

## Electoral Code

X-01

LONG TITLE	A Policy Respecting the Election of Councillors and the President	DATE OF ENACTMENT	~1943
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CATEGORY	Elections	COMPETENT CHAMBER	Council

### PREAMBLE

The elections for the officials for the Carleton University Students' Association are a cornerstone of this Association's good governance and democratic legitimacy. This policy shall govern the elections held every year in this Association. It shall apply to any and all candidates, campaign members, staff, and all holding an office of the public trust in this Association. This Policy shall be reviewed periodically by Council.

### INTERPRETATION

- 1 This Policy may be called the *Electoral Code*.
- 2 In this Policy, the following definitions shall apply:
  - "accused"** means an individual penalized with an offence in this *Code*;
  - "actus reus"** means an action or conduct which is a constituent element of a crime, as opposed to the mental state of the accused;
  - "balance of probabilities"** means an evidentiary standard by which the cause chosen as successful is that which is more likely than not to have occurred;
  - "ballot"** means a single election for an office or referendum question;
  - "ballot page"** means a collection of all ballots for a specific election period;
  - "by-election"** or similar means an election other than a general election, including the October by-election;
  - "campaign"** means the mobilization of resources, be they financial, time-based, space based, or reputational to support a desired electoral outcome;
  - "campaign associate"** means an individual, paid or unpaid, who engages, under the reasonable foresight of the candidate, in campaigning for a candidate, whether official or unofficial, above the level of a mere supporter or voter;
  - "campaign expenses"** means the expenses incurred in running and promoting the candidacy of any individual, whether incurred directly by the candidates, their campaign team, volunteers, or any campaign associate, and includes the fair market value of in-kind goods and services received;
  - "campaign material"** refers to any posts or messages of any sort, made of any

substance that are clearly marked so as to suggest support for one candidate or stance. This includes public and private communications whether in-person or online;

**“candidate at an election”** or **“candidate”** means a person seeking elected office;

**“chamber”** means either the Board or Council, whichever the committee is a subunit of;

**“Chief Returning Officer”** or **“CRO”** means the person appointed to manage and administer all aspects of CUSA elections;

**“committee”** means a subunit of either Council or the Board to which certain powers of the chamber may be delegated;

**“commission”** means a committee which is delegated some executive or investigatory powers by Executive order and/or Policy of a Chamber;

**“competency”** means the ability to exert jurisdiction over a committee;

**“Councillor”** has the same meaning as “member” in the *Bylaws*;

**“constituency”** means the division under which a Councillor is elected, whether by Faculty or in the Special Student constituency;

**“counsel”** in relation to the commission of an offence, means to procure, solicit or incite, one person to commit a certain action in relation to an electoral offence;

**“elected office”** means the position or seat of any elected official, whether filled or vacant;

**“elected official”** means a Councillor or Executive member, each as defined in the *Bylaws*;

**“election”** means a vote of students-at-large to choose the President and CUSA Councillors;

**“elector”** or **“eligible voter”** means any Carleton fee-paying undergraduate student enrolled in course(s) during the term in which the elections takes place;

**“electorate”** means the collective group of all electors at the time of election;

**“fair comment”** means an opinion statement predicated on a matter of public interest (excluding gossip), based on known and provable facts, that any person is capable of holding based on those facts, made without malice;

**“general election”** means an election in which all CUSA Council and Presidential positions are elected on a fixed date as prescribed by this Code;

**“member”** means someone who is a student-at-large in the constituency they represent at the time of their election or acclamation and must remain a Student-At-Large in that constituency for the duration of their term as a Member (President/CEO excepted);

**“mens rea”** refers to the guilty mind, the wrongful intention, of the accused;

**“offence”** means an offence prohibited by this *Code*, or prohibited by any other Policy of this Association when considering Elections;

**“prescribed”** means prescribed by the Chief Returning Officer;

**“President”** [as defined in ByLaw];

**“prospective candidate”** means a person who is considering becoming a candidate for election, or is taking active steps to become a candidate. Until a candidate’s nominations are verified as valid, they remain a prospective candidate;

**“standing committee”** means a committee which is permanent without need to be constituted and shall be filled in accordance with this Policy;

**“Tribunal”** or **“Students’ Tribunal”** follows the same definition as prescribed by the *Judicial Policy*; and

**“Unified Electoral Code”** refers to the body of legislation that governs elections in this Association, including this *Code*, all other Policies in the Elections category, and all other Policies whose provisions may be read-in as offences under this *Code*.

**3** This policy applies to all candidates, prospective candidates, campaign managers, and campaign volunteers or associates, whether so designated or effective.

**4** This policy acts in accordance with the *Ontario Not-for-Profit Corporations Act, 2010*, the *Judicial Policy (G-03)* the *Conflict of Interest Policy (G-07)*, and all other applicable laws and policies.

## **Part One — Administration of Elections**

### Division I — the Election

#### **Scheduling**

**5 (1)** There shall be at least one election in every governing year:

- (a) A general election will occur in February of every year.
- (b) If required, an October by-election will also occur.

**(2)** The particular dates for each election campaign shall be,

(a) for the October by-election:

- (i) Nominations shall be open from 9:00am on the final Tuesday in September until 5:00pm on the first Monday in October.
- (ii) Validation of nominees shall be from 5:01pm on the first Monday in October until 5:00pm the Friday before the second Monday in October.
- (iii) Campaigning shall be from the Tuesday before the third Monday in October until 5:00pm on the Wednesday following the third Monday in October.

- (iv) Voting shall be open from 9:00am on the third Monday in October until 5:00pm on the Wednesday following the third Monday in October.
  - (v) Results shall be released upon the resolution of all outstanding complaints, appeals, or other actions which could realistically affect the results.
- (b) and for the February General election:
- (i) Nominations shall be open from 9:00am on the first day of the Winter Academic term as dictated by the Carleton University academic calendar until 5:00pm the Monday 15 (fifteen) days before the first Tuesday in February.
  - (ii) Validation of nominees shall be from 5:01pm on the Monday 15 (fifteen) days before the first Tuesday in February until 5:00pm on the Friday following the Monday fifteen (15) days before the first Tuesday in February.
  - (iii) Campaigning shall be from the Monday 8 (eight) days before the first Tuesday in February until 5:00pm on the Thursday following the first Tuesday in February.
  - (iv) Voting shall be open from 9:00am on the first Tuesday in February until 5:00pm on the Thursday following the first Tuesday in February.
  - (v) Results shall be released upon the resolution of all outstanding complaints, appeals, or other actions which could realistically affect the results.

