

## UVSS Elections 2019

### Complaint #2 (Decision of the Elections Adjudicator)

Issued March 5, 2019

#### Background

On February 26, 2019, a complaint was submitted to the Electoral Office alleging that Hear UVic has both posters and banners posted across campus with no attribution to an individual candidate. The complainant argued that this contravenes EPM section 5.4(n) that states “All posted material must be attributed to a particular candidate.” The complainant alleges that the UVSS Electoral Policy Manual (EPM) section 5.4(n) means that banners and posters need to be promoting a candidate on a slate, rather than branding a slate.

The Electoral Office provided a response on March 1, 2019, dismissing the complaint with the following reasoning:

*In the Electoral Policy campaign material is defined as any paper, electronic, social media, chalking, advertising or other material produced by or on behalf of a candidate or proponent/opponent to promote that candidate. There is precedent that slates use electronic, social media and handbill materials which are not visually attributed to a particular candidate. The Electoral Office has taken the position that Section 5.4 (n) of the Policy refers to the financial/campaign spending attribution of posted material to a particular candidate. Subject to adherence to the campaign spending limits set out in the Electoral Policy, candidates in a slate can pool together their additional allotted funding and create campaign materials as a team. The number of posters and banners attributed to a candidate can be divided so that some may visually attribute to a particular candidate and some may visually attribute to the slate, similar to their social media and electronic materials.*

On March 1, 2019, the decision of the Electoral Office was appealed to the Election Adjudicator. The appellant is of the opinion that the Electoral Office incorrectly interpreted and applied section 5.4(n) of the EPM. The appellant alleges that section 5.4(n) does not have to do with election finances for the following reasons:

- No other subsection of EPM section 5.4 has to do with campaign finance reporting
- That EPM section 5.4 is titled ‘Limits on Campaign Material’
- That EPM section 5.5 explicitly has to do with ‘Print Credit and Financial Limits’
- Section 5.4(n) has to do with being in accordance of [UVic’s Student Election Poster and Banner Procedures](#)<sup>1</sup> and EPM (section 5.4 (h)) to ensure that candidates have not exceeded their campaign material limits in accordance with these policies
- Previous interpretation [UVic’s Student Election Poster and Banner Procedures](#) to mean that posters can only contain the content attributable to a single candidate

The appellant also states that “[in] the 2018 UVSS election, a complaint was filed to do with this same issue...and it was ruled that posted material that had no individual attribution was in violation of

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<sup>1</sup> The appellant referred to these policies as “UVic’s Election Banners and Posters policy (section 8.00)”

electoral policy”. The appellant provided a link to the 2018 Electoral Report, detailing this precedent. The 2018 [Electoral Report](#) provides the following information (see page 16):

*Complaint #3: Complaint was made that a candidate had print material posted in violation of Electoral Policy section 5.4 (o)<sup>2</sup>.*

*Resolution: In response to initial contact, candidate immediately admitted error, removed and recycled materials in violation within 30 minutes, and self-imposed a penalty of not replacing the materials for over 24 hours.*

*The Electoral Office considers this issue closed.*

I am of the opinion that the details within the Electoral Report are insufficient to either confirm or deny the statement made by the appellant that there is precedent regarding the interpretation of this policy, and I have not given this information much weight in my decision.

In a response from Hear UVic, they state that they were given written, verbal and stamp approval to hang the banners in question.

### **The Electoral Policy Manual**

I must determine whether or not posting posters and banners with no attribution to an individual contravenes the policies governing the 2019 UVSS Elections. The specific EPM policy in question is section 5.4(n):

*All posted material must be attributed to a particular candidate.*

### **Opinion 1**

The Electoral Office dismissed the ruling, on the basis that EPM section 5.4(n) refers to the financial/campaign spending attribution of posted materials and not the posted materials themselves.

The appellant argues that section 5.4(n) does not have to do with election finances.

