

# **DISCIPLINE, INTERPRETATION, AND ENFORCEMENT BOARD**

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**Citation: Elgaweesh v. Varghese, 2023-HA06**

**BETWEEN:**

**Farah Elgaweesh**

Applicant

- and -

**Jacob Varghese**

Respondent

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## **SECTION 3.1(c) DECISION BYLAW 1500**

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**Panel Members:**

**Navneet Chand, Associate Chief Tribune  
(Chair)**

**Hiba Khan, Tribune**

**Alicia Revington, Tribune**

**Hearing Date:**

**Monday, March 18, 2024**

**Witnesses for the Applicant:**

**Abdul Abbasi**

**Witnesses for the Respondent:**

**N/A**

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## The reasons for the unanimous board are delivered by N. Chand

### LEGISLATION

#### Regulation 320.16: Complaint Procedure

1. *The C.R.O. shall prepare and provide a complaint form which shall require complaints to indicate*
  - a. *their names and student identification numbers;*
  - b. *the specific bylaw and section, rule, or regulation that has allegedly been contravened;*
  - c. *the specific individual or group that is alleged to be in contravention;*
  - d. *the specific facts which constitute the alleged contravention; and*
  - e. *the evidence for these facts.*
2. *Where a complaint is received within two (2) Business Days of the alleged contravention, and where the original complaint form is provided to the C.R.O., the C.R.O. shall rule on that complaint.*
3. *Where a complaint is received and is found to be complete as set out in Section 01(1), the C.R.O. shall rule on the complaint within two (2) Business Days of receiving the complaint.*
  - a. *If the C.R.O. requires more time to investigate the complaint they shall, prior to the deadline:*
    - i. *Notify, via e-mail, the Chief Tribune of D.I.E. Board with:*
      - a. *The reason for extension of the investigation period; and*
      - b. *The anticipated date and time the ruling will be released, not to exceed 72 hours after the deadline.*
    - ii. *Provide a carbon copy to the complainant and the Manager of Discover Governance.*
  - b. *The C.R.O. shall include this notification as an appendix to the final ruling.*
4. *The C.R.O. shall post all of their rulings, including*
  - a. *a summary of the complaint;*
  - b. *a list of parties to the complaint;*
  - c. *where the C.R.O. fails to possess jurisdiction, a summary of the reasons for this finding;*
  - d. *a listing of all bylaws, rules, and regulations that apply;*
  - e. *a finding regarding the facts;*
  - f. *a ruling regarding the alleged contravention;*
  - g. *the penalty assigned, if any;*
  - h. *the time the ruling was posted; and*
  - i. *the time limit for appeal.*

### FACTS

[1] The application at hand was initiated by former University of Alberta Students' Union (UASU) Executive elections 2024 Vice President race candidate Farah Elgaweesh to determine whether the Chief Returning Officer ("CRO") (Respondent) breached Regulation 320.16.3 with the allegation that the CRO

did not rule on UASU Chief Returning Officer Ruling #7, #8, and #16 within two business days of receiving either of these complaints.

[2] By extension, the Applicant's allegation holds that as a result of not meeting the aforementioned regulation, the Respondent additionally did not fulfill the conditions of Regulation 320.16.3(a) in working with DIE Board and UASU Governance staff to follow the appropriate process required for the extension of the investigation period.

[3] The remedy sought by the Applicant is the overturning of UASU Chief Returning Officer Ruling #7, #8, and #16 as a result of the alleged violation of Regulation 320.16.3.

## **ISSUES**

[4] The issues before this Board are as follows:

1. *Did the Respondent violate UASU Regulation 320.16.3?*
2. *If so, does this present grounds for overturning UASU Chief Returning Officer Ruling #7, #8, and #16?*

## **ANALYSIS**

**Issue 1: Did the CRO breach Regulation 320.16.3 by failing to rule on the contraventions resulting in UASU Chief Returning Officer Ruling #7, #8, and #16 within two business days of receiving any of these complaints?**

[5] Determining whether a breach of Regulation 320.16.3 occurred requires first establishing whether the CRO did or did not rule on the aforementioned contraventions within two business days.

[6] The email correspondence submission made by the CRO establishes that on Thursday, March 7, 2024 at 10:06 AM, the Applicant was provided information on contraventions (referred to in the correspondence as "cases") that were of concern for UASU Chief Returning Officer Ruling #7, #8, and #16.

[7] This information provided on the noted contraventions constitutes a fair establishment of the rulings, meaning that the CRO did not fail to rule on the contraventions resulting in UASU Chief Returning Officer Ruling #7, #8, and #16 within two business days of receiving either of these complaints.

[8] On an additional note, the final written and published rulings for UASU Chief Returning Officer Ruling #7, #8, and #16 to the public and to the Applicant are not of concern to Regulation 320.16.3. The qualification of the "C.R.O. shall rule on the complaint within two (2) Business Days of receiving the complaint" is not a direct reference to the final written and published rulings.

**Issue 2: If there was a breach of Regulation 320.16.3, does this present grounds for overturning UASU Chief Returning Officer Ruling #7, #8, and #16?**

[9] As no breach was found, no overturning of the noted rulings will be granted.

**DISPOSITION**

[10] The issues before this Board, and the answers to those issues, are as follows:

*1. Did the Respondent violate UASU Regulation 320.16.3?*

[11] The CRO did not breach Regulation 320.16.3. The correspondence made to the Applicant provides a clear form of information on the contraventions being ruled on. The final written and published rulings of UASU Chief Returning Officer Ruling #7, #8, and #16 are not the only form in which the rulings can be constituted.

*2. If so, does this present grounds for overturning UASU Chief Returning Officer Ruling #7, #8, and #16?*

[12] Since no breaches were found, no remedies for overturning these rulings are proposed.

*Application dismissed.*