

GSA Chief Returning Officer (CRO) Decision

2014 GSA General Election – Vice President External Re-Run

Date: March 31, 2014

Parties to the Decision:

- Acting CRO: Richard Zhao
- Respondent: Susan Cake (Candidate for GSA Vice President External)

Background:

The decision of the GSA Acting Speaker Virginia Pimmitt dated March 21, 2014 required (quoted in italics):

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.*

Due to CRO away from campus working on research, on March 21, 2014, Richard Zhao has been elected as Acting Chief Returning Officer (CRO) and Hamman Samuel has been elected Acting Deputy Returning Officer (DRO) by the GSA Board for the purpose of running the new election of Vice President External.

On March 30, 2014, the Acting CRO received complaints that:

1. An email (henceforth referred to as Email A) was sent to a mailing list of chemistry graduate students. The email includes an endorsement of Candidate Susan Cake.
2. An email (henceforth referred to as Email B) was sent to a mailing list of political science graduate students. The email includes an endorsement of Candidate Susan Cake.

Per GSA Policy - Elections, Section 7.1:

"When the CRO becomes aware of an issue or breach of Elections Bylaws and Policies, or other applicable policies or laws, or a third party complains to the CRO about an alleged issue or breach of Elections Bylaws and Policies, the CRO shall:

- a. Forthwith email the candidate(s) or slate(s) setting out details of the issue/breach; ask for a written response within eight (8) hours; and consider that response.
- b. Inform the candidate(s) or slate(s) his/her decision on penalty, remedial actions, or referrals, his/her reasons for the decision, and shall state whether the candidate(s) or slate(s) can still campaign. The CRO has up to twenty-four (24) hours to make this decision. "

The Acting CRO requested a written response from Candidate Susan Cake on Mar 30, 2014 at 9:17 AM regarding Email A. A response from Candidate Susan Cake was received on Mar 30, 2014 at 11:01 AM.

The Acting CRO requested a written response from Candidate Susan Cake on Mar 30, 2014 at 9:04 PM regarding Email B. A response from Candidate Susan Cake was received on Mar 30, 2014 at 9:53 PM.

Issues:

1. Did the emails sent to the mailing list of chemistry and political science graduate students violate GSA Bylaw and Policies regarding Conflict of Interest?
2. If so, what penalties or remedial actions should the Acting CRO impose?

Relevant Bylaws and Policies:

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."

GSA Bylaw Part VIII Elections, Section 5.1

“If any member of the GSA Office environment is also a candidate standing for election, he/she shall not use the GSA Office for campaign purposes. This includes any current Directly-Elected Officer(s) running in a General Election or By-Election.”

GSA Bylaw Part VIII Elections, Section 5.2

“If a current Directly-Elected Officer not standing for election chooses to endorse a candidate(s) or slate, he/she shall not use the GSA Office, resources (eg GSA email accounts), and shall not speak for the GSA as an organization.”

GSA Bylaw Part VIII Elections, Section 5.3

“The CRO, DRO, Speaker, and members of ERC shall not campaign for or endorse any candidate whatsoever.”

GSA Policy – Elections, Section 5.5

“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 6.1e

“The following are a series of principles and rules concerning candidate conduct during General and By-Elections.

...

v. Do ensure any election volunteers or colleagues comply, at all times, with the Elections Bylaws and Policies and other applicable policies or laws.”

Findings:

Regarding Email A:

The email in question was sent to the mailing list of chemistry graduate students. This email contains two parts:

Part 1 is a letter signed by Ph.D. Candidate [Anon.], addressed to the current GSA Councillor and Councillor Alternate of the Department of Chemistry. The letter is an endorsement of Candidate Susan Cake, and asks the Councillors to forward this letter to moderated mailing lists.

Part 2 appears before Part 1, and is a letter signed by Graduate Student X [Anon.], one of the two Councillors (including Alternate) of the Department of Chemistry. Graduate Student X [Anon.] forwards Part 1 to a mailing list of chemistry graduate students, together with a letter

identifying the author of Part 1 as GSA [Position withheld], a current Directly-Elected Officer of the GSA.

The letter in Part 1 has been reviewed by the Acting CRO prior to distribution, on Mar 27, 2014 at 10:22 AM. The Acting CRO confirms that the author of Part 1 (henceforth referred to as Ph.D. Candidate [Anon.]) is a current Directly-Elected Officer of the GSA. GSA Bylaw and Policies do not prohibit a current Directly-Elected Officer from personally campaigning for or endorsing a candidate, subject to GSA Bylaw Part VIII Elections.

Ph.D. Candidate [Anon.] is not standing for election in the 2014 GSA General Elections – Vice President External Re-run. Per GSA Bylaw Part VIII Elections, Section 5.2, “he/she shall not use the GSA Office, resources (eg GSA email accounts), and shall not speak for the GSA as an organization.”

