

Cut the Crap v. Chief Electoral Officer

CSU General Election 2019

Appeal: Tuesday, April 9, 2019
Hearing: Thursday, April 18, 2019
Decision: Monday, April 29, 2019

Complainant: Cut the Crap slate

- Christopher Kalafatidis (cjkadis@aol.com)
- Patrick Quinn (patdanquinn@gmail.com)
- Isaiah Joyner (zaya8ihjt@gmail.com)
- Danielle Vandolder-Beaudin (daniellesbv@gmail.com)
- Marin Algattus (marin_algattus@hotmail.com)
- Celeste-Melize Ferrus (celestemelizef@gmail.com)
- Eduardo Malorni (emalorni@yahoo.ca)
- Selena Mezher (senamezher@gmail.com)

Respondent: Chief Electoral Officer

- Florian Prual

Interested Parties:

- Vincent-Carl Leriche (leriche@runbox.com)
- Samuel Miriello (smir999@gmail.com)
- John Hutton

Judicial Board Members' Decision

- **Dissent Opinion**
 - Cinthia Gonzalez
 - Shai Navi
- **Majority Decision**
 - Cassandra D'Errico
 - Kiana Soria-Dadson
 - Maahsin Zahid
- **Non-voting Chair**
 - Alex Barcelona

STATEMENT OF FACTS

The polling period began on April 2nd at 9:00 a.m. and ended on April 4th at 9:00 p.m. On April 4 at 10:45 p.m., the Chief Electoral Officer, Florian Prual sent an email to Danielle Vandolder-Beaudin regarding the screenshots he received from an anonymous student. The screenshots entail that Danielle contacted a student and provided the slate's information.

Please refer to Appendix 1.O, the CEO posted the election results where all the members of the Cut the Crap won the majority of votes.

On April 5 at 2:17 p.m., the CEO posted on the CSU election page that the Cut the Crap slate has been disqualified.

The CEO's reasons are 328 (a) 4 and 5,

328. Online Voting – Campaign Regulations (a) Electronic balloting provides opportunities for abuse, intentioned or not, by voters, candidates and campaign workers. Abuse of electronic balloting includes, but is not limited to, the following types of action:

- 4. pressuring individuals to vote in the presence of a candidate, campaign worker, or any other individual*
- 5. bringing the means of electronic voting to a voter*

379. A candidate who is found by the Chief Electoral Officer to have violated these regulations or acted in bad faith may be subject to the following sanctions:

- (a) Written warning or reprimand.*
- (b) A fine which cannot exceed the maximum amount of election expenses that may be incurred by the candidate in accordance with these regulations. The fine imposed shall not be considered an election expense, and must be paid in accordance with article 345.*
- (c) Disqualification from the election, which shall be the most severe sanction, for gross violation of the regulations in this book.*

The CEO's sanction was Standing Regulations Article 387 where Danielle could not run in the next twelve (12) months and standing regulations 379 (c) disqualification.

387. In the event that any member has severely broken procedures and provisions as outlined in the standing regulations, the CEO may render a member ineligible to run for office in any CSU election or by- election which takes place within the following 12 months.

On Tuesday, April 9, 2019, Cut the Crap appealed the disqualification of the CEO where the slate argued that the decision of the CEO was manifestly unreasonable.

Dissenting Opinion

By a vote of two of the Judicial Board members, we, Cinthia Gonzalez and Shai Navi believe that the entire slate of Cut the Crap should be reinstated into their positions. The decision is made based on the following articles from the Standing Regulations: article 328 (a) (4), article 328 (a) (5), article 379, article 380, article 382, article 384, and article 385.

Pressuring and Bringing the Means to a Voter

Under Article 328 (a) (4) “*Pressure*” is defined, by the dissent, as a consistent attempt to coerce and intimidate an individual into doing something. In relation to the evidence against Danielle, we found that there was no significant proof of consistent coercion. The dissent believes the actions by Danielle still provided students with the opportunity to vote without being influenced by her messages.

Under Article 328 (a) (5) the dissent believes that “*bringing the means*” is the process of providing the physical system or hardware to the voter. With regards to the evidence against Danielle, the dissent does not believe that the messages indicated any form of violation to this regulation.

