

DIE Board Submission

Farah Elgaweesh's appeal of [CRO ruling #5](#)

I. Summary of the Facts

1. The Chief Returning Officer is Jacob Verghese and the Deputy Returning Officer is Sithara Naidoo.
2. Throughout the campaign, Verghese created a culture of resolving violations through informal resolutions often dealt with over the phone and via text message rather than through emails and C.R.O rulings.
3. On March 6th, at 8:30am, Elgaweesh and candidates Lisa Glock, Renson Alva, and Abdul Abbasi had a meeting to discuss issues with affiliation with third parties. In this meeting, a candidate asked Verghese about potential penalties and he proceeded to inform the candidates that the most probable outcome is getting fined. In a subsequent question, it was asked if it is a possibility that these fines might result in disqualification if candidates exceed their budgets, and Verghese clarified that going over the budget due to fines will not result in us getting disqualified, but instead us not getting reimbursed for our expenses.
 - a. The incoming VPX, Abdul Abbasi is willing to attest to this fact.
4. On March 6th, at 11:26 AM, Elgaweesh was notified via whatsapp of an alleged bylaw violation. [Message 1](#)
5. On March 6th, at 5:29 PM, Elgaweesh called to notify Verghese that the stories in question had been removed. During this call, he made a claim regarding a voter's ability to publicly post who they are voting for. He informed Elgaweesh that he would spoil a

voters ballot due to her public disclosure of her vote and Elgaweesh's subsequent resharing of the disclosure on her story.

- a. We would appreciate more clarity from Verghese on these specific claims as he didn't further elaborate on what this meant. In our complaint, we have placed Asha Jama as a witness to this phone call. We understand that this is a he said/she said situation however we would appreciate more clarity from Verghese if he did in fact spoil this voter's ballot and if he equally applied this rule. [Call log 1](#)

6. On March 6th, at 10:37 PM, Verghese sent Elgaweesh a message requesting to speak with her and her campaign manager. [Message 2](#)

7. On March 6th at 10:57 PM, Verghese asked Elgaweesh to take action with regards to another matter about a volunteer's post. [Message 2](#)

8. On March 7th, at 8:03 AM, Elgaweesh asked that Verghese send her the official C.R.O. ruling to her email so that she can look into an appeal of the ruling. [Message 2](#)

9. On March 7th, at 10:07 AM, Elgaweesh was notified of 7 different allegations (some of which were never brought to her attention before) that Verghese had "tried to solve informally". He said that if Elgaweesh "want this to be done formally, the election team will abide by these rules". He also stated that there is "no need for the meeting with the campaign manager" as Verghese "made a ruling based on what was seen." thus canceling a meeting that was initially going to happen. [Email 1](#)

10. On March 7th, at 12:02 PM, Elgaweesh requested an “in-person meeting with Verghese and Sithara Naidoo, the Deputy Returning Officer to clarify this matter.” [Email 2](#)

11. On March 7th, at 2:00 PM, the Elections Office declined Elgaweesh’s request for an in-person meeting with Verghese and Naidoo. [Email 3](#)

12. On March 7th, 2024, at 4:09 PM, Elgaweesh was notified by Verghese of his ruling on two issues (1) posted material without the election office's permission and (2) having an account which wasn't given to the election office for the purpose of campaigning. In the penalty section, he issued the following orders and penalties to Elgaweesh:

- a. ordered the post taken down.
- b. \$50 dollars for unapproved campaign material plus 10 dollars for extra post:
10*6=60. \$110 overall.
- c. \$50 dollars for an unapproved campaign account.

He also informed Elgaweesh of her disqualification from the 2024 University of Alberta Students' Union Elections because the fine from his ruling would result in her exceeding the campaign budget. [Email 4](#)

13. Throughout the campaign period, Verghese’s official account (@uasuelections) was following Elgaweesh’s both private and public accounts. He began following her in February 2024. [Message 3](#)

II. The Issues and Our Argument

We believe that a key issue here is the competence of Verghese in executing his duties as Chief Returning Officer.