Ph.D. Candidate [Anon.] used a personal email account to send the letter in question, and referred to themselves only as “Ph.D. Candidate”, therefore it is the Acting CRO’s opinion that Ph.D. Candidate [Anon.] is not in violation of GSA Bylaw and Policies.

However, Graduate Student X [Anon.] in Part 2 of the email explicitly identifies Ph.D. Candidate [Anon.] as a current Directly-Elected Officer of the GSA, together with Ph.D. Candidate [Anon.]’s campaign letter. To any recipients of this email, the wording of the email implies that Ph.D. Candidate [Anon.] is campaigning for Respondent Cake in the capacity as a Directly-Elected Officer of the GSA. However, per GSA Bylaw Part VIII Elections, Section 5.2, Ph.D. Candidate [Anon.] “shall not speak for the GSA as an organization.” By identifying with an official title of the GSA as a Directly-Elected Officer, based on a balance of probability, recipients can perceive the words of the campaign letter as an endorsement from the GSA as an organization, especially given the specific title held by Ph.D. Candidate [Anon.]. In her response received on Mar 30, 2014 at 11:01 AM, Respondent Cake states that “although the email ... does appear to be an implicit endorsement from the GSA this was never the intention” and that the explicit reference in the email provides context.

Graduate Student X [Anon.]’s email contains information that are not reflected in the original letter by Ph.D. Candidate [Anon.]. In the Acting CRO’s opinion, such information has given students an incorrect understanding of the GSA Bylaw and Policies, and that may have further implications on the reputation of the GSA.

Informed by the guiding principle of GSA Elections set out in GSA Bylaws, Part VIII, Elections, Section 1.1, it is the Acting CRO’s opinion that such incorrect understanding must be remedied.

While Graduate Student X [Anon.] never explicitly states that they support Respondent Cake, Part 1 of the email in a letter specifically endorsing Respondent Cake. Graduate Student X [Anon.] willingly forwarded that letter along with a second part written by Graduate Student X [Anon.], willingly further disclosing the official position of Ph.D. Candidate [Anon.] on the GSA. While Respondent Cake states that Graduate Student X [Anon.] “has thus far not participated in

campaigning activities”, given that Graduate Student X [Anon.]’s actions were on the request of Ph.D. Candidate [Anon.], and Ph.D. Candidate [Anon.]’s letter endorses Respondent Cake with Respondent Cake’s knowledge, Respondent Cake shall take responsibility in ensuring that Graduate Student X [Anon.] take remedial actions, per GSA Policy – Elections, Section 6.1e.

Lastly, Respondent Cake states that “I would be happy to have an email circulated to all chemistry students clarifying that the GSA does not endorsement (*sic*) as a candidate for VP External.” The Acting CRO has taken this into consideration.

Regarding Email B:

The email in question was sent to the mailing list of political science graduate students. This email contains two parts:

Part 1 is a letter signed by Ph.D. Candidate [Anon.], without specifying the addressed recipients. The letter is an endorsement of Candidate Susan Cake, and asks the recipients to forward this letter to moderated mailing lists.

Part 2 appears before Part 1, and is a letter signed by an Executive member of the PSGSA (Political Science Graduate Students’ Association), henceforth referred to as Graduate Student Y [Anon.]. Graduate Student Y [Anon.] forwards Part 1 to a mailing list of political science graduate students, together with a letter identifying the author of Part 1 as GSA [Position withheld], a current Directly-Elected Officer of the GSA.

The letter in Part 1 has been reviewed by the Acting CRO prior to distribution, on Mar 27, 2014 at 10:22 AM. Similar to the reasons listed regarding Email A, it is the Acting CRO’s opinion that Ph.D. Candidate [Anon.] is not in violation of GSA Bylaw and Policies.

However, Graduate Student Y [Anon.] in Part 2 of the email explicitly identifies Ph.D. Candidate [Anon.] as a current Directly-Elected Officer of the GSA, together with Ph.D. Candidate [Anon.]’s campaign letter. To any recipients of this email, the wording of the email implies that Ph.D. Candidate [Anon.] is campaigning for Respondent Cake in the capacity as a Directly-Elected Officer of the GSA. However, per GSA Bylaw Part VIII Elections, Section 5.2, Ph.D. Candidate [Anon.] “shall not speak for the GSA as an organization.” By identifying with an official title of the GSA as a Directly-Elected Officer, based on a balance of probability, recipients can perceive the words of the campaign letter as an endorsement from the GSA as an organization, especially given the specific title held by Ph.D. Candidate [Anon.]. In her response received on Mar 30, 2014 at 9:53 PM, Respondent Cake states that “although the email ... does appear to be an implicit endorsement from the GSA this was never the intention”.