Gross Violation, Serious Breach, and Reasoned Judgement

Article 380 of the CSU states “*any sanctioned issued by the CEO must be issued in writing and must include a motivated, reasoned judgement*”. The dissent has decided the CEO did not provide all or enough evidence when issuing his statement in writing. Thus, the dissent believes the CEO’s decision to disqualify Danielle was not based on a motivated and reasoned judgement. The dissent describes a “*motivated and reasoned judgement*” as being a decision influenced by sufficient evidence. It is important to note that for the dissent, sufficient evidence is labelled as a gross violation and/or a serious breach.

Under Article 379, a gross violation is defined in two parts. The definition for a serious breach is indicated within Article 382. For one, there must be a “*serious breach of electoral regulations.*” Considering there is no definition of a *serious breach*, the dissent interprets the term as an action that would affect the outcome of the election. In this context, no member, including Danielle, of CTC had violated the terms. Secondly, a gross violation is valid so long as the “*disqualified party was responsible for the breach*”. The dissent finds Danielle to be affected by this definition. However, Danielle’s actions are not considered a *serious breach* since it did not affect the outcome of the election. For these reasons, the dissent disagrees with Florian’s decision to disqualify CTC slate, Danielle included.

CEO’s disqualification

Article 385 of the Standing Regulations states that the CEO has 7 (business) days post polling period to reach a decision on the disqualification of a slate. In addition, under Article 384 of the Standing Regulations, the CEO has 24 hours to declare the disqualification, along with all evidence used, after their primary issuance. The dissent believes that the CEO did not use the time that was available to him and thus his final decision was inappropriate for the actions of Danielle. The dissent believes this decision was made with insufficient evidence (as defined previously) and so, the decision was not suitable. In addition, he failed to complete his

responsibility of contacting the slate of Cut the Crap about his final decision and proceeded to only issue a public declaration with limited evidence.

Majority Decision

By a decision of three votes to two, we the majority, Kiana Soria-Dadson, Cassandra D’Errico, and Maahsin Zahid, find that the disqualification of Danielle Vandolder-Beaudin by Florian Prual should be upheld. However, the disqualification of the rest of the Cut the Crap slate, (Christopher Kalafatidis, Patrick Quinn, Isaiah Joyner, Marin Algattus, Celeste-Melize Ferrus, Eduardo Malorni, Selena Mezher) should be overturned, reinstating the remaining seven members to their elected positions. This decision is based upon the conclusive evidence seen in Appendix 1, Appendix 2, and Appendix 4 displaying Danielle’s violation of Standing Regulations, as well as her awareness and intentions in violating said regulations. Due to the fact that the only evidence provided by Florian at the time of the disqualification was against Danielle, we, therefore, find the disqualification of the remaining seven members unjustified based on a lack of evidence toward them at the time of the disqualification.

Violations of Standing Regulations:

The following displays the Articles of the Standing Regulations that we believe were breached by Danielle:

328. Online Voting – Campaign Regulations

(a) Electronic balloting provides opportunities for abuse, intentioned or not, by voters, candidates and campaign workers. Abuse of electronic balloting includes, but is not limited to, the following types of action:

[...]

4) pressuring individuals to vote in the presence of a candidate, campaign worker, or any other individual

5) -bringing the means of electronic voting to a voter

(b) In determining whether abuse of electronic balloting has occurred, the CEO must consider potential abuses on a case-by-case basis. Abuse is not limited to the types of actions outlined above but must be interpreted in the spirit of this section and in the spirit of upholding the principle of an anonymous, secret-ballot vote. The CEO shall exercise the right to determine whether abuse of electronic voting has taken place and shall have the discretion of imposing or recommending any and all punitive actions as necessary, including disqualification from the election or by-election.

This section indicates that influencing voters during the voting period should be considered an abuse of the online voting system, and **the term pressure is used in conjunction with the idea of influencing a vote; the purpose of this section is to indicate that this influence violates the spirit of upholding the principle of an anonymous, secret-ballot vote.** When online voting was implemented, standing regulations articles 327 and 328 were altered in order to maintain that principle.

327. *Online Voting - General Procedures :*

(b) The purpose of providing electronic balloting is to increase voter participation by making voting more convenient while ensuring that the process remains anonymous, democratic, and free. Any one member's vote belongs to that member alone –as such, online voting should not be done in a group setting or in the presence of persons who might influence the direction of a member's vote.

