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UNIVERSITY OF TORONTO STUDENTS' UNION

ELECTIONS PROCESS AUDIT REPORT

Davis LLP

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TABLE OF CONTENTS

1.	EXECUTIVE SUMMARY	3
2.	INTRODUCTION	5
(a)	Background	5
(b)	Methodology	5
3.	ASSESSMENT OF ELECTION DOCUMENTS	6
4.	ANALYSIS OF CRO REPORTS	6
5.	OBSERVATIONS FROM INTERVIEWS	6
6.	STRUCTURAL RECOMMENDATIONS	6
(a)	Codifying existing practices in the Election Documents	6
(b)	Improving clarity and understanding of the EPC	7
(c)	Providing more robust education and training	7
(d)	Clarifying the role of the Chief Returning Officer	7
(e)	Soliciting, reviewing and implementing feedback to facilitate continuous improvement	7
(f)	Continuing to use the “first-past-the post” electoral system and not adopting online voting	8
7.	SPECIFIC RECOMMENDATIONS	8
(a)	Nominations process	8
(b)	Campaigning	8
(c)	Voting	8
(d)	Results	9
(e)	Appeals	9
8.	CONCLUSION	9

1. EXECUTIVE SUMMARY

This audit report (the “**Report**”) has been prepared by Davis LLP for the Students’ Administrative Council of the University of Toronto (carrying on business as the University of Toronto Students’ Union (hereinafter, “**UTSU**”)) and summarizes the observations and results from an audit of UTSU’s Elections Process (defined below) that was conducted between November 2012 to February 2013.

The purpose of the audit was to conduct a comprehensive analysis of the process for the Spring and Fall UTSU elections (the “**Elections Process**”) to determine the extent to which it complies with the *Election Procedure Code*, revised November 16, 2011 (the “**EPC**”), UTSU By-law VI (Election of Board of Directors) (“**By-law VI**”), last amended April 19, 2012, and the policy on Elections and Referenda Official Staff Hiring and the policy on the Board of Directors (collectively the “**Policy Manual**”), last updated April 4, 2012; and to assess the overall fairness of the Elections Process (the EPC, By-law VI and the Policy Manual collectively known as the “**Election Documents**”). The audit assessed the Election Documents and less formal collections of institutionalized “best practices”, as well as the transparency and fairness, management and administration, and monitoring of the Elections Process. The audit focused on activities in preparation for, during and after the 2010, 2011 and 2012 elections.

Overall, the audit showed that the Elections Process is transparent, fair and sound. The Election Documents are detailed and comprehensive; in most cases, the quantity and quality of various checks, balances and electoral protections set out in the Election Documents exceed those set out in the elections documents of the Peer Group (defined in section 2(c) below). The Elections Process (and the practices of the UTSU and returning officers) are compliant with the Election Documents and, particularly when one also takes into consideration the uncodified institutionalized practices, is robust and comprehensive.

Of course, like any other electoral system, there is room to improve. Overarching structural recommendations relate to codifying institutionalized practices; improving the clarity and accessibility of the EPC; providing more robust training to participants in the Elections Process; incorporating the feedback and recommendations of, *inter alia*, the Chief Returning Officer (the “**CRO**”) into the Elections Process; and reviewing the position and hiring of the CRO. In addition, this Report sets out a number of specific recommendations relating to the nominations process, campaigning, voting, results and appeals that would further improve the fairness of the Elections Process.

2. INTRODUCTION

(a) **Background**

Elections for the UTSU Board of Directors (the “**Board**”) and Executives occur during the Spring term at the University of Toronto (“**U of T**”) St. George and Mississauga campuses between February 1 and March 31 of each year. Elections are also held in the Fall term between September 20 and October 30 for the positions of Directors representing constituencies having an academic program for one year, and for any vacancies in the Board or Executive occurring before August 1 of any year.¹

The EPC sets out detailed procedures relating to the Elections Process, including scope of power of the EPC, candidate eligibility, administration of elections, all-candidates meetings, rules for elections (including those relating to campaigning, campaign expenses and violation of campaign rules), the voting process, election results, appeals process and recounts. By-law VI also contains provisions relating to the elections of directors and executives to the Board. UTSU’s policies also contain provisions related to the hiring of elections officials. In addition, the Elections Process is guided by a number of uncodified but institutionalized practices.