Graduate Student Y [Anon.]’s email contains information that are not reflected in the original letter by Ph.D. Candidate [Anon.]. In the Acting CRO’s opinion, such information has given students an incorrect understanding of the GSA Bylaw and Policies, and that may have further implications on the reputation of the GSA.

Informed by the guiding principle of GSA Elections set out in GSA Bylaws, Part VIII, Elections, Section 1.1, it is the Acting CRO's opinion that such incorrect understanding must be remedied.

While Graduate Student Y [Anon.] never explicitly states that they support Respondent Cake, Part 1 of the email in a letter specifically endorsing Respondent Cake. Graduate Student Y [Anon.] willingly forwarded that letter along with a second part written by Graduate Student Y [Anon.], willingly further disclosing the official position of Ph.D. Candidate [Anon.] on the GSA. While Respondent Cake states that Graduate Student Y [Anon.] "has thus far not participated in campaigning activities", given that Graduate Student Y [Anon.]'s actions were on the request of Ph.D. Candidate [Anon.], and Ph.D. Candidate [Anon.]'s letter endorses Respondent Cake with Respondent Cake's knowledge, Respondent Cake shall take responsibility in ensuring that Graduate Student Y [Anon.] take remedial actions, per GSA Policy – Elections, Section 6.1e.

Lastly, Respondent Cake states that "I would be happy to have an email circulated to all Political Science students clarifying that the GSA does not endorsement (*sic*) me as a candidate for VP External" The Acting CRO has taken this into consideration.

Decision:

The Acting CRO, in consultation with the Acting DRO, decides that:

Ph.D. Candidate [Anon.] is not in violation of GSA Bylaw and Policies.

Graduate Student X [Anon.] and Graduate Student Y [Anon.] are in violation of GSA Bylaw and Policies regarding Conflict of Interest.

As remedial actions:

1. A remedial email letter shall be written by Graduate Student X [Anon.], and sent to all students who received the previous email by Graduate Student X [Anon.]. Graduate Student X [Anon.] shall CC the Acting CRO (gsa.elections@ualberta.ca) on this remedial email.
2. A remedial email letter shall be written by Graduate Student Y [Anon.], and sent to all students who received the previous email by Graduate Student Y [Anon.]. Graduate Student Y [Anon.] shall CC the Acting CRO (gsa.elections@ualberta.ca) on this remedial email.

The remedial email shall have the subject: "Correction to the Previous Email supporting a candidate of GSA Elections"

The remedial email shall include the following content in the body text of the email, with the words in angle brackets <> replaced by the appropriate words:

“I forwarded to you an email letter endorsing a particular candidate in the GSA Elections. While the forwarded letter was written by < Ph.D. Candidate [Anon.]>, it was only a personal endorsement from <him/her> as a Ph.D. Candidate. The letter was not an endorsement from the GSA as an organization. The GSA as an organization does not endorse or campaign for any candidates in the GSA Elections. If you have questions on the process or procedure of the GSA Elections 2014, please contact the GSA Acting Chief Returning Officer at gsa.elections@ualberta.ca.”

Since campaign period has ended on Sunday March 30 at 4pm, this remedial email should not be constructed as a campaign message, the names of any candidates should not be mentioned, and the letter by Ph.D. Candidate [Anon.] should not be included.

To ensure fairness of the voting procedure and that students have the correct information before they vote, Respondent Cake shall ensure that the decision by the Acting CRO as stated above in this document is carried out before the start of the voting period on Monday March 31, 2014, at 10am, subject to appeal.

As per GSA Policy – Elections, Section 7.1e, candidates shall have twelve (12) hours from the time the Acting CRO’s email is received for an emailed appeal to be received by the Speaker as denoted in GSA Policy - Elections, Section 9, Elections Appeals.

So decided: Monday, March 31, 2014 at 12:06am. All times in this document are in the Mountain Time time-zone, with the appropriate Daylight Savings Time.

Addendum

A remedial email to political science students was sent on Mar 31, 2014 at 7:51 AM.

Respondent Cake replied the Acting CRO on Mar 31, 2014 at 9:33 AM stating that she was unable to make contact with Graduate Student X [Anon.] despite multiple attempts. Given this situation, to ensure a fair election process where students are given the correct information before they cast their votes, the Acting CRO had decided to delay the start of the voting period from Monday March 31 at 10am to Monday March 31 at 2pm, and delay the end of the voting period from Wednesday April 2 at 10am to Wednesday April 2 at 2pm.

A remedial email to chemistry students was sent on Mar 31, 2014 at 12:19 PM by an individual other than Graduate Student X [Anon.]. The Acting CRO noted in writing to Respondent Cake

that this remedial email contained extra material that should not have been included, per decision stated above. Since Respondent Cake had relayed the Acting CRO's instructions in writing to the individual who composed the remedial email, the Acting CRO did not find Respondent Cake at fault for the extra material.