Although the notion of “presence,” was not necessarily physical, Danielle was present when engaging with the elector by providing students information about Cut the Crap and giving them instructions on who to vote for violates this regulation during a period wherein they are capable of voting. That this rule was broken also demonstrates intent to break the Standing Regulations to promote the Cut the Crap slate. Two members of this slate participated in writing the revised rules for online voting. The testimony of John Hutton, another member of the CSU Elections and Participation Committee, stated in the hearing that online messaging was to be prevented because it was like “[...] someone whispering in your ear while in the polling station.” He also asserted that the rules were written with the understanding that any electronic device should be considered a polling station. Hutton said that discussion of the rules was explicit in their understanding that private messaging should be considered as being present during the voting period. Furthermore, he made it clear that the CEO had the discretion to deal with a contravention of the rules that they could not foresee at the time of writing. Hutton said that they wanted to ensure that if there was an issue the CEO would be empowered to act on it, using their discretion to interpret whether online voting had been abused on a case-by-case basis.

315: Campaign material may be distributed, posted, published, broadcast, or otherwise disseminated only during the campaigning period. For greater clarity websites and videos can remain online but no new material can be added nor can previous material be reposted after the end of the campaigning period.

In conjunction with the definition of “campaign material” provided by the Standing Regulations, (*any printed matter, paid advertisement in any media, or any other object used to promote or oppose, directly or indirectly, the election of a candidate, or a particular option in a referendum, as the case may be;*), campaign material can be recognized as any other object used to promote, directly or indirectly, the election of a candidate. Therefore, there is strong evidence that Danielle contacted students privately and through electronic means with the intent to influence their vote during the online voting period. The screenshots used in the declaration show that Danielle, as a candidate, attempted to influence a student to vote for herself and/or her slate at a moment when they could cast a vote. Article 315 states that no advertising of campaigns is to be done once the campaign period is done. However, Danielle was still advertising her slate during the polling period by messaging students over facebook. Upon getting an email from Florian, Danielle admitted that she knew she was wrong for what she did and admitted that she felt bad for making the mistake. Her response to Florian illustrates her understanding of the standing regulations beforehand. Her intent behind promoting both her and her slate online shows that she had the intent of influencing students to vote for Cut the Crap.

Intent and Lack of Integrity

In addition to these violations of the Standing Regulations, we believe that Danielle displayed a lack of integrity through the *intent* of her messaging. In her email to Florian following his reception of the screenshots, (please refer to Appendix 2) Danielle explicitly acknowledges her wrongdoing. She notes that it was a mistake and that she “feel[s] really bad about doing this”. This admission displays that even Danielle herself was aware of her mistake. By recognizing this mistake, it is understood that Danielle interpreted her act of messaging potential voters in the manner that she did as a form of misconduct. If Danielle indeed realized that this was wrong “after it was sent”, then she could have contacted the student or the CEO to amend this mistake. By refraining from correcting this mistake, or notifying anyone of it, we believe that Danielle had the intent of letting this mistake follow through to benefit herself and her slate. Also, Danielle’s experience as a former Councillor for the CSU and member of the Sustainability Committee would have exposed her to the Standing Regulations.

Even if this particular student did not vote for Danielle or Cut the Crap, the mere act of recognizing wrongdoing during the polling period and not fixing or notifying anyone of it, displays a lack of integrity and honesty.

Furthermore, Cut the Crap released a Facebook post on April 1st detailing their limitations during the polling period. (Appendix 4). This post displays that the members of the Cut the Crap slate were aware that they are unable to respond to potential voters once campaigning period has come to an end. In conjunction with Danielle’s admission of wrongdoing in her email to Florian, as well as the slate’s knowledge of contacting potential voters during polling period as a violation, the majority believes that Danielle has displayed a clear violation of election procedures mentioned above with the intention of doing so without being caught.

In essence, the intentions and lack of integrity displayed by Danielle give rise to the sanctions detailed in Article 379 of the standing regulations: “*A candidate who is found by the Chief Electoral Officer to have violated these regulations or acted in bad faith may be subject to the following sanctions*”. We consider Danielle’s actions and intentions to be in the spirit of “bad faith”, upholding Florian’s interpretation of this term when he disqualified her.

