



Date: 2026-03-11

Reference: 2026 ACUOSU 8

UNIVERSITY OF OTTAWA STUDENT UNION'S APPEALS COMMITTEE

BETWEEN

ZACH LEBEL

The Appellant

AND

CHIEF ELECTORAL OFFICER

The Respondent

Indexed as

Lebel v Chief Electoral Officer

In a matter concerning an appeal of a decision of the Elections Appeal Board decision under the University of Ottawa Student Union's Constitution

Before: a panel of the UOSU Appeals Committee composed of:

Philippe Giguère, Chair of Appeals Committee

Élodie Proulx, Faculty of Law Member

Charles-Édouard Corgier, Substitute Law Faculty Member

For the Appellant: Zach Lebel

For the Respondent: Ben Cameron, Chief Electoral Officer

REASONS FOR DECISION

I. Decision

1. This matter concerns an appeal arising from a decision of the Elections Appeals Board (“Elections Appeals Board”) regarding the candidacy of Ms. Carly Huber in the election for the position of Operations Commissioner.
2. Following the receipt of bilingualism testing results from the Official Languages and Bilingualism Institute (“OLBI”), the Chief Electoral Officer (“CEO”) determined that Ms. Huber had not met the minimum bilingualism requirement established by the Constitution and disqualified her from the election.
3. Ms. Huber appealed that decision to the Elections Appeals Board. The Elections Appeals Board allowed the appeal and concluded that, due to alleged technical issues encountered during the administration of the test, the bilingualism test could not reasonably be interpreted to have been taken.
4. On that basis, the Elections Appeals Board ruled that the Elections Office had not received the bilingualism testing results and ordered that Ms. Huber be provisionally included on the ballot pending the receipt of further testing results.
5. As a result of that ruling, Ms. Huber’s name appeared on the ballot when voting opened.
6. However, Ms. Huber never completed the additional bilingualism testing contemplated by the Elections Appeals Board’s order. Furthermore, she withdrew from the election on the first day of voting.
7. According to the CEO, by that stage the voting process had already commenced, and it was no longer practically possible to amend or recall the ballot that had been distributed to electors so that only Mr. Lebel Name could appear on the ballot and a confidence vote be asked.
8. Mr. Zachary Lebel, who was also a candidate in the election for the position of Operations Commissioner, subsequently appealed the Elections Appeals Board decision to the Appeals Committee on the basis that decision posed a penalty or other disadvantage, directly or indirectly to his candidacy.
9. Sections 10.4.1 and 10.4.2 of the *Elections Code* (“Code”) permit appeals by members upon whom a decision of the Appeal’s Board imposes a penalty or other disadvantage, directly or indirectly.

10. The Appeals Committee agreed that Mr. Lebel has standing to bring this appeal. The Elections Appeals Board's decision directly affected the composition of the ballot in the election for Operations Commissioner, a race in which Mr. Lebel was a candidate.
11. The decision therefore imposed a disadvantage within the meaning of the *Code* and is properly subject to appeal before this Committee.
12. In his submissions, Mr. Lebel argues that the Elections Appeals Board erred in concluding that the CEO had not received the bilingualism testing results and that the decision ultimately resulted in an incorrect ballot structure for the election.
13. The CEO also appeared as a party in this appeal and submitted that the appeal should be allowed. The CEO argued that the Elections Appeals Board erred in concluding that the Elections Office had not received the bilingualism testing results, as the Elections Office had in fact received confirmation from the Official Languages and Bilingualism Institute that the test had been completed and that the candidate had not met the required standard.
14. The candidate whose appeal before the Elections Appeals Board gave rise to the decision declined to participate in this appeal.
15. After reviewing the record and the submissions of the parties, the Appeals Committee concludes that the Elections Appeals Board's decision cannot be maintained.
16. The record demonstrates that the candidate completed the OLBI bilingualism test and that the Elections Office received the results of that test.
17. The CEO issued a disqualification decision based on those results, which indicated that the candidate had not met the required bilingualism standard.
18. Once those results were received, the CEO was required to apply the constitutional and electoral framework governing candidate eligibility.
19. The Elections Appeals Board nonetheless concluded that the test could not reasonably be interpreted to have been taken due to alleged technical issues and therefore ruled that the Elections Office had not received the bilingualism testing results.
20. This conclusion cannot be sustained.
21. The record demonstrates that the test was taken and that the results were received. Allegations concerning technical difficulties during the administration of the test do not negate those facts.