**6 (1)** In the event that "Re-open Nominations" is declared the winner on any ballot, the Chief Returning Officer, in consultation with relevant CUSA staff members, shall make arrangements for nominations to be re-opened, and for scheduling a new campaign and voting period.

**(2)** The Chief Returning Officer will schedule such a process in a way, such that:

- (a) Nominations are re-opened no later than seven (7) days following the declaration of the result;
- (b) New nominations from prospective candidates are accepted for at least seven (7) days;
- (c) The campaign period lasts for a period of at least seven (7) days;
- (d) Voting is open for a period of at least forty-eight (48) hours.

**(3)** All other provisions of this Code apply equally to candidates and other individuals during elections that are extended due to the victory of "Re-open Nominations."

### **Snap elections**

**7 (1)** The date for an election may be delayed, but not advanced. Any delay in the date of the election requires a resolution passed by two-thirds of Council.

**(2)** The Chief Returning Officer may delay the dates of the election, only when:

- (a) a *force majeure* event arises;
- (b) it is necessary to protect CUSA from legal liability; or
- (c) if failing to alter the dates would undermine the integrity of the election.

### **Election Content**

**8 (1)** The October by-election shall include the elections for:

- (a) all vacant Councillor seats for the same term;
- (b) all vacant Presidential seats for the same term;
- (c) any referenda or recall elections proclaimed with proper notice before the date of the by-election.

**(2)** The February general election shall include the elections for:

- (a) all Councillor seats for the next term;
- (b) the President for the next term;
- (c) any referenda or recall elections proclaimed with proper notice before the date of the general election.

### **Third-party facilitation**

**9** The Vice President Internal shall arrange with Staff and the Board, for a request for proposal to be issued not later than the expiry of a previous elections provider contract, for an elections facilitation software.

**10** The Vice President Internal shall arrange with Staff and the Board, for a request for proposal to be issued not later than the second week of July every year, for the Chief Returning Officer.

## **Division II — Candidates**

### **Presidential Candidates**

**11** Every candidate for President shall be:

- (a) registered in Carleton University undergraduate courses the semester in which the elections are being held and the semester prior, not including summer semesters;
- (b) eligible to hold leadership positions on Carleton University campus as confirmed by Carleton University;
- (c) a Carleton University undergraduate student other than the sitting elected CUSA President/CEO.

### **Councillor Candidates**

- 12** Every candidate for CUSA Councillor shall be:
- (a) registered in Carleton University undergraduate courses the semester in which the elections are being held;
  - (b) eligible to hold leadership positions on Carleton University campus as confirmed by Carleton University;
  - (c) a Carleton University undergraduate student enrolled with a specific faculty or category which has representation on CUSA Council.

### **Limitation for endorsements**

- 13** Sitting Association Executives, Board members, and CUSA staff shall:
- (a) Comply with their employment agreements while pursuing higher or other office;
  - (b) Not volunteer with, run, or manage the campaign of any prospective or actual candidate, or endorse individuals running for elected office positions;
  - (c) Not use student or other data acquired or accessed in the course of their official duties to advance or promote their candidacy, campaign, or personal interests, or those of other candidates; and
  - (d) Be eligible to be a candidate, however they shall be deemed ineligible unless they take an unpaid leave of absence from their duties starting on the day when the candidate is confirmed by the CRO.

### **Running for multiple offices**

- 14** Individuals may only run for one office in a respective election period.

## Division III — the Chief Returning Officer

### **ADMINISTRATION**

**15 (1)** There shall be a Chief Returning Officer, who shall be a third-party individual with no connection to the Association or Carleton University.

**(2)** The term of the Chief Returning Officer shall be from the date they are hired until the next April 30th or until such time as the Chief Returning Officer resigns or is removed from office by the Board for cause.

### **Eligibility**

**16 (1)** The Chief Returning Officer may not hold any other position within the Association.

**(2)** A person may not be appointed Chief Returning Officer if they currently hold a paid position with the Association, Carleton University, or a student ancillary fee group.

## **Legal Disputes**

**17 (1)** The Chief Returning Officer may not be involved in a legal dispute with the Association during their time as Chief Returning Officer.

**(2)** The Chief Returning Officer may not hold any responsibility to or position within an entity that is involved in a legal dispute with the Association.

**(3)** At any time during the term of their appointment, the Chief Returning Officer shall immediately notify the sitting President and the Board of any potential conflict of interest that could compromise their ability to discharge the duties of the office.

**18 (1)** The Board controls the contract of the CRO and may remove the CRO for cause, including conflict of interest, in accordance with the *Conflict of Interest Policy*.

**(2)** The term of the Chief Returning Officer may be renewed by the CUSA Board.

**19 (1)** If the Chief Returning Officer is removed from office, resigns, or becomes otherwise incapacitated during an Electoral period, the Board shall appoint a new Chief Returning Officer to the position for the duration of the Election, recall or referendum, in a process consistent with the previous Chief Returning Officer selection.

**(2)** If the Board cannot appoint a replacement within three days, they may delegate the electoral responsibilities as they see fit.

