

AMS Judicial Committee Decision – CSG Executive Election Appeal

Following the results of the 2016 AMS Executive Election, Team CSG has asked us, the AMS Judicial Committee, to evaluate whether there is clear and compelling evidence that their campaign was treated unjustly by the elections apparatus, and that there was a miscarriage of justice as a result. After deliberation on the facts as presented, we have ruled against granting Team CSG's appeal. The reasons for this decision follow below.

Jurisdiction

The AMS Judicial Committee derives its authority from the AMS Constitution, specifically Section 10.02.03, which states that the AMS Judicial Committee shall also be responsible for overseeing the procedure followed in the running of the Society elections and referenda. Additionally, the AMS Judicial Committee exercises valid authority over matters of AMS Executive Campaign appeals and also relies on Policy Manual 1 Section 4 Part B Subsection G, which permits the AMS Judicial Committee to only overturn a decision of the CEO on the following grounds:

- i) If the appellant can establish to the Committee's satisfaction that the cited violations occurred as a result of actions or factors outside the knowledge and beyond the control of the appellant or the CEO. All members of a team shall be held equally accountable for any of their actions (ie. an individual's actions cannot be said to be outside of a team's campaign).
- ii) If it can be deemed to the Committee's satisfaction that the CEO had a clear and definitive bias in making his/her ruling.
- iii) Where there is clear and compelling evidence that the appellant has been treated unjustly. The appeal does not constitute an opportunity for the committee to simply second guess the judgment of the CEO but rather exists to ensure there has not been a miscarriage of justice based on the facts.

Through the process team CSG and the Committee agreed that ground (i) and (ii) were not applicable, and as such we have focused on whether the standard for point (iii) was met. Additionally, Policy Manual 1 Section 4 Part B Subsection J states that the AMS Judicial Committee shall be the only level of appeal in cases of Executive Elections – with this in mind, we understand the implications of this decision on all teams involved within the Executive Election, and the Queen's student body at large. We note that the AMS Judicial Committee is the final appellate body for Executive Elections appeals.

Reasons for Decision

Given that this decision addresses the Queen's democratic process, the standard for finding that a miscarriage of justice occurred is very high. While it is noted that the margin of Team LWT's win was very narrow, this does not lower that high standard of clear and compelling evidence which must be found to constitute unjust treatment against Team CSG. After it was determined that the CEO acted appropriately in her role, the closeness of the election was entirely irrelevant in our decision. It is also impossible for us to speculate on how different sanctions would have

altered the decision-making of voters. The “natural outcome” of the election cannot therefore be determined, regardless of the close margin of 41 votes. As a result, we must rely simply on whether or not Team CSG was treated justly, in the spirit of policy, and in line with a level playing field.

In the following set of reasons, we will provide analyses of the cases provided by Team CSG. Although the Elections Team provided rulings and decisions that were found disagreeable by Team CSG, they fell within the just scope of policy interpretation and did not amount to unjust treatment or a miscarriage of justice. Given the gravity of granting the appeal and disqualifying Team LWT, thereby circumventing the democratic process, a clearer and more compelling set of evidence to suggest unjust treatment is necessary to satisfy the high standard that we have qualified above.

a. Chalk Boards

On January 25th, after the 8:00pm deadline to remove physical campaign materials from campus, a representative of Team CSG found that someone had written “VOTE LWT” on the blackboard of Dunning 11. This was brought to the attention of the Elections Team, who contacted Team LWT, who denied any involvement with the incident. Since the Elections Team is not an investigatory body, and could not determine who had written the statement, even on a balance of probabilities, the ruling to not apply sanctions to LWT was in the spirit of policy and did not constitute a miscarriage of justice.

b. Posters in Humphrey Hall

While it is noted that CSG complied with individual building regulations, the decision by the Elections Team to uniformly instruct all teams to rely on the Queen’s Signage Policy supports an attempt by the Elections Team to maintain a level playing field. The Elections Team had given both teams the same instruction, and as a result the decision not to sanction LWT for following their application of the Queen’s Signage Policy, rather than the individual building guidelines, was not a miscarriage of justice.

c. Business Cards

Team CSG found Team LWT business cards scattered in hallways and in various classrooms around campus, in contravention of AMS Policy Manual 1 Section 4 Part B Subsection 5 “G” *Promotional materials may not be left unattended*. However, when notified of this violation, the Elections Team both held a meeting and formally warned Team LWT as is in line with a first violation. This constituted just application of policy, and it is not the Committee’s role to second guess the decisions of the CEO.

d. Personal Messages

Given that this was the first year that social media was permitted in a campaign during voting days, and that there is no formal policy regarding private messages on social media, the CEO had to rely on her interpretation of the spirit of policy. An attempt by the CEO to maintain a level playing field is evidenced by the email sent to all teams stating that “private messages and email may be continued to be used, but with caution”. As a result, it was up to the discretion of the CEO to determine what level of caution was appropriate. After hearing the facts, we have

determined that the Elections Team's management of private messaging was uniform and just to all teams.

e. Misrepresentation

While it is undeniably frustrating that Team CSG had to remove their infographic (which was later determined to be a legitimate campaign material) from social media for a day, this decision was not made in an unjust manner. The CEO initially made a ruling in an attempt to curtail misrepresentation, and later changed their decision when they realized a mistake had been made. After that point, the CEO limited themselves to only making rulings on blatantly untrue statements. An email was sent by the CEO to all teams which clarified the standard for misrepresentation which would be adopted for the rest of the election. This reaffirms to the Committee that the Elections Team did not act in ways that constituted a miscarriage of justice - instead, they upheld their responsibility to maintain a level playing field, then promptly rectified the issue when they realized they had made a mistake. In the opinion of this Committee, that does not satisfy the high standard required to constitute a miscarriage of justice.

Conclusion

Team CSG may disagree with the Elections Team's decision not to apply sanctions to Team LWT in a variety of instances - however, it is the opinion of this Committee that the Elections Team applied uniform interpretation of policy to both teams throughout the election. The Committee recognized the highly subjective nature of elections decisions and that another election team may have ruled differently. Nevertheless, we find that the elections team's decisions were consistent with the spirit of policy and did not constitute a miscarriage of justice.

Even considering the cumulative effect of the alleged violations, it is this Committee's opinion that the high standard for clear and compelling evidence for finding a miscarriage of justice was not met. Additionally, this Committee cannot lessen that standard simply because of the close margin of votes between the two teams. We also cannot speculate on what the "natural outcome" of the election may have been had different sanctions been applied. Instead, we must evaluate the facts and rule if there is clear and compelling evidence that Team CSG was treated unjustly. We have found the Elections Team's actions to be fair and just in each instance, and as a result we cannot grant this appeal.

Ruled accordingly

George Collister (Chair), Duncan Lurie, Andrew Goddard, Lucy Bellemare.