

**STUDENT ASSOCIATION OF GEORGE BROWN COLLEGE
CHIEF RETURNING OFFICER**

File 2024-W01

In the matter of:

Re Complaints against Pranjal, *and* Jeetu Patel

RULING OF THE CHIEF RETURNING OFFICER

Statutes cited:

Canada Not-for-profit Corporations Act (S.C. 2009, c. 23)

Canada Elections Act (S.C. 2000, c. 9)

Cases cited:

R. v. Layton, 2009 SCC 36 (CanLII), [2009] 2 SCR 540

McEwing v. Canada (Attorney General), 2013 FC 525 (CanLII), [2013] 4 FCR 63,
<<https://canlii.ca/t/fxqs4>>, retrieved on 2024-12-05

Opitz v. Wrzesnewskyj, 2012 SCC 55, [2012] 3 S.C.R. 76.

Documents cited:

The By-Laws of the Student Association of George Brown College, 2019 (as amended 2021).

“The election rules of the 2024 Fall Election” as contained in *2024 Fall Election Procedures Version 1 Published: November 12, 2024.*

The following is the ruling delivered by:

THE CHIEF RETURNING OFFICER

Introduction: A very serious matters that strike at the integrity of our democratic process

[1] The voting for the 2024 fall election for the Student Association of George Brown College was held between November 24-29, 2024. During election, a number of concerns were raised regarding the integrity of the voting.

[2] In assessing these concerns, I am reminded of a quote by Marc Mayrand, former Chief Electoral Officer of Canada, before the Standing Committee on Procedure and House Affairs of the House of Commons on March 29, 2012 [PROC-30, at page 1]:

These are very serious matters that strike at the integrity of our democratic process. If they are not addressed and responded to, they risk undermining an essential ingredient of a healthy democracy, namely the trust that electors have in the electoral process.

[3] The election is held according to the By-Laws and constitutes an election of officer and directors in accordance with section 128 (3) of *the Canada Not for Profit Corporations Act*.

[4] On Thursday, November 28, 2024, the Chief Returning Officer (CRO) received a request to meet with several candidates regarding concerns raised during the election. The CRO met with them and informed them that, while the concerns were serious, they had not provided substantial proof to support the allegations. The CRO further informed them that any complaint must be made in writing and must include sufficient evidence for election action to be taken.

[5] Later that day, the CRO received a report of a man in a yellow hoodie intimidating voters at the St. James Campus King's Lounge voting station. Campus security was informed, and

it was decided that, should the individual appear at the polling station again, he would be removed.

[6] In subsequent emails that day, the identity of the individual was confirmed as "LC," who was found to no longer be a student at George Brown College.

[7] On the morning of November 29, 2024, LC was found in the King's Lounge at St. James Campus, sitting near candidates Pranjal and Jeetu Patel. LC was removed from campus by the Operations Manager of the Student Association, and the CRO spoke to the candidates regarding the situation.

[8] After reviewing the evidence, the CRO issued a letter to Pranjal and Jeetu Patel ("the respondents") asking them to respond to allegations regarding their connection with LC.

[9] Four candidates wrote to the CRO to express concerns about the election. These individuals are identified as Persons 1–4 in this complaint ("the complainants").

[10] An formal complaint was received by the CRO alleging a number of breaches of the Election By-laws and regulations:

- a. That LC conspired with Pranjal and Jeetu Patel to intimidate voters at the polling station and other locations;
- b. That Pranjal and Jeetu Patel asked current Board of Directors members on suspension to interfere with the election;
- c. That LC, Pranjal and Jeetu Patel campaigned in the library;
- d. That Pranjal and Jeetu Patel were running as a slate; and
- e. That Pranjal and Jeetu Patel solicited an outside individual to interfere with the election.