## **TERMS OF REFERENCE**

**20** The Chief Returning Officer shall:

- (a) report to the CUSA Board and be managed by the Executive Director, except in cases where a conflict or perceived conflict of interest exists with, or there is a vacancy in the role of, the Executive Director, in which cases the Chief Returning Officer may report to the CUSA Director of Student Development;
- (b) be afforded a level of independence and shall not be placed under undue influence by the CUSA Executive Director, the Director of Student Development, Human Resources department, or any other CUSA staff or executives and feel empowered to utilize CUSA policy to achieve such ends;
- (c) be responsible for officiating the electoral process and ensuring fair elections in conjunction with policies and offices within CUSA and Carleton as necessary;
- (d) themselves comply with CUSA Inc Letters Patent, ByLaws, Policies, Codes, and Procedures and ensure compliance of any instrument of elections;
- (e) oversee three (3) elections per year, including an election in October where the student body shall vote to fill any vacancies and on any referendum questions, an election in February where the student body shall vote in the general election and on any referendum questions, and an election in March where the incoming

- and outgoing CUSA Councillors shall vote for Vice Presidents in accordance with the current CUSA "The Association" ByLaws, Policies, and Consolidated Electoral Code;
- (f) make regulations/procedures within policy for the good administration of the election;
  - (g) seek legal advice, within reason, from CUSA's lawyers in extreme circumstances before solely determining matters of consequence, ensuring decisions are advisable, beyond reproach, and of sound mind;
  - (h) submit themselves to both the CUSA Conflict of Interest declaration process and to any reviews of actions or decisions procedurally launched by CUSA's governing bodies;
  - (i) exercise general direction and supervision over the conduct of Elections, recalls and referenda;
  - (j) ensure that all Election officers act with fairness and impartiality and in compliance with this Code;
  - (k) issue to Election officers the instructions that the Chief Returning Officer considers necessary for the administration of this Code;
  - (l) exercise the powers and perform the duties and functions that are necessary for the administration of this Code;
  - (m) ensure that appropriate steps are taken to notify the University Community of any Election, by-election, recall or referenda;
  - (n) ensure that any directives from CUSA Council are incorporated into the Electoral process;
  - (o) ensure that the Elections Office be made available to Elections' Officials and Candidates on official business only;
  - (p) make appropriate accommodations for students with disabilities, including through the assistance of the Paul Menton Centre and Carleton Disability Awareness Centre;
  - (q) facilitate a complaint web form, have access to submissions, and acknowledge receipt of complaints within 48 (forty-eight) hours of receiving a complaint.

### **Reserved powers**

**21** The Chief Returning Officer shall have all powers necessary to discharge the duties set out in the Code and is empowered to:

- (a) contract for any good or service needed to discharge the duties of the office, including hiring such additional employees, as are deemed necessary to conduct the affairs of the Election's office; and
- (b) grant reimbursements to Candidates.



## Division IV — Staff Support

### **COMMUNICATIONS DEPARTMENT**

#### **Elections website**

**22** The Communications Office shall create a public website called the CUSA Elections website.

#### **Website content**

**23** The Communications Office shall ensure that there is adequate awareness and presentation of all Candidates on this website, both:

- (a) during the Campaigning period; and
- (b) during voting days.

**24** The Communications Office shall publish on the CUSA Elections website the expected dates of:

- (a) the Nomination Period;
- (b) the Campaign Period; and
- (c) the voting period.

#### **Voter turnout campaign**

**25** The Communications Office shall create and manage a neutral “Get Out The Vote” campaign at their discretion, with insight from the Chief Returning Officer and the Development & Governance Office.

#### **Elections Instagram account**

**26** The Communications Office will oversee and manage an Elections account on all relevant social media, including Instagram, including responding to messages and posting updates.

### **DEVELOPMENT AND GOVERNANCE DEPARTMENT**

**27** The Development and Governance Office shall:

- (a) ensure the Chief Returning Officer has the resources necessary to complete their duties;
- (b) validate the currently enrolled undergraduate status by faculty of the nominators of all candidates;
- (c) validate the eligibility of prospective candidates and report on eligibility to the Chief Returning Officer;
- (d) facilitate any neutral CUSA elections events; and
- (e) incentivize non-CUSA Carleton entities to facilitate neutral elections events.

## **GENERAL**

### **Referral to the Chief Returning Officer**

**28** All Association staff will instruct students to reach out to the Chief Returning Officer over e-mail or to use formalized processes established by the Chief Returning Officer as appropriate.

## **Division V — Nominations**

### **Nominations for President**

**29** Prospective candidates for President must receive a number of nominations from eligible electors equal to at least 0.5% of the registered undergraduate student population of Carleton University in the respective academic semester of the election.

### **Nominations for Councillor**

**30** Prospective candidates for Councillor must receive a number of nominations equal to at least two for every seat in the constituency for which they intend on being a candidate

- (a) students enrolled in double-majors that cross constituencies may only collect nominations from the constituency in which they intend on being a candidate;
- (b) prospective candidates to the Special Students seat on CUSA Council need only submit an application to become a candidate.

### **Requirements for nominators**

**31** In order to be a nominator, an eligible voter must provide a prospective candidate their name, Carleton e-mail address, and student number.

### **Exception**

**32** Carleton University undergraduate students are permitted to serve as nominators for multiple candidates for the same office, as a nomination is not an endorsement or permission to use a nominator's data for campaign purposes.

### **Limitation**

**33** Candidates cannot collect more than twice the number of signatures required to be nominated.

**34** It is the candidate's responsibility to ensure all names, e-mail addresses, and student numbers submitted as nominators intend to nominate the candidate.

**35** No nominator may withdraw their nomination of a prospective candidate after they have nominated the prospective candidate.

**36** Upon verification of nominators, and when informed of nomination by the Chief Returning Officer, a prospective candidate must sign the Candidate Code of Conduct (Appendix B).

**36.5** It is the candidate's sole responsibility to ensure they are collecting valid nominators and receiving the informed consent of the nominator for their information to be used. Nominators who are unable to be verified will not count towards a candidate's minimum number of required nominations, which could result in their candidacy being rejected. Furthermore, upon investigation, if the Chief Returning Officer finds that a candidate has used the personal information of a nominator without their consent, the candidate's potential candidacy may be rejected.

## Division VI — Campaigning

**37** The Chief Returning Officer shall facilitate an electoral environment where all candidates are encouraged to innovate while respecting one another and their influence on CUSA's reputation.

**38 (1)** All candidates must use their real and/or preferred names when interacting or campaigning online.

**(2)** All candidates and the Chief Returning Officer shall treat digital spaces, typed messages, and posts the same as they would for in-person occurrences of the same or similar events and conduct.

**(3)** Presidential candidates and their campaign associates shall be allowed to distribute paper-based campaign materials only. Excessive distribution of campaign materials, as determined by the CRO, shall result in disciplinary action as outlined in 86.5.