As Chief Returning Officer, Verghese has the responsibility to oversee the implementation of Bylaw 310, 320, and 330. In our opinion, Verghese failed to do the following

- a. Communicate in a fair and timely manner with Elgaweesh as a UASU Candidate.
 - Throughout the election, Elgaweesh's campaign was limited by Verghese's failure to respond within the 24 hour timeframe as mentioned in the nomination package. Furthermore, there are tangible discrepancies in response times between candidates.
 - On March 5th at 9:23am, a candidate requested that a social media post be approved by Verghese. He got back to this candidate at 9:26am on the same day. A 3 minute response time. In another instance, on March 5th at 2:15pm, this same candidate sent Verghese an email requesting approval for another material. He got back to the candidate at 6:50pm on the same day.
 1. This candidate doesn't want to be publicly identified and is willing to provide these email logs privately to the DIE Board and is willing to attest to this in camera.
 - Throughout the campaign period, Elgaweesh's social media manager on numerous occasions attempted to get Verghese to approve campaign posts. In one instance, Verghese took between March 2nd and 6th to approve a campaign post. [Email 5](#) [Email 6](#) During this same time period,

Verghese approved an undisclosed candidate's post within a 3 minute response time.

- Verghese also failed to inform Elgaweesh of alleged violations in a timely manner. In February 2024, she allowed him to follow her private social media account. During the candidates meeting, he informed candidates that he will be monitoring the candidates accounts. Verghese had a reasonable responsibility to be monitoring the account and to inform Elgaweesh of these alleged violations. From our understanding, these unapproved stories range from Tuesday, March 5th to Wednesday, March 6th. Elgaweesh's only responsibility was to ensure that Verghese was kept privy to her activities on social media which she fulfilled.
- In a meeting with candidates accused of colluding with a third party, Verghese contradicted the established norm by informing candidates that they will not be disqualified if they go over budget due to fines but rather would not receive a reimbursement.

1. As previously mentioned, the incoming VPX, Abbasi is willing to attest to Verghese's contradiction.

b. Ensure that Elgaweesh has a copy of the complaint.

- Bylaw 320, 16.2 is as follows "The C.R.O. shall provide a copy of the complaint form, with the complainant's student identification number blacked out, to each respondent."
- Elgaweesh nor her campaign ever received a copy of the complaint for these 2 allegations or the other 7 allegations. Verghese according to Bylaw 320 failed to provide this to our campaign.

With these failures noted above, we would like to take the opportunity to address the alleged violations.

1. Campaigning on an unapproved account

- a. As mentioned previously, we believe that Verghese failed to properly communicate the rules and policies in the nomination package with candidates. In the candidate meeting, Verghese informed candidates that they needed to follow @uasuelections on instagram and that the Elections Office will follow them back and monitor. However, in the nomination package it states that candidates need to email Verghese with the account that they intend to use. This contradiction is quite confusing.
- b. Bylaw 320, 13.8 states “the C.R.O. shall be kept privy to elections-related social media and public internet ventures undertaken by Candidates or sides, and reserves the right to penalize Candidates or sides for any violation of this bylaw or related regulations.” Elgaweesh fulfilled this by ensuring that Verghese had access to her accounts.
- c. Upon a read of Bylaw 320, there is no mention that this alleged violation broke any bylaws. There is also no citation of where Verghese found this rule in his ruling.

2. Unapproved content

- a. Elgaweesh should have the right to see the 7 alleged stories based on Bylaw 320, 16.2. The contents of these 7 alleged stories are highly relevant to this matter. Our commentary on these 7 stories are limited due to the fact that we have yet to see this.
- b. If the materials in question are simple reposts of already approved materials from Elgaweesh’s campaign, we would argue that the nomination package addresses

this. According to the nomination package, identical graphic designs do not need to be approved every single time.