[11] Before closing the file, I asked the complainants if they had anything further to add. While this is not standard practice for every complaint, given the complexity of this case, I deemed it appropriate and procedurally fair. The complainants raised five additional allegations:

- a. That the respondents gave out chocolates and pizza were given out in exchange for votes;
- b. That some Punjabi students were paid \$40.00 to vote for the respondents;
- c. That students from the Punjabi community harassed another candidate;
- d. The candidates campaigned near polling stations; and
- e. General election interference (such as tearing down posters, etc).

[12] I issued a second letter to the respondents requesting relevant information regarding the second round of allegations made by the complainants.

Evidence submitted

LC's Involvement in the Election

[13] A number of pieces of evidence were submitted during the investigation:

- a. Three videos, described below;
- b. Several photos showing LC on campus near the polling station; and
- c. A report from a Student Association (SA) staff member, detailed below.

[14] The three videos in question were in both English and Hindi. I asked a former Board member, who is independent of these proceedings and fluent in both English and Hindi, to review the audio of the videos.

[15] In the first video, LC speaks with a woman, seemingly campaigning for Pranjal despite not being a student at George Brown College. He denies soliciting votes on behalf of a candidate, claiming he is doing it "for fun." During the conversation, he dismissively asks her age and tells her not to "use her brain so much."

[16] In the second video, a current student, graduating in 2026, reveals he voted for Pranjal and mentions meeting Pranjal through a suspended board member, MU, who is friends with Pranjal. He further states that, while MU supports Tanya, MU also encouraged him to vote for Pranjal.

[17] In a conversation with multiple voices, LC asks if someone has "done it" and advises against voting for "her." While no explicit statement is made about whom they voted for, the context suggests they voted for Pranjal.

[18] Further, the SA staff member identifies that LC was near the polling station coercively influencing voters, holding their hands, and urging them to vote for Pranjal and Jeetu Patel by appealing to communal sentiments.

[19] Additionally, various photographic evidence was submitted showing LC at or near the polling station at St. James Campus, King's Lounge, the St. James Campus Library, and other locations.

[20] Another video presented to me shows an individual campaigning at a polling station, pointing out on a list the photos of individuals a person should vote for.

[21] In response to the accusations, Jeetu Patel firmly denies all allegations of campaigning alongside LC or soliciting his assistance during the election. He states that he campaigned independently, was not present at St. James on the day in question, and was unaware of any campaigning by others on his behalf. Patel explicitly denies asking or communicating with LC in any way that could imply he wanted LC to campaign for him. He emphasizes his awareness of the rules prohibiting external assistance and his commitment to complying with them. He suggests the matter be clarified with the individuals involved, as he had no knowledge or involvement in the alleged actions.

[22] Similarly, Pranjal denies all allegations of soliciting or involving LC in her campaign, emphasizing her adherence to election rules and commitment to a transparent process. She states that on November 29, 2024, she was returning from classes at the Waterfront

Campus to St. James Campus and engaged in a conversation with the CRO and another student during that time. Pranjali asserts that she did not ask anyone to campaign or endorse her, nor did she discuss such activities with anyone, as she is fully aware of the election regulations. She denies being present at the alleged locations and suggests verifying her whereabouts through campus security footage.

[23] After weighing the evidence, I find, on the balance of probabilities, that LC interfered in the election on Thursday, November 28, 2024..

That some Punjabi students were paid \$40.00 to vote for the respondents

[24] This allegation was first brought to my attention during a meeting with relevant candidates on the morning of November 28, 2024. While serious, no one has provided the names of students who allegedly received the payments. As this is a second-hand account and constitutes inadmissible hearsay, I must find that the evidence is not admissible in these proceedings and therefore not substantiated.

That the respondents gave out chocolates and pizza were given out by the candidates in exchange for votes

[25] Two allegations were made regarding the respondents' conduct involving chocolates and pizza during the election. First, it was alleged that Pranjali gave out candy in exchange for votes throughout the election. Two email submissions regarding this were made significantly after the close of voting.