**(3.5)** CUSA Councillor candidates and their campaign associates shall not hand out any media for campaigning purposes.

**(4)** Presidential candidates shall be allowed to put up paper posters in designated areas.

**(5)** Once an election is underway, there shall be no further changes to the rules until after the election is complete, excepting decisions rendered by the Tribunal.

**(6)** All candidates shall campaign without breaches to the electoral code as outlined in this document.

## Division VII — Campaign Finances

**39 (1)** Presidential candidates shall be allowed to incur campaign expenses up to and including \$800.00.

**(2)** Councillor candidates shall be allowed to incur campaign expenses up to and including \$100.00.

**(3)** Council shall review the amount of allocated campaign expenses every 3-5 years.

**40 (1)** Each candidate shall account for all of their campaign expenses.

**(2)** All actual election expenses shall be accounted for in Canadian dollars.

**(3)** All in-kind gifts of goods and services received by a candidate must be recorded as campaign expenses at the fair market value of the good or service that was received.

**(4)** The campaign expense limit prescribed in S.39 shall be inclusive of all applicable taxes.

**(5)** A final, complete, and accurate report of all campaign expenses, including all receipts and other evidence of expenditures shall be presented to the Chief Returning Officer by each candidate for any office no later than seventy-two (72) hours after the end of the voting period.

**(6)** If a candidate has not incurred expenses, they must inform the Chief Returning Officer as such, and the Chief Returning Officer is empowered to seek this information from candidates if they have failed to submit an appropriate report of expenses.

**41 (1)** The Chief Returning Officer shall be empowered to grant reimbursements to former candidates for their actual election expenses, following receipt of all financial documents from the former candidates and the declaration of election results.

(a) Former Presidential Candidates shall receive a 95% (ninety-five percent) reimbursement of the candidate's actual expenses, provided the candidate received over 10% (ten percent) of the first ballot vote.

(b) Former Presidential Candidates shall receive a 50% (fifty-percent) reimbursement of the candidate's actual expenses, provided the candidate received between 5% (five percent) and 10% (ten percent) of the first ballot vote.

(c) Former Presidential Candidates who receive fewer than 5% of the first ballot vote shall not be reimbursed for any campaign expenses.

(d) Former CUSA Council Candidates shall receive an 80% (eighty percent) reimbursement of the candidate's actual expenses provided the candidate received 5% (five percent) or more of the first ballot vote.

(e) Former CUSA Council Candidates who receive fewer than 5% of the first ballot vote shall not be reimbursed for any campaign expenses.

(f) The Chief Returning Officer may petition the Finance & Governance Subcommittee of the CUSA Board for a waiver to offer reimbursements beyond those outlined within this policy for any reason.

## Division IX — Electors

**42** All electors shall be able to vote to fill any office in their constituency which is up for election or which is vacant at the time of election.

**43** Electors enrolled in double-major programs shall be eligible to vote only for one CUSA Council constituency representative ballot, which will be the faculty which appears first alphabetically unless corrected by the third party elections provider in advance, with the notice and consent of the elector.

## Division X — Ballots & Ballot Page Layout

**44** All ballots shall be electronic and compliant with the *Accessibility for Ontarians with Disabilities Act*.

**45** Ballots must be clearly presented so that the voter can rank Candidates running for the Presidential office and/or CUSA Councillor offices in order of the preference of the voter.

**46 (1)** The voter may rank as many, or as few, candidates as they prefer.

**(2)** The ballot page shall include an explanation that voters do not have to select any options, if they so choose, which would amount to an abstention.

**47** The ballot shall be laid out on a single web page with all questions included.

**48 (1)** The order of questions on the ballot shall be laid out in such a manner that questions for offices and referenda of the entire electorate are placed at the top of the ballot respectively, followed by offices and referenda for specific subsets or constituency groups of the electorate respectively, as laid out in Appendix A.

**(2)** Ballots for the positions of CUSA President & CUSA Councillor shall list candidates in alphabetical order by last name, in the form “Lastname, Firstname” as their name is on file with Carleton University.

(a) the use of commonly used middle, shortened given, or other parental surnames shall be allowed at the discretion of the Chief Returning Officer;

(b) names different from given names or surnames shall be allowed for clarity because of cultural reasons or gender identity or expression at the discretion of the Chief Returning Officer;

(c) acronyms shall not be allowed as names. Acronyms of given names may be appended in parenthesis after the given name on the ballot at the discretion of the Chief Returning Officer.

**(3)** ‘Re-Open Nominations’ shall be the final sequential option, below all candidates for any office and may only be selected as a first preference.

**(4)** Candidates may voluntarily withdraw from the ballot until 72 (seventy-two) hours before balloting begins by sending an e-mail to the Chief Returning Officer.

**(5)** The ballot shall clearly indicate how many positions are up for election.

**(6)** For referenda, the appropriate body will determine which options shall be included and in which order.

**(7)** Referenda are otherwise governed by the *Referenda & Recall Policy*.

*Referenda and Recall Policy (X-02)*

## Division XI — Counting of Votes

**49** All tabulations of election results shall be carried out at the discretion of, and under the supervision of the appropriate third party entry so responsible for managing the voting process and results reporting of the election.

**50** The Director of Student Development shall have the authority to ensure this process is conducted by the chosen third party, in concert with the Chief Returning Officer. The Director of Student Development may also relay information to the third party provider from the Chief Returning Officer, CUSA Council, or CUSA Board.

**51** The elections for the offices of President and Councillor shall be conducted in a Single Transferable Vote (STV) method, with counting completed using the Hare quota and Fractional Transfers when necessary.

**(1)** Counting shall take place using the Hare Quota, i.e. total votes divided by total seats.

**(2)** All candidates who exceed the quota are elected.

(i) In Executive elections, Re-Open Nominations must receive the quota of a simple majority vote in order to instigate a re-opening of nominations. Voters can only pick "Re-Open Nominations" in the first round, but may select remaining candidates at their will, and if "Re-Open Nominations" does not win in the first round, it shall be eliminated, with all of its first preference votes discarded and second preference votes counted.