- c. If the materials in question are Elgaweesh posting pictures of physical campaign materials without further comment, we would argue that this doesn't provide any advantage to her campaign.
- d. Overall, while we don't know the contents of these stories, we would argue that the \$10 fine per story is excessive. Elgaweesh's public account is followed by a majority of her private account followers. If these followers were to see stories on either her private or public social media, we would argue that there is no tangible advantage gained here. We believe that Verghese has every right to approve what a candidate posts; however this needs to be balanced. In our opinion, candidates should be able to share some information on their private accounts regarding their campaign.

In every step of the way, Elgaweesh's campaign team repeatedly complied with Verghese's requests and made themselves available to meet him at his earliest convenience. She took every reasonable step to follow the bylaws. We believe that the Students' Council needs to refine this section of the bylaw to make it far more clear than it currently stands.

In our perspective, Elgaweesh fulfilled (Bylaw 320, Section 13.8) by allowing Verghese's office to follow her private social media account. As noted in (Bylaw Article III, definitions), campaign materials are anything used as part of campaign activities. This is Elgaweesh's private social media and it was clearly never her intention for it to be used as part of the campaign. This is shown by the creation of a separate account for the purposes of campaigning. Furthermore, there is no explicit mention that the use of private social media accounts to repost or share stories is against any bylaw.

While we believe that Elgaweesh did not contravene any bylaws in this matter, (Bylaw 320, Section 17.1) clearly states that the penalty of violating the bylaw should counterbalance any advantage gained. In our opinion, this raises a key question for DIE Board to deliberate on:

Did Elgaweesh or her campaign get an unfair advantage by resharing posts on her private social media? Elgaweesh, nor her campaign, achieved an unfair advantage by resharing select posts on her private social media.

III. Our Asks of the Board

Based off the arguments that we have raised above, we request the board do the following

- IV. Overturn the Verghese's fine for *"Having an account which wasn't given to the election office for the purpose of campaigning"*
- V. Reduce Verghese's fine of \$10 per unapproved story to \$2 fine in accordance with the nomination package which states unapproved campaign materials will be fined \$2 per material.
- VI. Order the Students' Union to tabulate the election results with Elgaweesh on the ballot and for the Students' Union to provide these results to the DIE Board and to both parties.
- VII. Order that the Verghese overturn all email communications between candidates and his office regarding the approval of materials to the DIE Board for review.
- VIII. Order the Students' Council to revise Bylaw 320 to be more explicit to prevent these type of situations from arising in the future.

In our remedy, the total fine would be \$62 which is within her campaign budget. This would overturn the disqualification. As a result, it is unfair for her to be disqualified due to Verghese's inability to properly exercise his role and responsibilities.

Bylaw References

1. (Bylaw 320, Section 13.8) The C.R.O. shall be kept privy to elections-related social media and public internet ventures undertaken by Candidates or sides, and reserves the right to penalize Candidates or sides for any violation of this bylaw or related regulations.
2. (Bylaw Article III, definitions) "Campaign Materials" shall be any physical or electronic media produced or distributed as part of Campaign activities;
3. (Bylaw 320 Section 16.2) The C.R.O. shall provide a copy of the complaint form, with the complainant's student identification number blacked out, to each respondent.
4. (Bylaw 320, Section 17.1) Where a Candidate, Volunteer, or side has contravened a bylaw, rule, or regulation, regardless of the cause or the intent of the parties involved, and that contravention has provided an unfair advantage to a Candidate or side, the C.R.O. shall assign a penalty that
 - a. fully counter-balances any advantage gained; and
 - b. where the contravention was intentional, penalizes the Candidate, Campaign manager, or side manager who was or whose Volunteer was guilty of the contravention.
5. (Bylaw 320, Section 17.5) The C.R.O. shall investigate and rule upon every contravention of this bylaw or any other bylaw, rule, or regulation related to the election, plebiscites, or referenda.
6. General Nomination Package (page 10) Identical campaign material (i.e. posters with different orientations, identical graphic designs) do not need to be approved every single time. Materials will be approved on a first-come, first-served basis with a maximum 24-hour turn-around time.