[26] The first written submission said:

In the days of voting Pranjali came to me and asked that please come with me and vote for me and if you voted for me in exchange I'll give you chocolates and the chocolates she was giving in exchange was of Lindt's. So, in this way, she tried to convince me.

[27] The second submission said:

Near the elevator by the St. James Campus Library, two people were handing out chocolates in exchange for votes and campaigning very aggressively. They were pushing me and others nearby to vote for someone named Patel. It felt way too close to the polling station, and the way they were campaigning didn't seem right.

[28] Another allegation suggested that Pranjal distributed pizza for votes on November 29, 2024, at the St. James Cafeteria. The complaint claimed the candidate had 2–3 boxes of pizza. However, no photo or video evidence was submitted to support this claim.

[29] In her written response, Pranjal clarified that the pizza in question was purchased by a friend for his personal celebration and was not distributed or intended as a campaign treat. She emphasized it was a single pizza consumed during her lunch with friends and questioned the rationale behind scrutinizing her personal meal.

[30] After reviewing the evidence, I find reasonable doubt regarding whether the pizza was exchanged for votes. Therefore, I cannot validate the complaint.

[31] Regarding the chocolates, Pranjal firmly denied distributing candies or chocolates near the St. James Campus elevators to influence votes. The CRO has consistently stated that giving out candy to encourage students to speak with a candidate is allowable, as long as it is not in direct exchange for votes.

[32] Pranjal admitted to giving out chocolates as an incentive to engage with voters. These chocolates were included in her financial statement and not concealed. I find that the evidence does not establish beyond a reasonable doubt that a violation of the election code occurred.

Analysis

Is there evidence which supports the allegation that LC conspired with Pranjal and Jeetu Patel?

[33] The relevant section of the election regulations regarding outsider interference in the election is found in Section 5 of the election regulations, which states:

Solicitation of George Brown College Administration or any external organization to interfere in the election process is strictly prohibited. This includes any actions encouraging the administration to apply undue pressure on election officials, withholding election materials, or influencing the CRO's decisions.

[34] The operative part of this regulation concerns external organizations whose interference would result in disciplinary action. However, prohibitions against campaigning near polling stations, harassment and intimidation, bribery in exchange for votes, and obstruction of election activities are all relevant to the matter at hand. If evidence were submitted showing a conspiracy to engage in these prohibited actions, disciplinary action would be appropriate.

[35] The evidence presented against Pranjal and Jeetu Patel regarding their alleged awareness of LC's interference is circumstantial and largely conjectural. The evidence linking them to LC's actions is weak at best. While it is not impossible that they were aware of LC's activities, the evidence is insufficient to substantiate this accusation.

Is there evidence that suspended Board members interfered with the election, and if so, is that a violation of the election rules?

[36] There is evidence suggesting a reasonable likelihood that MU was at least knowledgeable about, if not complicit in, LC's actions. This is supported by the audio in the second and third videos, where MU is directly referenced.

[37] The CRO has jurisdiction over the operation of polling stations and the actions of candidates but does not have jurisdiction over the actions of former or suspended Board of Directors members.

[38] There is no evidence showing that MU conspired with the respondents to have LC interfere in the election.

[39] Additionally, I make no finding on whether the Board of Directors Code of Conduct applies to suspended Board of Directors members.

Did Pranjal and Jeetu Patel campaign as a slate?

[40] Under By-law 12, section 5(c):

No nominee for any position shall be nominated as part of a slate, and no slate name shall be formed or appear on the ballot. Cross endorsement and cross campaigning shall be allowed, but each platform shall be unique and no expenses shall be shared.

[41] There was no attempt to form a slate name or have it appear on the ballot, nor were any campaign expenses shared. I find that the campaigns of Pranjal and Jeetu Patel do not exhibit sufficient similarities to suggest the formation of a slate.

[42] It appears some individuals misunderstood this section, believing it prohibits any form of joint campaigning. This is not the case; cross-endorsement and cross-campaigning are explicitly permitted.