(ii) In Council elections, Re-Open Nominations must receive the quota of a simple majority vote in order to instigate a re-opening of nominations. Voters may only pick "Re-Open Nominations" in the first round, but may select remaining candidates at their will, and if "Re-Open Nominations" does not win in the first round, it shall be eliminated, with all of its first preference votes discarded and second preference votes counted. When "Re-Open Nominations" receives a simple majority vote in a councillor election, no councillor candidates shall be declared winners of the election. Even councillor candidates who reach the

Hare quota in the first round of counting in an election where "Re-Open Nominations" receives a simple majority vote shall not be elected.

**(3)** Fractional Transfers shall be used for any surplus votes a candidate receives beyond the quota

**(4)** If no candidate has reached the quota in any round of voting, the candidate with the fewest votes will have their votes reallocated to candidates remaining in the running.

**(5)** This process of fractional transfer and redistribution will be completed until all vacant positions are filled.

**(6)** In the case of a tie during any round of voting for the office or offices available on any ballot, the candidate who received the greater number of votes in the previous round shall be the candidate that advances to the next round of voting, if the tie occurs in determining the lowest candidate to be eliminated. If such a tie occurs in the final round of voting, the candidate who had received the greater number of votes in the previous round shall be declared the winner.

**52** Turnout shall be determined by the percentage of the student body that took the action of submitting from the ballot page any or no ballot on the ballot page regardless of the turnout on any specific question or ballot.

## Division XII — Declaration of Results

**53** The Chief Returning Officer will not release the results of an election for any office which could be subject to material complaint, appeal, or other arbitration which could realistically affect the results. Further, they will not release the results until all outstanding complaints and appeals have been arbitrated, and all potential offences are sufficiently in the past so to no longer be eligible for complaint or appeal under this *Code*.

**54 (1)** The Chief Returning Officer shall provide the CUSA President and CUSA Executive Director with the results, who must each respectively keep the results confidential until the results have been published.

**54 (2)** In cases where a conflict or perceived conflict of interest exists with, or there is a vacancy in the role of the Executive Director, the Chief Returning Officer shall provide the CUSA President and CUSA Director of Student Development with the results, who must each respectively keep the results confidential until the results have been published.

**55** The Official results shall be posted in writing on the CUSA Elections website within 24 (twenty-four) hours of official declaration.

## **Part Two — Electoral Offences**

### **Division I — General Principles**

**56** The burden of proof for electoral offences in this Policy shall be on the balance of probabilities.

**57 (1)** A principle of natural justice, per Section 3 of the Judicial Policy is that of double jeopardy, thus no one shall be penalized twice with the same offence under the same facts unless so ordered by an appellate body on review of new facts or legal misapplication.

**(2)** Double jeopardy shall also be found to exist when a person is penalized on two or more offences that subsume each other, on the same facts.

*Judicial Policy (G-03) s. 3*

**58** A principle of natural justice, per Section 3 of the Judicial Policy is the prohibition of *ex post facto* laws, thus no one shall be penalized with an offence that was not in force at the time the act was allegedly committed.

*Judicial Policy (G-03) s. 3*

#### **Civil remedy not suspended**

**59** Nothing in this *Code* nor any other Policy of this Association shall prevent or preclude an individual from seeking a civil remedy, but no candidate or their agent may bring civil action in a Court of Law until after the official results of the election are proclaimed.

#### **REPORTING**

**60** Every elector may submit to the Chief Returning Officer a report that an applicable individual has allegedly committed an offence under this *Code*.

**61** An online form shall be available for this purpose on the CUSA website(s) and social media.

**62** Every elector shall comply with the reasonable requests of the Chief Returning Officer to provide proof to accompany the alleged offence, and must respond to the Chief Returning Officer's requests and questions in a timely manner.

**63** Every elector alleging an offence shall provide proof of their name, student email, and student number, which shall remain known to the Chief Returning Officer only, unless voluntarily given in testimony to them or the Tribunal.

**64** All reports of alleged offences must be submitted to the Chief Returning Officer no later than seventy-two (72) hours following the end of the voting period.

#### **PENALTIES**

##### **General**



**65** The Chief Returning Officer may penalize, including through the issuance of demerit points, an individual or campaign with an offence under this *Code*.

**66** Decisions of the Chief Returning Officer not to penalize are not appealable.

### **Reporting**

**67** All declarations and penalties given by the Chief Returning Officer shall be in writing and must be published and posted on the CUSA Elections website within twenty-four hours.

### **Only single penalty appropriate**

**68 (1)** A person or a group of persons shall be penalized at the Chief Returning Officer's discretion for an offence only once for every occurrence, if the culpable action takes place within a tightly circumscribed time or location or recipient person or group of persons.

**(2)** For clarity, a tightly circumscribed time means a culpable action that took place at once, or over a continuous or closely linked period of time. For location; one location or a logically connected set of locations, including digital ones. For the recipient person or group; a class of individuals where the action made cannot be separated with ease from the group or individual person and applied to one and not the other.

## **Division II — Organization of Offences**

**69** Electoral offences may be either:

- (a) minor, absolute liability offences;
- (b) moderate, strict liability offences, comprising the majority of offences in this part, where the only defence is due diligence; or
- (c) severe offences, requiring both *mens rea* and *actus reus* of the offence to be proven on the balance of probabilities; or
- (d) disqualifiable offences, requiring both *mens rea* and *actus reus* of the offence to be proven on the balance of probabilities.

### **Hybrid Offences**

**70** Some electoral offences may be, at the election of the Chief Returning Officer, penalized under different, adjacent categories.

### **DEMERIT SYSTEM**

**71** There shall be a demerit point system for electoral offences in this *Code*. The commission of offences, if penalized by the Chief Returning Officer or found so by a Tribunal, will be counted as a demerit point(s), and/or any other sanction as prescribed in this *Code*.

**72** Demerit points shall be counted against a candidate when that candidate, their campaign manager, and any campaign volunteer of reasonably close proximity, is found responsible when party to an offence.

**73** Fifteen points shall be the threshold for disqualification of a candidate.

**74** After the fourth demerit point, each successive demerit point shall bring a reduction by ten percentage points in the campaign expense reimbursement of the candidate.

