan - 5 March 2018

Summary of the Alleged Issue or Breach

On Friday, March 2, 2018, following the release of the provisional results of the 2018 GSA General Election but prior to the expiration of the deadline for complaints concerning alleged breaches of GSA Bylaw and Policy to be filed in accordance with GSA Bylaw and Policy Section I.POL.13.8, I received a complaint from the United Graduate Students slate (henceforward “the Complainant”) alleging that Zhihong Pan (henceforward “the Respondent”), a candidate for the position of Vice-President External, had disregarded a directive from the Chief Returning Officer (henceforward “the CRO”) issued on February 26, 2018 asking candidates in the 2018 GSA General Election not to share the voting link to the associated ballot.

In support of this allegation, the Complainant provided a series of screenshots (provided to the Complainant by an individual who requested anonymity) of the Respondent’s personal Facebook profile wall, which showed that the Respondent had been tagged in a post authored by another individual that contained the voting link and encouraged readers to vote for the Respondent. This post appeared on the Respondent’s Facebook wall and he “liked” the post on February 27, 2018.

The Complainant alleged that this activity violated a directive from the CRO issued on February 26, 2018 and circulated via email to all candidates, which stated:

“Please be advised that the voting link will be included in the official email sent to all voters from the GSA CRO account.

You may motivate students to vote, using your FB pages / emails, but do not include the voting link, because there is a risk of creating confusion. The main reason is that people who are not eligible to vote would have access to this link, requesting the GSA to allow them to vote, which would not be possible. In addition, there is a risk of students trying to vote using both links.

This was a significant issue last year, because people would email the GSA office and complain about not having access to voting, so the staff would be required to look into whether this was a legitimate problem of an active graduate student being unable to vote, or someone not even associated with the GSA trying to vote.

It’s best to refer grad students to their inbox, and the email they will receive from me tomorrow.”

Following receipt of this complaint, I contacted the Respondent to provide a formal response, as per the process outlined in GSA Bylaw and Policy on elections. The Respondent denied knowledge of the existence of the Facebook post and indicated that the individual who originally tagged him in the post, with whom he enjoys a close relationship and who had set up the account for him (thus giving them access to the Respondent’s login information), had logged in as him and “liked” the post.

Additionally, the Respondent made a series of counter-claims against the Complainant (specifically one member of the United Graduate Students slate) alleging unfair treatment outside the parameters of the 2018 GSA General Election and an allegation that the Complainant used inappropriate characterizations of certain other candidates (including the Respondent) during campaigning.

Finally, the Respondent provided emails from several colleagues expressing concerns that their privacy had been violated by the taking of the Facebook screenshots.

List of Parties To the Alleged Issue or Breach

Complainant: United Graduate Students slate (Sasha van der Klein, candidate for GSA President; Masoud Aliramezani, candidate for GSA Vice-President Academic; Marc Waddingham, candidate for GSA Vice-President External; Beth Richardson, candidate for GSA Vice-President Labour; Fahed Elian, candidate for GSA Vice-President Student Services)

Respondent: Zhihong Pan, candidate for GSA Vice-President External

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Summary of Reasons For the Decision