When looking at the policies listed under section 5.5 of the EPM, they are all related to the financial expenses incurred by candidates during an election. Of the policies, two of them are of note:

*Section 5.5(a): Candidates shall receive a \$30.00 credit at ZAP Copy. Zap credit can only be used for the candidate’s individual campaign expenses.*

*Section 5.5(b): In addition to the ZAP Copy credit, Board of Directors candidates may spend a maximum of \$50.00 on their campaign. \$25.00 will be reimbursed by the UVSS after the conclusion of the Electoral Event for all candidates who are not disqualified.*

These two policies provide the basis for the “campaign spending limit” – essentially, an individual candidate may not spend more than \$80 on their campaign. When reading further into section 5.5 of the EPM (and later in section 5.9.4(e)), the policies speak to the fact that candidates may not exceed the campaign spending limit, or that they must be disqualified:

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<sup>2</sup> The appellant states that the EPM has been updated since the 2018 UVSS Election, and the numbering in referring to “All posted material must be attributed to a particular candidate” has changed from section 5.4 (o) to 5.4 (n)

Section 5.5(e): *Candidates must submit the expense allowance form and copies of all receipts to the Electoral Office by the time polls close. A candidate who exceeds the campaign spending limit or fails to submit the expense allowance form and all receipts must be disqualified by the CEO. A candidate who submits the expense allowance form but fails to submit all receipts or incorrectly fills out the form shall be granted an extension of twenty-four [24] hours to submit the necessary receipts or correct the form. If after 24 hours, the candidate still has not submitted receipts or corrected the Electoral Policy Amended 2018-01-15 Page 11 form, the candidate shall be disqualified.*

Section 5.9.4(e): *Financial non-compliance - Includes failure to submit a completed Electoral Office expense form, exceeding spending limits, failure to disclose all expenses and donations, and failure to properly submit receipts after the grace period has elapsed.*

Between these noted sections, the EPM clearly outlines that a candidate must be disqualified if they exceed the \$80 campaign spending limit, or fail to disclose all expenses. If the Electoral Office's interpretation of EPM section 5.4(n) is true, and that it is intended to ensure that the cost of all posted material (i.e., posters and banners) are attributed to a candidate, it is reasonable for the policy to be located in section 5.5 of the EPM. Additionally, even if the policy was mistakenly placed in section 5.4 of the EPM, the policy would be redundant as the requirement that the value/cost of all campaign materials are attributed to a candidate are already captured in the EPM.

Furthermore, section 5.5(f) uses the term "attributed" in relation to costs for campaign materials. If section 5.4(n) was related to financial/campaign spending, it would be reasonable to assume that it would follow a similar wording convention.

Based on the information above, I disagree with the decision of the Electoral Office, and I am of the opinion that section 5.4(n) is not related to the financial/campaign spending.

## Opinion 2

In determining the most reasonable interpretation of the policy in question, it is important to look at the EPM in totality, and not just the policy in isolation. Unfortunately, policies within the EPM use inconsistent language (e.g., campaign material vs print campaign material vs digital campaign material vs social media; posted vs published) and relying on the exact wording of the policies leads to more questions.

In looking at all of section 5.4 (Limits on Campaign Materials), the policies all detail limits that can easily be applied to **printed** campaign materials (e.g., posters, banners, promotional items), but not easily applied to **digital** campaign material (e.g., social media, websites). Section 5.4(d) references both digital and printed campaign material, and uses the words "posted" and "published" to differentiate between the two. The term "**posted**" is used almost exclusively in section 5.4 to describe a printed item that is affixed to something else (and not the conversational sense of the word – e.g., to post something on Facebook or Instagram), whereas the term "**published**" is used to describe a digital message that is made on social media/website. With that, section 5.4(n) reads as "*All posted material...*" suggesting that the scope of this policy refers strictly to printed campaign materials (e.g., posters, banners, handbills, promotional items) and excludes digital campaign material.

