

UMSU Election Appeals Committee

Ruling on Appeal of Complaint #2024-002

The Election Appeals Committee (the “Committee”) received an Appeal (see attached) from Dhruvi Shah (the “Appellant”) on March 6, 2024 at 6:45 pm. The Appellant, a candidate for the International Students’ Representative position, was advised that because her disqualification occurred within 24 hours prior to the beginning of voting, the disqualification could not be reversed prior to the election and she would not be eligible to appear on the ballot. However, the Appeal could still be filed for the purpose of clearing the disqualified candidate’s name as per the UMSU Elections Manual (the “Manual”), Section XIX, Appeal Procedure, cl. 3(a)(ii). The Appellant agreed to have her Appeal proceed on these terms, and the Committee convened in camera on March 7, 2024 at 5:00 pm to determine if a prima facie case had been made.

The Committee concluded that the Appeal had been submitted within the timeframe required, was not frivolous or trivial in nature, referenced a specific Complaint and ruling of the Chief Returning Officer (“CRO”), and met all requisites of a validly submitted Appeal. In accordance with procedure defined in the Manual, the case proceeded to a Hearing in which both the CRO and Appellant had equal chances to testify and present their respective cases.

The Committee learned that *Complaint #2004-002*—which led to the disqualification—was initially received by the CRO on February 28, 2024 at 8:55 pm. Due to lack of definitive evidence linking the Appellant or her volunteer(s) to the defacement of her opponent’s posters at the time, the CRO did not proceed to issue a ruling and the Appellant was able to continue running as a candidate in the election. On March 6, 2024, the CRO received new evidence in the form of date- and time-stamped footage from UM Security Services and this led to the Complaint being revisited. The CRO deemed this new evidence in her possession to be substantial and disqualified the Appellant as an election candidate.

The Committee and the Appellant had the opportunity to review freeze frames of the footage in question during the Hearing, as well as images showing her opponent’s defaced posters. When presented with and asked about this evidence, which places the Appellant at the time and location of at least one of the defacements beyond a reasonable doubt, the Appellant conceded that individuals who were helping put up campaign posters for her and whom she characterizes as friends of her official volunteer had participated in the defacement. Although the Appellant does not appear to directly engage in the defacement of the poster herself, careful examination of the testimonies, evidence, and pertinent information brought forward during the Hearing points to a near-irrefutable conclusion: that the Appellant not only observed the defacement take place and therefore had knowledge of it despite claims to the contrary, she also did not take immediate corrective or remedial measures nor express remorse for the incident prior to or even after the disqualification and during the Appeal process.

Notwithstanding, central to reaching a decision and ruling on the Appeal are three overriding questions:

- Can the actions alleged in the Complaint be substantiated beyond a reasonable doubt?
- Do the actions constitute a violation of the Election Rules and all other relevant rulings, orders, and rules, and/or University rules, regulations, policies, and procedures?
- Does the Appellant bear responsibility for the actions of individuals acting on behalf of and in furtherance of her campaign, *i.e.* official volunteer(s)?

The Committee finds that there are reasonable and sufficient grounds for answering each of these questions in the affirmative. As such, the ruling of the CRO is upheld and the Appeal is dismissed.

Issued on March 7, 2024 at 8:15 pm



Election/Referendum Appeal Form



FOR OFFICE USE ONLY

Date and Time Received: *Wed March 6/24 @ 6:45pm* *RQ*

An appeal may be made in a case where:

- a) the Election Rules are misapplied to a complaint; or
- b) the Election Rules are misapplied to some other ruling of the CRO; or
- c) some other action by the CRO contravenes the Election Rules.

Submit appeals to the Appeals Chair (election.appeals@umsu.ca) using this form within 48 hours of the alleged breach of the Election Rules or the CRO's ruling on a Complaint.

Appellant name	Dhruvi Shah
Appellant student #	 <i>Redacted</i> ↵
Appellant email Address	 ↵
Ruling of the CRO being appealed	Disqualification
Specific section(s) of the Election Rules that are alleged to have been breached	Section XIV: Penalties A candidate shall only be disqualified where they commit a serious breach that: a. cannot be counterbalanced by a lesser penalty. b. involves tampering with ballots, balloting, voting or counting procedures. c. involves repeated violations for which lesser penalties have already been imposed.
Reason for the appeal, including specifically any errors in interpretation or application found in the ruling. (Continue on separate page as necessary.)	I find myself disqualified due to the actions of friends accompanying my volunteer during the poster placement day. Unfortunately, I was distracted and unfamiliar with them during the incident, bearing no intention of malpractice. That is why I rejected the previously imposed demerit points. This issue may have been counterbalanced by a reduced penalty, as was the case before. Unfortunately, I was not informed of the complaint details initially, hindering my ability to check with my volunteers promptly. The comprehensive information was only provided after the case closed, emphasising the need for timely and transparent communication in our campaign efforts. In my previous engagements as a candidate in UMSU elections, I have diligently adhered to the established rules and regulations, ensuring a fair and honourable competition. Throughout both last year and this year's campaigns, my commitment to playing a fair game has remained unwavering. My intentions have always been driven by a genuine desire to contribute positively to the electoral process, without causing harm or undue disadvantage to any fellow candidate.
Ruling sought from the Election Appeals Committee.	