- Nowhere in GSA Bylaw and Policy is sharing the voting link prohibited; I asked that of candidates to save time for the GSA office staff and not because I thought this would give an unfair advantage to any of the candidates. When an individual clicks on the voting link but is not an eligible voter (ie, a registered graduate student), an email is sent to the CRO noting that said individual is requesting access to the ballot. Office staff must independently investigate all of these requests to ensure that an eligible voter was not incorrectly denied access to the ballot. Sharing the voting link publicly significantly increases the number of requests the GSA office receives that need to be investigated.
- The provided screenshots clearly indicate that the directive noted above was disregarded. Notwithstanding the denial offered by the Respondent that he was unaware of the post and that his account was used without his knowledge to “like” the post, GSA Bylaw and Policy states that “candidates will abide by GSA Bylaw and Policy concerning elections, and any other applicable policies or laws, and will ensure that campaign volunteers do the same.” In this instance, as the CRO “with advice from the GSA Elections and Referenda Committee (GSA ERC), oversees GSA Elections, By-Elections, and Referenda processes” (GSA Bylaw and Policy, Section D.POL.10.1.a), I consider the email directive I issued (see above) as equivalent to “any other applicable policies” and so judge that a breach was committed.
- Having determined that a breach had occurred, the impact of this breach on the outcome of the 2018 GSA General Election was considered. In weighing this I was ever mindful of GSA Bylaw and Policy, Section I.BYL.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.” I have determined that there is no basis to believe that this particular breach would have substantially changed the outcome of the 2018 GSA General Election (that individuals may have had a direct link to the ballot does not mean they would necessarily have voted for a particular candidate over another candidate). Had this issue arisen during the voting period, my response would have been to contact the candidate committing the breach to ask them to remove the direct link and, if they refused or had not attended to this matter quickly, I would have issued a written reprimand.

Decision

While in my judgement a breach of a directive I had issued did occur in this instance, I do not believe that this relatively minor breach altered the outcome of this highly contested race for Vice-President External, and no further penalty beyond a written reprimand, which this decision constitutes, will be issued.

In addition, with respect to the other matters raised by the Respondent in his formal response, as those related to incidents that occurred outside of the 2018 GSA General Election and/or were not formally pursued before the deadline to file complaints of alleged breaches, they were not considered in reaching this decision. However, I now strongly urge both the Respondent and the Complainant to work to form a collegial and respectful relationship for the benefit of the GSA and in accordance with the fiduciary duties of GSA Directly-Elected Officers.

With respect to the concerns of privacy violation related to the screenshots of the Respondent’s Facebook page, in accordance with advice from the GSA’s lawyers, I have determined that such matters fall outside of the scope of the CRO. Individuals are free to pursue their own legal remedies.

Process By Which the Decision Was Reached

In reaching this decision I carefully considered both the formal complaint and the formal response, as well as consulted extensively with the GSA Deputy Returning Officer and the GSA Elections and Referenda Committee, as per the requirements of GSA Bylaw and Policy, Section D.POL.10.5.e.iii. With respect to concerns raised by the Respondent regarding the potential privacy violation, I consulted with the GSA lawyers.

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Listing of All Applicable GSA Bylaws and Policies

- GSA Bylaw and Policy, Section D: GSA Officers, GSA Policy, GSA Officer Portfolios, Sections D.POL.10.1.a and D.POL.10.1.b
- GSA Bylaw and Policy, Section D: GSA Officers, GSA Policy, GSA Officer Portfolios, Section D.POL.10.5.e
- GSA Bylaw and Policy, Section I: Elections, GSA Bylaw, Elections, Section 1.1
- GSA Bylaw and Policy, Section I: Elections, GSA Policy, Elections, Sections 7.1 and 7.2
- GSA Bylaw and Policy, Section I: Elections, GSA Policy, Elections, Section 12
- GSA Bylaw and Policy, Section I: Elections, GSA Policy, Elections, Section 13.8

Appeals of This Decision to the GSA Appeals and Complaints Board (GSA ACB)

As per GSA Bylaw and Policy, “decisions of the CRO are subject to appeal to the GSA Appeals and Complaints Board” (Section I.POL.12.5) and “candidate(s) or referendum campaign member(s) have twenty-four (24) hours from the time the CRO’s decision is deemed delivered to submit an appeal (Section H.POL.16.2.b).

“Deemed Delivered” means that “an email is deemed to have been delivered twenty-four (24) hours from the time it was sent” (GSA Bylaw and Policy, Section H.POL.7.3).

Complete GSA Bylaw and Policy on the GSA ACB and appeals of a CRO decision can be found [here](#).