22. Even if concerns existed regarding the fairness or administration of the test, those concerns do not alter the fact that the test occurred and that the Elections Office received the resulting evaluation.
23. The Elections Appeals Board therefore erred in treating a completed test and received results as though they did not exist.
24. The Appeals Committee also wishes to clarify the evidentiary context in which the Elections Appeals Board reached its decision. It appears that the Elections Appeals Board was principally concerned with allegations raised by the candidate regarding the fairness of the administration of the OLBI test and relied largely on that testimony.
25. The candidate did not participate in the present appeal and the Committee therefore did not hear her version of facts directly.
26. By contrast, the CEO made his decision based on official confirmation from OLBI, a recognized and accredited institution of the University of Ottawa responsible for administering the bilingualism assessment.
27. The CEO also provided the Appeals Committee with written confirmation from OLBI indicating that for Carly Huber and Evan Macaulay all responses for the writing and speaking components were properly recorded with high quality and evaluated through two rounds of blind evaluation. The Institute further confirmed that no technical issues were reported during the session and that no incident reports were filed at the time of testing.
28. The Institute confirmed that another candidate experienced a technical issue affecting part of the speaking test and described how that issue was addressed. However, OLBI stated that no verified technical issues prevented completion of the assessment for the Operations Commissioner candidate relevant to this appeal.
29. The Institute also confirmed that candidates must acknowledge testing terms and conditions prior to beginning the assessment and that retesting is generally permitted only after a three-month waiting period.
30. The Appeals Committee refers to this information not for the purpose of reassessing language proficiency, which falls outside its jurisdiction, but to clarify the factual basis upon which the Elections Appeals Board concluded that the test results could not reasonably be interpreted to have been received.
31. In light of the information before the Committee, the factual premise underlying the Elections Appeals Board's decision cannot be sustained. The evidence demonstrates that

the bilingualism test was in fact completed and that the Elections Office received the results of that test from the Official Languages and Bilingualism Institute.

32. Furthermore, the Appeals Committee finds that the remedy ordered by the Elections Appeal Board, which is that the candidate be permitted to undergo further testing, was impossible to fulfill within the context of the current election.
33. The record indicates that all candidates are required to sign a Candidate Acknowledgement of Requirements and Regulations prior to testing. This agreement stipulates that a candidate will be required to wait three months before re-taking the test. By directing the candidate to undergo immediate retesting, the Elections Appeal Board issued an order that directly contradicted the binding contractual obligations the candidate had entered into with the Official Languages and Bilingualism Institute (OLBI), an independent institution over which the Union has no authority.
34. The Elections Appeals Board's conclusion that the Elections Office had not received the bilingualism testing results therefore rests on an incorrect understanding of the factual record and the application of the *Code*. As a result, the Elections Appeals Board's decision cannot stand and must be set aside. The appeal must therefore be allowed.
35. The parties raised several additional arguments concerning the administration of the bilingualism test, the conduct of the Elections Appeals Board, and the proper interpretation of various provisions of the *Code*. The Appeals Committee has carefully considered these submissions. However, in light of its conclusion on the central issue identified above, it is not necessary to determine those additional arguments to dispose of this appeal.
36. The Appeals Committee must now determine the appropriate remedy to restore the parties, as far as reasonably possible, to the position they would have been in had the error not occurred.
37. The Appeals Committee notes that the Elections Appeals Board's decision had significant consequences for the conduct of the election and for Mr. Lebel's candidacy. Because the Elections Appeals Board ordered that Ms. Huber be provisionally included on the ballot, her name appeared on the ballot when voting opened. Had that order not been made, the race for the position of Operations Commissioner would have involved only a single candidate and the ballot would have included only Mr. Lebel's name. In such circumstances, the *Constitution* and *Code* require that the election be conducted as a confidence vote.
38. Section 9.6.1 of the *Constitution* provides that where the number of candidates is lesser than or equal to the number of positions available, a confidence voting system must be used:

9.6.1 A preferential voting system will be used in all elections with more than two (2) candidates when the number of candidates exceeds the number of positioned available. If the number of candidates is lesser than or equal to the number of positions available, a confidence voting system will be used for each candidate.

39. Section 8.3.1 i) of the *Code* similarly requires that candidates appear with “yes” and “no” options where the number of candidates does not exceed the number of positions:

8.3.1 For each contest on the ballot:

i. If the number of Candidates is equal to or less than the number of positions to be filled, all Candidates must enlist with a “yes” and “no” option for each, and all candidates receiving a majority of “yes” votes are declared to be elected.