Appropriateness of Disqualification as a Sanction in this Case

In accordance with Article 379 of the Standing Regulations, the possible sanctions that a CEO could place on election candidates range from a written warning, a \$50 fine, and disqualification. We, the majority believe that Florian’s disqualification of Danielle was the justified and appropriated sanction given the evidence provided in Appendix 1, as well as the encounter with Danielle via email in Appendix 2. Considering the rules regarding ballot boxes were re-written to address the spirit of online voting, and included considerable discretion for the CEO to address problems as they occurred, we believe that the evidence provided to Florian meets the threshold required by the following articles as means to disqualify Danielle:

379 c): *Disqualification from the election, which shall be the most severe sanction, for gross violation of the regulations in this book,*

382: *A disqualification sanction by the Chief Electoral Officer and/or their agents must clearly demonstrate evidence that both a serious breach of electoral regulations has taken place and the disqualified party was responsible for the breach. Neither circumstantial evidence nor imputed interest shall be sufficient to justify disqualification.*

Moreover, The actions of the CEO for his disqualification of Danielle **alone** were within the guidelines of Article 333 a), d), and e):

(a) The Chief Electoral Officer shall establish such procedures as he or she deems necessary to ensure that every elector exercise his or her right to vote privately and individually;

(b) The secrecy of the vote is maintained;

(e) No campaign materials shall be within view of a polling station from the beginning until the end of the polling period. Any campaign material within view will be removed by the election officers

Florian's interpretation of Danielle's actions fits the article 382 definition of "a serious breach of electoral regulations" and that the "disqualified party was responsible for the breach." This evidence was direct and conclusive, and demonstrates her intent throughout the election. The intent to secure votes for her team is evident in her wording, such as "Haha well I am running for a team called cut the crap/You down the vote for us?" (Appendix 1), as well as her intent to consciously violate rules of the election while being aware of said rules.

After a thorough and holistic study of the Standing Regulations and By-Laws, and consultation with our legal advisor, the Majority has adopted the following definitions of key terms used in this document:

Pressure: From the [Oxford Dictionary \(Online\)](#):

2. "The use of persuasion or intimidation to make someone do something"

2.1 The influence or effect of someone or something.

2.2 A sense of stressful urgency caused by having too many demands on one's time or resources.

The Majority takes into account the wording and the spirit of how the word "pressure" was used in the Standing Regulations to interpret it as including influence or persuasion. The intent of the wording indicates that it refers to any attempt to influence someone's decision during the polling period.

Presence: From the [Oxford Dictionary \(Online\)](#):

The state or fact of existing, occurring or being present.

1. count noun A person or thing that exists or is present in a place but is not seen

1.2 in singular A group of people, especially soldiers or police, stationed in a particular place.
'the US would maintain a presence in the Indian Ocean region'

1.3 The impressive manner or appearance of a person.

'Richard was not a big man but his presence was overwhelming'

John Hutton's testimony supports that the understanding of presence as including virtual engagement was the one adopted for the rules related to online voting.

Serious breach of “electoral regulations” AND “Standing Regulations” AND “Gross violation”: The Majority interprets that such a contravention can and should be defined as how many, or how severely, the standing regulations are broken., and to what degree they knowingly intended to break the rules. In this situation, it is serious and gross because it violates the spirit of the standing regulations as regards the privacy, anonymity, and freedom from influence during the polling period in order to maintain the integrity of the election process.

We emphatically refute the idea that it should be defined according to whether or not it can be determined to have affected the outcome of the election. The Judicial Board has no means of measuring what proportion of the votes were altered due to such violations; to adhere to this definition would be to hold the Board to a standard of proof that can never be met. It would render the rules using this wording meaningless.

Conclusion

As part of the majority decision, the Judicial Board finds that the evidence held by the CEO of Danielle's actions during the polling period meets the threshold required for disqualification as a sanction.

Danielle abused online voting as a platform by privately messaging voters. She effectively campaigned during the voting period by promoting her slate in private online messages. She contacted a student online, attempting to influence their decision while they used a device connected to the internet, thus taking advantage of the access that candidates had to students during the polling period. Danielle was well aware and even admitted that these actions were prohibited and inherently wrong, displaying her intent behind the misconduct and a lack of integrity.

For these reasons, we do not believe Danielle Vandolder-Beaudin is eligible to be reinstated to her elected position. Florian Prual made the appropriate decision in disqualifying Danielle given the evidence he was provided, as well as the emails exchanged between them.

Sanctions

- The disqualification of Danielle Vandolder-Beaudin
- Reinstating of:
 - Christopher Kalafatidis
 - Patrick Quinn
 - Isaiah Joyner
 - Marin Algattus
 - Celeste-Melize Ferrus
 - Eduardo Malorni
 - Selena Mezher.
- The removal of the monetary fine and the suspension on Danielle Vandolder-Beaudin. If the payment has already been made, a reimbursement will be issued.
- Candidate with the second most votes is elected as Finance Coordinator: Désirée Blizzard.