#### **Exception, Referendum Committees**

**75** If a referendum committee is disqualified, the option for which they campaign shall not be taken off the ballot upon disqualification, but every person at any time registered under that referendum committee is prohibited from campaigning in any way for their preferred referendum answer after disqualification.

**76** Any campaigning conducted by members of a disqualified referendum committee shall be grounds for the removal of their answer from the referendum ballot.

### **PARTIES TO AN OFFENCE**

#### **Parties to an Offence**

**77 (1)** Every one is a fully responsible party to an offence who:

- (a) actually commits it;
- (b) does or omits to do anything for the purpose of aiding any person to commit it, or is willfully blind to the actions of another person to the same;
- (c) abets any person in committing it; or
- (d) counsels another person to be a party to an offence.

**(2)** Every party enumerated in paragraphs (b) through (d) of Section 77(1) above shall incur one-half the demerit value, rounded up.

### **DEFENCES**

#### **Defence of mental disorder**

**78 (1)** No person is responsible for an act committed or an omission made while suffering from a mental disorder that rendered the person incapable of appreciating the nature and quality of the act or omission or of knowing that it was wrong.

#### **Presumption**

**(2)** Every person is presumed not to suffer from a mental disorder so as to be exempt from criminal responsibility by virtue of subsection (1), until the contrary is proved on the balance of probabilities.

#### **Burden of proof**

**(3)** The burden of proof that an accused was suffering from a mental disorder so as to be exempt from criminal responsibility is on the party that raises the issue.

### **Compulsion by threats**

**79 (1)** A person who commits an offence under compulsion by threats of potentially significant harm from another person who is present when the offence is committed is to be exempt from responsibility for committing the offence if the person reasonably believes that the threats will be carried out.

**(2)** This section does not apply where the offence that is committed is a disqualifiable offence against the person.

### **Officially Induced Error**

**(3)** Notwithstanding s. 69 (b), a person who commits an offence where they believed to be acting in a lawful manner due to the advice of the Chief Returning Officer of this Association, is exempt from responsibility for committing that offence.

### **Mistake in necessary contributory fact**

**(4)** Notwithstanding s. 69 (b), a person who commits an offence where they mistakenly believed that the offence was impossible to commit under the circumstances, is exempt from responsibility for committing that offence.

### **Necessity**

**(5)** Notwithstanding s. 69 (b), a person who commits an offence where their conduct was reasonably necessary to avoid lesser harm, is exempt from responsibility for committing that offence where:

- (a) the accused was in an urgent situation of imminent and reasonably certain peril;
- (b) the accused had no reasonable legal alternative to violating this *Code*; and
- (c) the harm inflicted by the accused must be proportional to the harm they avoided.

### **Intoxication not a defence**

**80** Intoxication or any physical impairment resulting from the voluntary consumption of intoxicating substances shall not be a diminishing or negating factor regarding the commission of and responsibility for an offence.

### **Ignorance of the law not a defence**

**81** Ignorance of the provisions of this *Code* or any other applicable Policy by a person who commits an offence is not an excuse for committing that offence.

## Division III — List of Offences

### **MINOR (ABSOLUTE LIABILITY) OFFENCES**

**82** Offences, per s. 69 (a), that are minor, absolute liability offences, are punishable by not fewer than 1 and not more than 2 demerit points.

**Late expenses submission**

**83** Every one who fails to submit their report of campaign expenses after the deadline set in this *Code* is guilty of an offence punishable by one demerit point.

**Campaigning before permitted**

**84** Every one who campaigns before the campaign period starts is guilty of an offence punishable by one demerit point.

**Use of CUSA materials**

**85** Every one who, while campaigning, makes use of materials bearing the corporate logo or insignia of the Association, or materials created expressly for the use of the Association outside of the election, is guilty of an offence punishable by one demerit point.

**Use of graphic and obscene materials**

**86** Every one who, while campaigning, makes use of materials that are graphic in content or obscene in a way that would significantly offend the general student population, is guilty of an offence punishable by two demerit points.

**Excessive Distribution of Campaign Materials**

**86.5** Distribution of campaign materials that disrupts the flow of campus or poses an increased threat to the local environment, is guilty of an offence punishable by one demerit point.

**Loudspeakers**

**87** Every one who, while campaigning indoors, makes use of a loudspeaker, is guilty of an offence punishable by one demerit point.

**Private or Closed spaces**

**88** Every one who campaigns in a space that is private or closed, where the rightful occupants or controllers of that space have made it known to the accused that the space does not permit campaigning, is guilty of an offence.

**Respecting this Code**

**89** Every one who while a candidate or campaign associate working under the direction of a candidate does not comply with the requirements of this Code.

**90** Every one who while a candidate or campaign associate working under the direction of a candidate uses campaign material to violate this Code.

## **MODERATE (STRICT LIABILITY) OFFENCES**

**91 (1)** Offences, per s. 69 (b), that are moderate, strict liability offences, are punishable by not fewer than 1 and not more than 4 demerit points.

### **Offences against the Truth**

#### **Publication of false information**

**92 (1)** Every one who publishes information that is false or maliciously misleading, that is not defamatory, is guilty of an offence punishable by one demerit point.

#### **Exceptions**

- (2)** This offence is not committed where the information is:
- (a) published in good faith, where due diligence was carried out to ensure its truthfulness;
  - (b) published on the basis of a mistake or misrepresentation made by an otherwise reputable source; or
  - (c) a fair comment.

#### **Defamation**

**93 (1)** Every one commits defamation who, without lawful justification or excuse, communicated to a third party false statements about a candidate, prospective candidate or their campaign associates that results in damage to that person's reputation amongst their peers, including but not limited to:

- (a) a false statement, not accompanied by a formal report, that a candidate, prospective candidate, or other person has committed an electoral offence;
- (b) a false statement about the citizenship, place of birth, education, professional qualifications or membership in a group or association of a candidate, prospective candidate, or campaign associate;
- (c) a statement, true or false, denigrating the immutable personal characteristics of a candidate, prospective candidate or a campaign associate.

#### **Exceptions**

- (2)** For the purposes of S. 93 (1) (a) and (b), defamation is not committed where:
- (a) the defamatory statement is true;
  - (b) the defamatory statement can be demonstrably proven as fair comment; or
  - (c) the dissemination of the defamatory statement is responsible communication in the public interest.