Using section 5.4(c) as a reference, the EPM provides rules around which printed campaign materials can and cannot be posted:

*With the exception of posters and banners, campaign materials must be handed directly to electors/voters and not left in physical locations on campus*

Based on the information above, I am of the opinion that “*All posted material...*” in section 5.4(n) is specifically referring to “posters and banners”. As such, the EPM is clear that the only campaign material that must be attributed to a particular candidate are posters and banners.

The decision of the Electoral Office states that “there is precedent that slates use electronic, social media and handbill materials which are not visually attributed to a particular candidate” – given the more narrow application of section 5.4(n), I am of the opinion that those forms of campaign materials are out of scope of this specific policy.

Most of section 5.4 provides the rules governing the numbers, size, locations, and materials of posters and banners. I am of the opinion that section 5.4(n) exists so that the Electoral Office could enforce the other policies listed in section 5.4, and identify which individual candidate is responsible for any infractions/issues related to a particular poster or banner.

I am of the opinion that section 5.4(n) plainly means:

*All posters and banners must be identifiable as being the property of a particular candidate.*

### Opinion 3

Despite the fact that all posters and banners must be identifiable as being the property of a particular candidate, there is still the question as to whether slates can pool their campaign resources and create common campaign materials.

The Electoral Office reasons that candidates in a slate can pool their resources together and create campaign materials as a team.

This is easily confirmed through the definition of a slate (section 2.22) which states that:

*Slate is a group of two or more candidates who decide to run together in an election, under a common name and may agree to use **common campaign materials**.*

Based on this, I agree with the Electoral Office’s reasoning, and that slates are permitted to pool campaign resources together and create campaign materials as a team.

Given that the EPM does not place restrictions on the content of posters or banners themselves, and that slates are permitted to create campaign materials as a team, the content on the on the Hear UVic posters and banners in question is of no concern.

I am of the opinion that posters and banners with generic slate information are permitted.

### The Action

There is evidence suggesting that Hear UVic posted posters and banners with generic slate information, and are not identified as being the property of a particular candidate:

- The original complaint included several photographs of posted Hear UVic posters and banners, which, upon my review, do not appear to be the property of a particular candidate.
- I have contacted the witnesses listed on the Complaint Form, and both “have witnessed Hear UVic posters/banners posted with no attribution to an individual candidate.”

Additionally, in the Appeal response provided by the Campaign Manager of the Hear UVic slate, there are no attempts to deny or dismiss the allegation itself, and accept that the posters and banners are permitted as they were stamped by the Electoral Office.

Based on the available evidence before me, I find that there are Hear UVic posters and banners posted that do not appear to be the property of a particular candidate.

**Application of Opinions:**

I am of the opinion that slates may post posters and banners with generic slate information, provided the posters and banners can be identified as being the property of a particular candidate.

Based on all of the evidence before me, the I find that the Hear UVic posters and banners in question contravene section 5.4(n) of the Electoral Policy Manual, on basis that they are not identifiable as being the property of a particular candidate.

**Decision:**

In order for the generic posters to comply with the EPM, Hear UVic is required to update the posters and banners in question, so that each is identifiable as being the property of a particular candidate. Before 9:00am on Wednesday March 6, 2019, Hear UVic has must attend to their generic slate information posters and banners, and place an identifiable mark/note somewhere on the front of the poster or banner (e.g., bottom right corner) that upon close inspection, an individual would be able to determine which candidate the poster or banner belongs to.

Should there be Hear UVic posters and banners that are not identifiable as being the property of a particular candidate still posted after 9:00am on March 6, 2019, Electoral Office staff may remove the offending material.

I find that there were no unfair advantages provided to the Hear UVic slate as a result of not having particular candidate information on the posters and banners (i.e., there is no evidence or allegation that the generic posters/banners are over and above the individual candidate limit and result in excess posters/banners for the Hear UVic slate), and that the actions taken by Hear UVic were taken based on the advice/direction from the Electoral Office, I am not applying any retroactive penalties to Hear UVic.

Shawn Slavin  
Elections Adjudicator