Recommendations

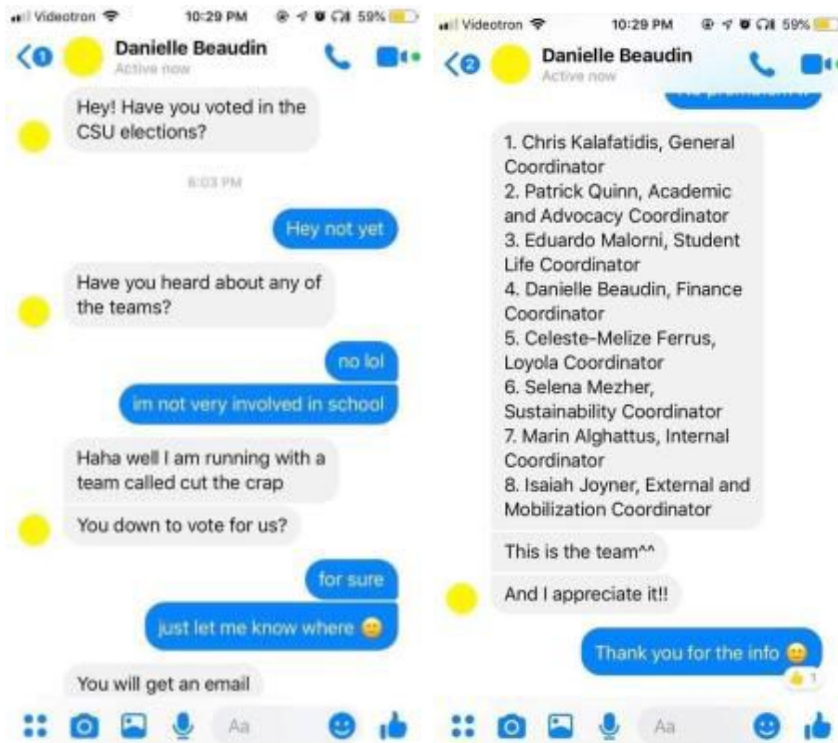
1. The Judicial Board suggests that the following terms be defined within the Standing Regulations:
 - a. Under Article 328 (a) (4) the term *pressuring* (pressure) should be defined. This definition should relate to the understanding of gross violation and serious breach.
 - b. Under article 328 (a) (5) the expression *bringing the means of voting* should be defined and explained in clear detail. The term polling station, as suggested by the witness John Hutton, should also be explicitly defined and included to outline the violations during the electoral process.
 - c. Under Article 379 (c) the term *gross violation* should be defined.
 - d. Under Article 382, the term *serious breach* should be defined.
 - e. Under Article 327 (b), the term *presence* should be defined as a virtual and/or physical presence.
 - f. Under Article 382, the term *imputed interest* should be removed. The Judicial Board believes the term has no relevance in the Standing Regulations. Instead, new terms should be added to appropriately define a justified disqualification
 - g. Under Article 384, this standing regulation should be rephrased as to clarify the steps the Chief Electoral Officer must partake when issuing a disqualification.
 - h. The Judicial Board suggests articles 384 and 385 be ordered differently. Article 385 should come before Article 384 to avoid any confusion that might come from interpreting the regulations.
2. We recommend that the Judicial Board review electoral rules with potential slates and/or the CEO. The Judicial Board has the final word on interpretations of the Standing Regulations and By-Laws. This ensures all parties have consistent, shared understandings