The UTSU Elections and Referenda Committee (the “**Elections Committee**”) is responsible for the administration of all elections to fill Board of Directors positions. The Elections Committee ensures that all elections occur in the manner prescribed by the By-laws and the policies of the UTSU. It comprises three (3) Executive Committee members selected by the Executive Committee, one (1) Director from Division I, one (1) Director from Division II and one (1) additional Director from the Board.²

(b) **Methodology**

The audit involved the following tasks:

- (i) reviewing in detail the EPC, By-law VI and the Policy Manual and uncodified institutionalized practices, including, in particular, those contained in the CRO Reports (defined below);
- (ii) comparing and analyzing the Elections Process against the elections processes at eight student unions at other Ontario universities³ (“**Students’ Unions**”) and three students’ unions at colleges at the St. George campus of U of T⁴ (“**College Students’ Unions**”) (collectively with the Students’ Unions, the “**Peer Group**”) on the basis of 25 separate categories.

¹ By-law VI, Section 2a, Schedule of Elections.

² By-law VI, Section 1a and b, Elections and Referenda Committee.

³ The eight (8) other Ontario university student unions which were analyzed were: York Federation of Students; University of Toronto Mississauga Students’ Union; University of Toronto Scarborough Campus Students’ Union; Ryerson Students’ Union; Carleton University Students’ Union; University of Windsor Students’ Alliance; Alma Mater Society (Queen’s University); and University Students’ Council of the University of Western Ontario.

⁴ The three (3) U of T colleges that were analyzed were: Woodsworth College; St. Michael’s College and University College.

- (iii) reviewing and analyzing reports of the CRO for the years 2010, 2011 and 2012 (the “**Election Years**”); and
- (iv) overall, considering “best practices” of the Peer Group and how they compare to those that UTSU has adopted.

To supplement the results of the audit, we also interviewed eight (8) former elections officials involved in the Elections Process between 2003 and 2012.

3. ASSESSMENT OF ELECTION DOCUMENTS

The Election Documents were compared to similar documents in place at the Student’s Unions (including SCSU and the University of Toronto Mississauga Students’ Union) and the College Students’ Unions. The various elections “codes” were analyzed on the basis of 25 separate categories, which can be subdivided into six broad groups: (a) structural, (b) nominations, (c) campaigning, (d) voting, (e) results and (f) appeals. Overall, the Election Documents are as detailed and comprehensive as any in the Peer Group and in most cases (particularly when compared to the College Students’ Unions) much more so. Other notable characteristics of each elections process were also taken under consideration for possible recommendation.

4. ANALYSIS OF CRO REPORTS

The CRO Reports provide a comprehensive overview of the Elections Process for each Election Year, and include information related to (for example) the hiring of deputy returning offices (“**DROs**”) and poll clerks, handling of ballot boxes, penalties and demerits assessed to candidates, locations of polls, voter turnout statistics and recommendations. In addition to the foregoing, the CRO reports also contain UTSU’s uncodified, institutionalized practices in respect of elections.

5. OBSERVATIONS FROM INTERVIEWS

As mentioned above, eight interviews were arranged by the UTSU with individuals who have been involved in various ways with UTSU elections in the past. Numerous common themes arose. What was clear is that the interviewees (as a sample of the participants in the Elections Process) are knowledgeable about, generally confident in and constructively critical of the Elections Process and the Election Documents. Many of the constructive criticisms obtained from interviews, or found in the CRO Reports, have been endorsed and have included in the Recommendations sections of this Report.

6. STRUCTURAL RECOMMENDATIONS

Although the Elections Process is generally sound, there are some areas in which it can be improved. This section discusses recommendations that are “structural” in nature and relate to the overarching framework within which the Elections Process occurs.

(a) Codifying existing practices in the Election Documents

- (i) key good practices should be codified in the EPC or in a “best practices” manual to ensure consistency in future elections.
- (ii) the Elections Committee should review good practices from previous elections and make recommendations to the Board regarding the codification of instrumental practices.
- (iii) past rulings should be memorialized for future reference.