#### **Punishment**

(3) Every one who commits defamation is guilty of an offence punishable by three demerit points.

### **Offences against Property**

#### **Property Damage/Mischief**

**94 (1)** Every one commits mischief who, without due diligence:

- (a) destroys or damages property of the Association;
- (b) renders Association property dangerous, useless, inoperative or ineffective;
- (c) obstructs, interrupts or interferes with the lawful use, enjoyment or operation of Association property;
- (d) obstructs, interrupts or interferes with any person in the lawful use, enjoyment or operation of Association property; or
- (e) who willfully and significantly removes, damages, or obscures any campaign advertising material of another candidate or referendum committee, or alters or moves it so that it in any way such that it would become prohibited.

(2) Every one who commits mischief is guilty of an offence punishable by three demerit points; or, restitution to the Association or other candidate in the form of withheld campaign reimbursement or a monetary fine to compensate for the value of the property damaged or destroyed; or, a reasonable combination of the two.

#### **SEVERE OFFENCES**

**95 (1)** Offences, per s. 69 (c), that are severe offences, are punishable by not fewer than 5 and not more than 7 demerit points.

(2) Offences enumerated in this part may further be disqualifiable offences, which carry the penalty of immediate disqualification.

### **Offences against the Person**

#### **Physical Violence/Voter Intimidation**

**96 (1)** Every one who, through the threat or use of force, seeks to influence another person to vote or withhold their vote in a certain way, is guilty of an offence punishable by disqualification.

(2) Every one who threatens or uses physical force on another person without their consent while acting as a candidate or other authorized person under this *Code*, is guilty of an offence punishable by disqualification.

#### **Harassment**

**97** Every one who repeatedly embarks on a pattern of non-physical abuse or harassment against another person or group of persons is guilty of an offence punishable by disqualification.

### **Data Exploitation**

**98 (1)** Everyone who uses student or other personal data against the wishes of any student or other person to benefit a candidate or campaign.

**(2)** Every current or former CUSA employee who uses data acquired in the course of their duties while employed by CUSA in an election campaign or period.

## **Offences against the Democratic Process**

### **Impersonation**

**99 (1)** Every one who, without colour of right, impersonates an official or employee of the Association or the University, is guilty of an offence punishable by disqualification.

**(2)** Every one who, without colour of right, impersonates a candidate, campaign associate, electors, members, is guilty of an offence punishable by disqualification.

### **Impersonation of the Chief Returning Officer**

**(3)** Every one who, without colour of right, impersonates the Chief Returning Officer, is guilty of a severe offence punishable by disqualification.

### **Slate-forming**

**100** Notwithstanding section 95 (1), every one who organizes a slate of candidates for the same type of office, Councillor or Executive, whether at present or in the future, is, if the organization or assistance is substantial and material, guilty of an offence punishable by zero demerit points.

### **Bribery - Offering**

**101 (1)** Every one who offers a benefit, whether given or not, either at present or upon their election, to another person, candidate, election official or student group, in exchange for an action or inaction on the part of the other person or group; is guilty of an offence punishable by disqualification.

### **Bribery - Accepting or Soliciting**

**(2)** Every one who accepts or seeks and is promised a benefit, either at present or upon their election, from another person, candidate, election official or student group, in exchange for an action or inaction on their part, whether actualized or not, is guilty of an offence punishable by disqualification.

### **Voter Fraud**

**102** Every one who votes more than once, or while in any way ineligible for the vote being cast, or who successfully and non-frivolously encourages and facilitates another person to do the same, is guilty of an offence punishable by disqualification.

### **Illegal Financial Reports**

**103 (1)** Every one who knowingly submits a final campaign expense report to the Chief Returning Officer that is false or inaccurate is guilty of an offence punishable by disqualification.

**(2)** Every one who knowingly submits a final campaign expense report to the Chief Returning Officer that exceeds the limit of their authorized campaign expenses outlined in this policy within reason is guilty of an offence punishable by seven demerit points and the forfeiture of all campaign reimbursements.

**(3)** Everyone who knowingly exceeds authorized campaign expenses beyond what is reasonable is guilty of an offence punishable by disqualification and the forfeiture of all campaign reimbursements.

### **Undermining Electoral Processes**

**104** Everyone who undermines the integrity, fairness and freedom of any Electoral process, is guilty of an offence punishable by disqualification.

**105** Everyone who allows individuals who are not electors to campaign on their behalf, is guilty of an offence.

### **Obstruction of Proper Proceedings**

**106** Every one who obstructs, delays, or is otherwise in contempt of the proper proceedings of Council, the Board, the Electoral Office, or the Tribunal in their administration of the election, is guilty of an offence punishable by six demerit points.

### **Nuisance**

**107** Every one who Interferes with the operations of seminars, laboratories, offices, or other normal functions of the University without permission.

### **Mischief in ballot tampering**

**108 (1)** Every one who attempts or succeeds in tampering with the ballots, or the collection, distribution, marking, or tabulation and counting thereof, or who implicitly or explicitly solicits any person to do the same is guilty of a severe offence punishable by disqualification.

**(2)** Attempts to, or tampers with the Nomination Ballot, voting ballots or electronic polling system.

**(3)** Attempts to implicitly or explicitly solicit the aid of any Member of the elections administration to tamper with the ballots or electronic polling system.



## **SUBSIDIARY OFFENCES**

**109** Offences in this division may be prosecuted in addition to, or as a subsidiary or incidental offence from, any offence in the earlier divisions of this Policy.

**110 (1)** Except where otherwise provided, every subsidiary offence shall be punishable by not less than one-quarter and not more than one-half of the penalty of the original offence, following past precedent.

**(2)** A partially responsible party, per Section 77 (2), shall not be responsible under a subsidiary offence if another in the same campaign is responsible in any part.

### **Conspiracy**

**111 (1)** Every one who conspires with another to commit an offence is guilty of an offence to the same.

**(2)** Notwithstanding s. 69, conspiracy to commit a severe offence shall be considered under the standard of strict liability only.