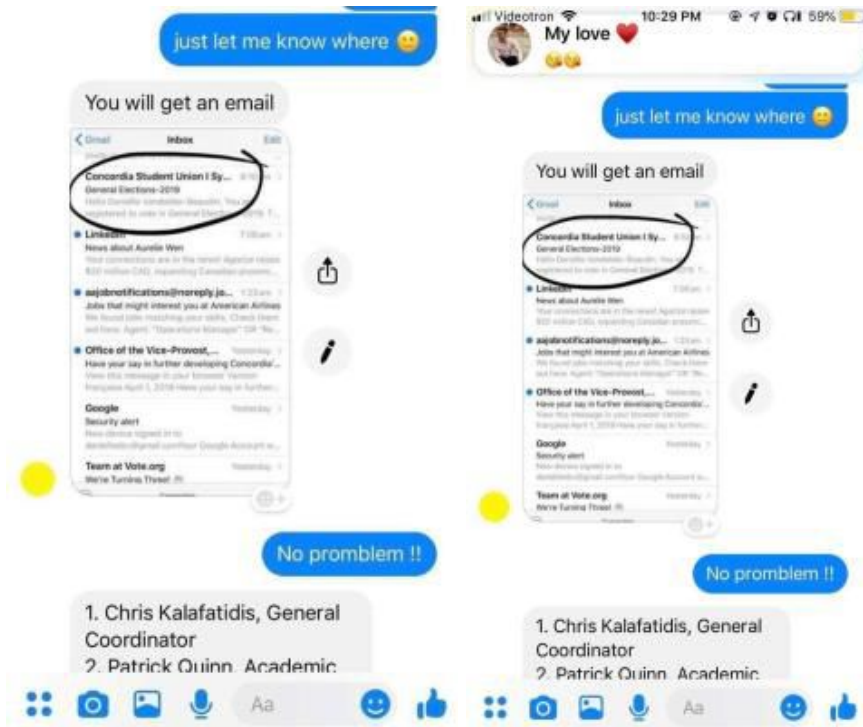
of the rules and definitions they must adhere to throughout the process, and relieves some of the burden from the CEO.

3. The rules and regulations are unclear on the differences between a slate and an individual. The Judicial Board believes it is important to identify whether a sanction or violation is addressed to the entire slate or to the individual.

APPENDIX

Appendix 1





Appendix 2



Danielle Vandolder <daniellesbv@gmail.com>

Fri 2019-04-05 11:35 AM

Chief Electoral Officer ∨

Hello Florian,

Oh no. Yeah I did send this. And I didn't realize that this was a mistake until after it was sent. Personally shouldn't have done it and I feel really bad about doing this... how would you like to move forward?

Thanks,
Danielle

...



Appendix 3



CSU Elections

April 5 at 2:17 PM · 🌐



Good afternoon everybody,

Although I was relieved that the Elections were over, it seems there has been serious violation in the Standing Regulations by the slate Cut the Crap:

Section 7, Article 328.

Online Voting – Campaign Regulations (a) Electronic balloting provides opportunities for abuse, intentioned or not, by voters, candidates and campaign workers. Abuse of electronic balloting includes, but is not limited to, the following types of action:

1. Pressuring individuals to vote in the presence of a candidate, campaign worker, or any other individual
2. Bringing the means of electronic voting to a voter

Strong evidence has been sent to the CEO, showing that a member of Cut the Crap has incited Concordia students to vote for the whole team, THROUGHOUT the polling period. In addition, this shows a strong correlation with the election results, as all "Cut the Crap" candidates have been elected, with a rather striking difference in the number of votes.

All members of Cut the Crap are disqualified.

Candidate Danielle V. is forbidden to run in any CSU elections in the next 12 months period, as per Standing Regulation, Chapter 9;

Section 1, Article 379.

A candidate who is found by the Chief Electoral Officer to have violated these regulations or acted in bad faith may be subject to the following sanctions:

(c) Disqualification from the election, which shall be the most severe sanction, for gross violation of the regulations in this book.

Section 5, Article 387.

In the event that any member has severely broken procedures and provisions as outlined in the standing regulations, the CEO may render a member ineligible to run for office in any CSU election or by- election which takes place within the following 12 months.

All seats which were held by Cut the Crap members;

General Coordinator, External Affairs & Mobilization Coordinator, Academic & Advocacy Coordinator, Finance Coordinator, Internal Affairs Coordinator, Loyola Coordinator, Student Life Coordinator and Sustainability Coordinator are to be considered vacant, as per Standing Regulation; Chapter 9, Section 5, Article 386;

In the event that a candidate who has been declared elected is disqualified from holding or taking office, the office is deemed to be vacant and shall be filled in accordance with the By-Laws and these regulations.

Side note: The Referendum questions and candidates elected for Council will not be affected.

#Cutthecrap #csugeneralelections #csuelections #concordiauniversity



312 Comments 47 Shares

Appendix 4

CUT CRAP **Cut The Crap** April 1 at 9:04 PM · 🌐

Heads up, campaigning period has come to an end. We are unable to further respond to your messages and comments.

👍🥰👍👎 23 2 Comments

👍 Like 💬 Comment ➦ Share

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