(b) Improving clarity and understanding of the EPC

- (i) the language of the EPC should be drafted in clear language that is accessible to the average student
- (ii) consideration should be given to whether provision of a “fact sheet”, as part of the “best practices manual”, drafted in accessible language and which cite sections of the EPC would assist students interpret and understand the EPC.

(c) Providing more robust education and training

- (i) greater efforts to educate the membership as a whole with regard to the general rules or the EPC and campaigning could be made
- (ii) consideration should be given to providing more robust education and training to Elections Process participants or tweaking current practices to compensate for deficiencies (for e.g., pairing experienced poll clerks with inexperienced poll clerks)
- (iii) consideration should also be given to codifying training procedures for those involved in the Elections Process

(d) Clarifying the role of the Chief Returning Officer

- (i) the EPC should be reviewed in its entirety to ensure that it provides sufficient details to avoid or limit CRO discretionary decision-making relating to key elements in the Elections Process
- (ii) key elements of the Elections Process should be set out in the EPC or incorporated into a “best practices” manual

(e) Soliciting, reviewing and implementing feedback to facilitate continuous improvement

- (i) further empower the Elections Committee to: solicit feedback from all stakeholders as to the performance of the Elections Process in each year and to study the recommendations of the CRO and ensure they are fully considered

- (f) **Continuing to use the “first-past-the post” electoral system and not adopting online voting**

7. SPECIFIC RECOMMENDATIONS

In addition to the overarching, structural recommendations described in the previous section, there are a number of specific recommendations that, if adopted, would improve the Elections Process at UTSU:

(a) Nominations process

- (i) consider holding multiple all-candidates meetings to ensure as many nominees can attend in person as possible;
- (ii) the EPC and By-law VI should clearly mandate what is required in order to advertise the opening of nominations;
- (iii) upon receipt, and to the extent possible, prospective candidates should be notified if their applications are deficient or incomplete to permit re-submission;

(b) Campaigning

- (i) have the Elections and Referenda Committee investigate the pros and cons of “new media” being used in the Elections Process with a view towards formulating and codifying policies in respect of the use of “new media” (e.g., clarify the definition of “campaign material” to capture any media and ensure that the CRO has the ability to access and monitor the use of “new media”);
- (ii) establish clear rules relating to conduct and behaviour of candidates during campaigns, including responsibility for those campaigning on behalf of candidates (e.g., emphasize the penalties for violating the Election Documents during campaigns);

(c) Voting

- (i) codify a mechanism related to the setting up of polling stations (e.g., minimizing line-ups at polling stations);
- (ii) codify training procedures of polling clerks;
- (iii) obtain approval of the layout of the ballot and mandate that names will be listed alphabetically;
- (iv) codify the process whereby ballots are counted (e.g., codify process of numbering and/or watermarking ballots);

(d) Results

- (i) announce results of election count within 24 - 48 hours;
- (ii) codify the level of security that accompanies the ballot boxes;

(e) Appeals

- (i) streamline the appeal process: ensure there is communication between the Elections Committee and the Elections and Referenda Appeals Committee;
- (ii) impose a requirement for an automatic recount when the margin of victory is de minimis;
- (iii) consistently enforce penalties in relation to candidates who make appeals outside of the Elections Process (e.g., to the press or the administration of the University of Toronto) or include a specific prohibition in the EPC rather than relying on general terms of EPC.

8. CONCLUSION

The procedures set out in the Election Documents are detailed and robust. Comparisons of the Election Documents to similar election policies at the Students' Unions and College Students Unions show that the Election Documents are similar, or superior, in nature and level of detail as these other policies and/or procedures.

The Elections Process as a whole and practices of UTSU and returning officers are compliant with the Election Documents and, particularly when one also takes into consideration the uncodified institutionalized practices, is robust and comprehensive.

That said, it is clear that there remains room for improvement and that the UTSU would be well-served to consider implementing the recommendations made in this Report.

We would be pleased to assist with any next steps and are available to discuss any aspect of the Report.

END OF REPORT.