Application of provisions of the by-laws

[43] Two provisions could be applicable in this matter: the election discipline system, which regulates the conduct of candidates in accordance with By-law 12, Section 11(a), and the contested election provision outlined in By-law 12, Section 16.

Is there grounds for discipline under the election disciplinary system?

[44] The election discipline system under by-law 12, section 11(a) grants the CRO the authority to:

CRO shall have the sole authority to administer the provisions of these By-laws and the elections regulations made under this by-law by the CRO, Board, or Elections Committee. The CRO may for violations of these by-laws:

- i) assign demerit points, including assign multiple demit points for where violations encompasses more than one offence;
- ii) disqualify the candidate from running in the election; and
- iii) declare the election of a candidate null and void.

When a candidate for any officer is assigned more than 20 demerit points the candidate shall be disqualified.

[45] Further, under by-law 12, section 11(i):

All rulings regarding matters surrounding candidate discipline are to be made with the burden of proof being beyond a reasonable doubt. All other rulings of the Chief Returning Officer shall be made using the balance of probabilities.

[46] The burden of proof beyond a reasonable doubt is the highest standard of Canadian Law, and would not normally appear outside criminal cases, and while probable or likely guilt may be established, the Supreme Court in R. v. Layton, has agreed the with the instructions to a jury was correct when it said:

It is not enough for you to believe that [the respondent] is probably or likely guilty. In those circumstances, you must find him not guilty because Crown counsel would have failed to satisfy you of his guilt beyond a reasonable doubt. Proof of probable or likely guilt is not proof of guilt beyond a reasonable doubt.

[47] As such, I must weigh circumstantial evidence in light of this decision, and will do so throughout this ruling.

[48] Further, the jurisdiction of the CRO under this section applies only to the actions of candidates during the election.

[49] Based on the findings of fact, no violations of the by-laws or election regulations by the candidates were established beyond a reasonable doubt.

Is there grounds to declare the election null under by-law 12, section 15?

[50] By-law 12, Section 15 outlines a process for addressing contested elections, allowing the CRO to recommend invalidating an election due to irregularities, fraud, or corrupt practices:

Should the Chief Returning Officer have reason to believe that there were irregularities, fraud or corrupt or illegal practices that affected the result of the election, the Chief Returning Officer shall report those reason to the Board and shall provide the Board with a recommendation as to whether or not the election shall be declared null and void. The Board shall, upon consideration of the Chief Returning Officer's report, either: (a) declare the election to be null and void; and/or (b) take such other action as the Board may deem necessary.

[51] While this provision differs procedurally from Section 524(1)(b) of the *Canada Elections Act*, where such cases are heard by a Superior Court Judge, the similar wording allows case law to be applied as an analogy. Under the *Canada Elections Act*, irregularities, fraud, or corrupt practices must demonstrably affect the election result to contest its validity.

[52] Using this precedent, the threshold for invalidating an election is met only if irregularities, fraud, or corrupt practices demonstrably affected the election outcome or undermined trust in the electoral process.

[53] In *McEwing v. Canada (Attorney General)*, the Court emphasized that proving irregularities or fraud is insufficient unless these actions materially affected the election results or cast substantial doubt on the process's fairness and legitimacy.

[54] The Court clarified that while proof of fraud does not require evidence of criminal intent, it must demonstrate a significant risk to voters' rights or the electoral process. Even when the fraud threshold is met, annulment is warranted only when the election results are materially affected, or public trust is irreparably harmed.

[55] The Court referenced the "Magic Number Test" and "Reverse Magic Number Test" to evaluate whether the number of impugned votes would alter the election outcome.

[56] The Court further noted that annulment is appropriate only if irregularities involve quantifiable actions, such as voter suppression or misrepresentation, where the scope of the impact can be measured against or fraud demonstrably exceed the margin of victory or undermine the process's fairness. While numerical thresholds are useful, a qualitative assessment is also necessary.