40. Because Ms. Huber candidacy was incorrectly included on the ballot, the election was instead conducted as a contested race between two candidates.
41. As a result, electors were incorrectly presented with a choice between two candidates one of whom was ineligible for office rather than being asked the proper question of whether they had confidence in the sole eligible candidate for the position of Operations Commissioner, Mr. Lebel.
42. Neither the *Constitution* nor the *Code* specifies or provides guidance on how to interpret votes cast for a candidate who has withdrawn or been disqualified under a preferential voting system. This leads to the following conclusion:
43. The ballot therefore did not comply with the applicable UOSU constitutional and electoral framework governing the election.
44. The Appeals Committee is also guided by section 1.3 of the *Code*, which provides that the *Code* must be interpreted consistently with the *Constitution* and in a manner which promotes the integrity and fairness of the electoral process.
45. The Appeals Committee also notes that the results of the vote cannot simply be interpreted as if they constituted a confidence vote in Mr. Lebel. The *Constitution* and the *Code* expressly provide that a confidence voting system must be used where the number of candidates is equal to or less than the number of available positions, and that system requires that electors be presented with a ballot asking whether they have confidence in the candidate through a “yes” or “no” option.
46. Electors were not presented with that question in this election. Instead, they were asked to choose between two candidates under a preferential system, one of whom was ultimately ineligible. The results of that vote therefore cannot be retroactively treated as if they reflected a constitutionally valid confidence vote.

47. The Appeals Committee must therefore consider the consequences of these errors which originally stems from the Appeal Board's decision and to try and restore the parties, as far as reasonably possible, to the position they would have been in had these error not occurred.
48. Maintaining the reported results of the vote for the position of Operations Commissioner despite the incorrect and unconstitutional ballot structure would not promote the integrity and fairness of the electoral process, nor would it be consistent with the *Constitution*.
49. The Appeals Committee recognizes that the outcome of this matter places Mr. Lebel in a difficult position.
50. Mr. Lebel indicated in his submissions that he made significant personal commitments in order to pursue his candidacy, including resigning from employment with the expectation of contesting the position.
51. While candidates assume certain risks when seeking elected office, the circumstances of this matter place Mr. Lebel in a particularly difficult position. Had the ballot been properly structured, it would have included only Mr. Lebel's name and would have presented electors with a confidence vote.
52. In such circumstances the electorate could have expressed confidence in Mr. Lebel and he may therefore have been elected to the position.
53. The Appeals Committee also observes that even if the Elections Appeals Board decision had ultimately been upheld, difficulties would still have arisen with respect to the validity of the election results for the position of Operations Commissioner, as the candidate never retook the test and later withdrew.
54. The Appeals Committee recognizes that this matter arises from a very unfortunate situation resulting from a series of events occurring within tight electoral timelines, including the provisional inclusion of a candidate on the ballot, the subsequent withdrawal of that candidate, and the practical impossibility of modifying ballots once voting had begun.
55. The *Constitution* and *Code* provide no guidance or wording on how ballots are to be amended once voting has commenced.
56. The Appeals Committee further notes that the Elections Appeals Board acted in good faith while responding to allegations concerning the fairness of the testing process under significant temporal constraints.

57. The situation therefore appears largely to be the by-product of a series of unfortunate events and structural features of the current electoral framework.
58. The Appeals Committee considers that this matter reveals certain gaps in the electoral governance framework and suggests that resolving eligibility requirements such as bilingualism testing earlier in the nomination process may help prevent similar situations in future elections.
59. At the same time, neither the *Constitution* nor the *Code* provides guidance on how votes should be interpreted where a candidate withdraws or is disqualified under a preferential voting system after voting has occurred. This gap leaves open the question of the appropriate democratic remedy. For example, given the void in the unique circumstances, it is unclear whether the remaining candidate should be declared elected by acclamation, or whether it would be more appropriate to conduct a new voting period for the Operations Commissioner position before the winter General Assembly which electors are presented with a new ballot with the constitutionally required confidence vote of Mr. Lebel's candidacy, or if the Board should consider an interim appointment of Mr. Lebel until a fall by-election can confirm the confidence of the membership in his candidacy.
60. These possibilities are noted only for completeness. The Appeals Committee does not prescribe the mechanism by which the matter should be resolved. The determination of the appropriate democratic or administrative process is best left to the competent electoral and governing authorities of the University of Ottawa Student Union.

II. Order

61. The appeal of Zachary Lebel is allowed.
62. The decision of the Elections Appeals Board is overturned.
63. The ballot used for the election of the Operations Commissioner is deemed to not comply with section 9.6.1 of the *Constitution* and section 8.3.1 i) of the *Code* and should have included only Mr. Lebel's name with a confidence vote.
64. As this did not occur, the reported results of the vote for the position of Operations Commissioner are deemed invalid and unconstitutional.

March 11, 2025

Philippe Giguère, Chair of Appeals Committee
Élodie Proulx, Faculty of Law Member
Charles-Édouard Corgier, Substitute Law Faculty Member