### **False or Vexatious Accusation**

**112 (1)** Every one who submits to the Chief Returning Officer, or who alleges before a Tribunal or Public Body of this Association that another candidate or their agent has committed an offence, where such allegation is demonstrably false, frivolous, vexatious, or made in bad faith, is guilty of an offence.

**(2)** No person shall suffer under the penalty in this *Code*, even if accepted without appeal, when the complainant is found to be guilty of a false or vexatious accusation in the same complaint, unless they are also found guilty.

### **Attempts**

**113** Every one who, having an intent to commit an offence, does or omits to do anything for the purpose of carrying out the intention is guilty of an attempt to commit the offence whether or not it was possible under the circumstances to commit the offence.

## **OFFENCES IN OTHER POLICIES**

**114** Every offence that may be found in any other policy, consistent with the definition of "offence" operationalized in this *Code*, shall be counted as an offence punishable by between one and five demerit points at the discretion of the Chief Returning Officer, or the Tribunal, in accordance with past precedent.

**115 (1)** Actions which violate CUSA Constating Documents and any policy thereunder, shall be counted as the same.

**(2)** Actions which violate the law of the land (i.e. International Law, Law of the Sea, Federal Law, Provincial Law, Municipal Law), shall be counted as the same.

(3) Breaches of CUSA employment contracts, where applicable, shall be counted as the same.

(4) Breaches of Carleton University policy.

**116 (1)** No provision in any policy of this Association that sets the conditions or *bona fide* requirements for an elected officeholder shall be construed as a disqualifiable offence during the time of the election.

(2) No offence found at common law by the Chief Returning Officer or Tribunal under section 115 may be used, on their own, to disqualify a candidate.

## **Part Three — Tribunal**

### **Division I — General Principles**

**117** The Students' Tribunal shall follow the *Judicial Policy* (X-01).

### **Division II — Appeals**

#### **ADMINISTRATION**

**118** If a candidate, or other individual, disagrees with the decision of the Chief Returning Officer to penalize them with demerit points under the *Code*, they may appeal the decision to the Students' Tribunal.

- (a) In informing an individual of a penalty laid, the Chief Returning Officer shall inform them of their right to appeal.
- (b) An appeal must be submitted within 72 hours of receiving the notice of the penalty one is appealing.

#### **STUDENTS' TRIBUNAL**

**119** There is, according to the *Judicial Policy*, a Judicial Board of the Carleton University Students Association that is established as the highest authority for the Carleton University Students Association that is called the Students' Tribunal.

*Judicial Policy* (G-03) ss. 7

**120** The Students' Tribunal shall be the body of appeal for all elections matters.

#### **Parties**

**121** At any hearing heard by the Tribunal, the complainant shall be the Association (Elections Office), and the respondent shall be the individual accused of an offence in this Policy.

#### **Procedural Rights of Parties**

**122** Every person has the right to be heard by the Tribunal separately from other individuals that they would not like to be physically present within the same space.

### **Regulations**

**123** The Students' Tribunal has the authority to make and publish rules regarding hearings and their administration, attached as Schedules to this Code.

**124** Such regulations shall be made publicly available and known under a process analogous to Policies of the Association.

## **Part Four — Code Evaluation**

### **REVIEW**

**125** The Chief Returning Officer will provide insight in their final report on the effectiveness of this code and any recommendations for improvement.

**126** The Association's legal counsel will provide their insight on this Code when asked by the Board or its designates.

**127** Any committee as designated by Council may review this code and recommend any changes for any reason.

**128** Individuals who are eligible to and plan to run in future elections for any elected office should take effort to stay at an arms-length from any reviews.

### **AMENDMENTS**

**129** Council may amend this code in keeping with their rules of procedure.

**130** Those planning to run for elected office who are voting members of Council should abstain from debate and voting on matters which will govern elections they intend on being a candidate within.

*Conflict of Interest Policy G-05, s. 4 (1)*

## SCHEDULE OF AMENDMENTS

DATE AMENDED	MOVED	SECONDED	SUMMARY
1942			Provisions of the original Constitution have concerned elections as far as records can go.
1951			First print version of the <i>Electoral Code</i> that can be found.
2012			Provisions for online balloting.
January 2021			Provisions for an online campaign.
January 2022			Streamlining.
November 2022	F. Lepore	J. Vecchio	Provisions for a re-open nominations election; time limits placed on initiating complaints and appeals; provisions for how ties are handled in vote counting; streamlining appeals process; and other various clerical amendments.
September 2023	R. Awad	M. Huynh	New definition of "eligible voter"; changes to campaign postering and material distribution rules; added the expectation for timely responses from candidates to the CRO's inquiries; clarified that CUSA student staff must take a leave of absence to run for office; and new provisions in cases where the Executive Director position is vacant.

## Schedule to the *Electoral Code*

### Schedule I - Layout of Ballot

**X-01-I**

AUTHORITY	Council/Electoral Reform Commission	AUTHORIZED
		LAST AMENDED

**1** The ballot for President shall resemble:

Candidates & RON	First Choice	Second Choice	Third Choice	Forth Choice	Fifth Choice	Sixth Choice	Seventh Choice
Alpha, Name							
Beta, Name							
Charlie, Name							
Delta, Name							
Echo, Name							
Foxtrot, Name							
Re-open Nominations							

**2** The ballot for Councillor in any given faculty shall resemble:

Candidates & RON	First Choice	Second Choice	Third Choice	Forth Choice	Fifth Choice	Sixth Choice
Golf, Name						
Hotel, Name						
India, Name						
Juliet, Name						
Kilo, Name						
Re-open						

Nominations						
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**Schedule II - Candidate *Code of Conduct***

**X-01-II**

AUTHORITY	Council/Electoral Reform Commission	AUTHORIZED
		LAST AMENDED

**1** The Candidate Code of Conduct should read, as amended by the Chief Returning Officer from time to time:

"I [Candidate Name], do solemnly swear that I have read and understand the;

1. Electoral Code,
2. Applicable CUSA Policies,
3. Application University Policies, and
4. Applicable Laws of the Land

I [Candidate Name], do solemnly swear that I shall:

1. Follow the rules of this election,
2. Treat my fellow competitors with respect and decency,
3. Act in good faith, with integrity and transparency, and
4. Not spread any lies or misinformation

X \_\_\_\_\_