[57] The Court emphasized that candidates are accountable for ensuring compliance with electoral rules but are not liable for unauthorized third-party actions unless directly linked to the misconduct. Allegations must be substantiated with evidence directly linking them to the irregularities or misconduct in question. The Court emphasized that circumstantial evidence or mere association with individuals involved in misconduct is insufficient to establish a candidate's culpability. This approach reflects the principle that electoral accountability must be balanced against fairness, ensuring candidates are not unfairly penalized for actions beyond their control.

[58] The Court concluded that where a candidate or their agents are proven culpable, annulment is generally warranted, even without applying the "Magic Number Test."

[59] Applying this framework, the only verified instance of LC being present at the polling station was on November 28, 2024. A total of 173 votes were cast on that day across all polling stations, significantly fewer than the margin of victory for both candidates. Thus, annulment based on the "Magic Number Test" is unsupported at this stage.

[60] In the absence of substantial evidence linking candidates to irregularities or proving that voter suppression impacted the election outcome, I find no basis to conclude that irregularities, fraud, or corrupt practices affected the election results.

[61] While LC's actions were egregious and undermined the democratic process, no evidence suggests that annulment of the election is warranted under *McEwing or Opitz v. Wrzesnewskyj*.

That students from the Punjabi community harassed a candidate

[62] Evidence presented included screenshots of Instagram messages, such as, "You're not going to win, Pranjal will win." While concerning, this evidence does not implicate the candidates, and no action can be taken against them regarding this matter.

[63] I do not find that a violation of the election code has occurred, since the harassing messages did not come from a candidate. I find that violations of the Student Code of Conduct may have occurred. Should the complainant wish to pursue this, the appropriate avenue would be under the Student Code of Conduct.

The candidates were campaigning near polling stations; and General election interference (ripping down posters, etc).

[64] Two incidents of alleged campaigning near polling stations were reported. The first involved campaigning near the first-floor elevators between the polling station across from the library and King's Lounge. The second involved respondents leaving the library with individuals who later voted.

[65] The complaints regarding the elevators are dismissed as a matter of law. The elevators are outside the restricted 30-foot campaigning zone outlined in the CRO's

directives. The confusion between the 30-foot and 30-meter distances noted in the complaint likely caused this misunderstanding.

[66] A second video shows respondents walking around the St. James Campus library stairwell. They were not seen campaigning or carrying campaign materials. Based on the evidence, it cannot be established beyond a reasonable doubt that campaigning occurred in the library or near the polling station.

Disposition and conclusion

[67] I would like to sincerely thank both the applicants and respondents for their submissions on this matter. These submissions were, for the most part, professional and concise. While adjudicating this matter has taken far more time than I initially anticipated, I have invested the necessary time and effort to ensure that this ruling is fair and aligns with Canadian law.

[68] The role of the Chief Returning Officer in adjudicating such complaints is often challenging. Serious, hardworking candidates may feel they are being unfairly deprived of their opportunity to win, while respondents may view the ruling as an exoneration. I am under no illusions that this will not be the case with this decision.

[69] I would like to clarify for all readers: this decision is neither. It is an impartial examination of the facts in light of the extremely high standards set by Canadian election law for annulling elections. While the material presented to me is both concerning and inappropriate, it does not meet the threshold required by law.

[70] I echo the findings of the court in *McEwing*:

Had I found that any of the successful electoral candidates or their agents were implicated in any way in the fraudulent activity, I would not have hesitated to exercise my discretion to annul the result even if the reverse magic number had not been shown to have been reached in the riding in question.

[71] I find that the burden of proof for election discipline has not been met under By-law 12, Section 11(a), and the use of the annulment power under By-law 12, Section 15 is unwarranted.

At Toronto, Ontario this 11th day of December, 2024.

THE CHIEF RETURNING OFFICER