



**ELECTION PROCEDURES COMMITTEE
APPEAL PANEL DECISION**

IN THE APPEAL OF THE DECISION OF THE RETURNING OFFICER

APPELLANT: [REDACTED], Student Candidate

RESPONDENT: Jennifer Webster, Returning Officer

DATE OF HEARING: March 5, 2024

DECISION: Appeal denied. The decision of the Returning Officer to require the Appellant to modify their platform statements and draft a public retraction to be distributed to the student community is upheld.

REASONS:

Background

This appeal concerns the decision of the Returning Officer rendered on March 1, 2024 in response to a complaint filed in respect of campaign materials of the Appellant. The complaint alleged that references to the supervised injection site located at 277 Victoria Street in the Appellant’s campaign materials, specifically posters and platform statements, contravened sections 7.1 and 7.2 of the Board of Governors Election Policies and Procedures (“Rules”). The complaint also included allegations that the campaign materials of the Appellant violated other University policies, in respect of which the Returning Officer made no decision and referred the complainant to the processes set out in those policies.

The Returning Officer found that the posters of the Appellant did not amount to prohibited activity. The Returning Officer found that three (3) specific phrases included in the Appellant’s platform statements posted on the Board of Governors election website were not reasonable and an inaccurate representation of data intended to influence voters contrary to sections 7.1 and 7.2 of the Rules. As a penalty, the Returning Officer directed the Appellant to make a public retraction of the words “Lives are at stake” in their first platform statement (“Platform Statement 1”) and to change the words “unsafe injection site” to “supervised injection site” and remove the words “for your safety” in their second platform statement (“Platform Statement 2”). The Appellant has appealed this finding of the Returning Officer.

Has the Appellant engaged in prohibited conduct in respect of their platform statements?

In their appeal, the Appellant submits that the impugned statements in their posted platforms should be allowed under the fundamental right of freedom of speech. In

submitting this, the Appellant acknowledges that the right to freedom of speech is not unlimited, and that Section 7 of the Rules does place reasonable limitations on that right. The Appellant also states that the statements in question do not constitute discrimination, hate speech, or harassment and are not violations of university policies. The Appellant further maintains that the statements at issue are warranted and accurate, noting that safety concerns regarding injection sites in other jurisdictions have been raised in various studies including ones conducted by the Alberta government and authorities at different levels across the world.

In considering this Appeal it should be noted that the Appeal Panel is not making a determination under any policy of the University other than the Rules.

The Appeal Panel notes that the studies provided by the Appellant concern injection sites in other provinces and countries. To extrapolate that they equally apply to the injection site located at 277 Victoria Street is a generalization and also ignores positive studies about Ontario injection sites. The Appellant quotes several individuals' opinions about injection sites, including those of elected officials, however those individual's opinions are not in themselves facts.

With respect to Platform Statement 1, the Appeal Panel finds that the Appellant's use of phrases in "lives are at stake" and "for your safety" in respect of the operation of the injection site at 277 Victoria Street is inflammatory, intended to mislead, and as noted by the Returning Officer, not supported by data. The Appeal Panel also accepts the submission of the Returning Officer in respect of the potential interpretation of Statement 1 as stigmatizing persons with mental health and addictions disabilities and those who provide services to them. Upon consideration of the appeal materials and submission of the parties at the hearing, the Appeal Panel upholds the Returning Officer's finding that use of Platform Statement 1 amounts to prohibited conduct in violation of section 7.1 and 7.2.

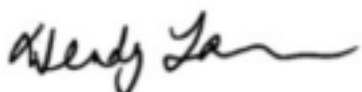
The Appeal Panel also upholds the Returning Officer's finding with respect to Platform Statement 2, specifically that the characterization of the Injection site as an "unsafe injection site" is not accurate. The Appellant explains in their submission that their reference to "unsafe" in respect of the site was intended to refer to its impact on the wider community (i.e. the presence of the site near the campus raised safety risk). As stated by the Returning Officer, while there may be safety risks arising from the location of the campus in an urban centre, there is no evidence of safety risks related to the supervised injection site. While the Appeal Panel agrees with the Appellant's submission that they are entitled to express their opinion, the Appeal Panel notes that the impugned statement is presented in the platform statement as fact, and thus is in contravention of sections 7.1 and 7.2 of the Rules.

The Penalty

The Appeal Panel upholds the penalty issued by the Returning Officer, directing the Appellant to make a public retraction of the phrase at issue in Platform Statement 1 and

to make a public retraction of the phrases at issue in Platform Statement 2. Having considered the appeal materials and the submissions made concerning the penalty applied by the Returning Officer, the Appeal Panel finds the penalty imposed to be appropriate given the circumstances.

DATED as of the 22nd day of March, 2024



Wendy Lawrence, Chair

APPEAL PANEL: Wendy Lawrence (Chair), Meredith Jordan, Charlotte Ferworn

OTHERS IN ATTENDANCE: [REDACTED], Appellant
Jennifer Webster, Returning Officer
Jennifer MacInnis, Board Secretariat
Katherine Tatisou, Board Secretariat