



# University of Toronto

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February 25, 2003

Ms Alexandra Artful-Dodger  
External Commissioner  
Students' Administrative Council (SAC)  
12 Hart House Circle  
University of Toronto

Mr. Dan Bandurka  
President,  
Scarborough Campus Students' Union (SCSU)  
1265 Military Trail  
University of Toronto

Ms Emily Sadowski  
President  
Association of Part-time Undergraduate Students (APUS)  
119 St. George Street  
University of Toronto

Dear Alex, Dan and Emily,

I am writing in response to the requests you made on behalf of your respective organizations for increases to your fees to support the cost of membership in the Canadian Federation of Students and the Canadian Federation of Students – Ontario (both organizations will be collectively referred to as “CFS” in this letter).

This letter is a summary of relevant issues related to the requests for fee increases and the conclusions I have reached on these matters.

## **Background**

In order to provide some context, it is important to understand the position of “student societies” in relation to the University of Toronto. SAC, APUS and SCSU are student societies whose membership includes students registered at the University of Toronto. Student societies are not “affiliated” with the University in any legal sense. Student societies are independent organizations on whose behalf the University collects a compulsory fee *in trust*, in which membership is automatic and determined by the division(s) in which students register. Student societies



occupy space and make use of services available within the University community in the conduct and pursuit of legal activities. The University neither endorses nor takes responsibility for the activities of student societies.

Student societies are not “recognized campus groups” under the *Policy on the Recognition of Campus Groups*. Recognition as a student society is derived from the existence of a compulsory non-academic incidental fee established by the Governing Council of the University of Toronto under the *Policy for Compulsory Non-Academic Incidental Fees*.<sup>1</sup> This *Policy* provides that “the University shall continue to collect fees on behalf of student societies only so long as the individual societies operate in an open, accessible and democratic fashion, following the terms of their constitutions, and submit evidence...that adequate financial records are being maintained and that funds collected are being properly accounted for.” The University, therefore, has a fiduciary responsibility to the student members of student societies.

As outlined in the *Handbook for Student Societies*<sup>2</sup>, and pursuant to the *Policy for Compulsory Non-Academic Incidental Fees*, requests for increases to student society fees must be approved by the University Affairs Board of the Governing Council.

Section 2 of the *Policy* provides the following requirements:

*Requests to change the fee collected on behalf of a student society and requests for new fees shall be approved only when evidence has been presented that the request has been authorized by due constitutional process in the organization.*

*Where the amount of an increase in the fee charged is not greater than the year-over-year change in consumer prices for Ontario as measured by Statistics Canada (December-over-December) as of December 31 of the previous year, the request must be supported by the results of a previous referendum approving the principle of a cost-of-living adjustment. Where the amount of an increase in the fee charged is greater than the year-over-year change in consumer prices, the request must be supported by the majority of the society's members voting in a recent referendum.*

In addition, Section 1(g) references requirements for third party organizations which receive a portion of a student society fee:

*Where a portion of the student society fee is designated for another organization, the student society must obtain, by December 31st, from the organization that receives the designated portion of the fee, financial statements audited by a public accountant.*

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<sup>1</sup> <http://www.utoronto.ca/govcncl/pap/policies/Compfees.pdf>

<sup>2</sup> <http://www.sa.utoronto.ca/publications/sshandbook2002.pdf>

Section 13 establishes the expectation that fees for third parties are normally included in the relevant student society fee (i.e., a CFS fee, if approved, will be considered part of the SAC, APUS and SCSU fees<sup>3</sup>).

The University's procedures for handling fee change requests (from the *Handbook for Student Societies*) also provide that requests for fee increases must be supplied with the following:

- 1) *Evidence that the request to change the existing fee (or to institute a new charge) has been authorized by due constitutional process of the organization. This evidence should include:*
  - (a) *A copy of or specific reference to the section of the society's constitution and/or by-laws which relates to the mechanism for fee changes;*
  - (b) *A copy of the relevant rules and procedures governing the process related to the mechanism for fee changes;*
  - (c) *Minutes of the meeting at which the resolution to request the change was approved and minutes of any other relevant meetings (e.g., the minutes of the meeting at which ratification of referenda results occurred if this decision was independent of a formal resolution to request a fee increase); and*
  - (d) *A formal declaration from an appropriate officer or representative of the society certifying that the organization has complied with the terms of its constitution and/or by-laws, and the rules and procedures relevant to the request.*
- 2) *Details of any referenda related to the subject which may have been held including:*
  - (a) *The full text of referendum questions (and a copy of the paper ballot used when applicable);*
  - (b) *The full results of the referenda (including the number of members voting in favour of the proposal, the number voting in opposition, and the number of spoiled ballots);*
  - (c) *Copies of formal notices, newspaper advertisements, flyers, and other publicity given the matter to ensure that those who may be affected by the change are aware of the proposal, including size and purpose*

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<sup>3</sup>Graduate students already pay CFS fees as a designated portion of the GSU fee.

*of the increase, and have had the opportunity to make their views known;*

*(d) The decisions and rulings concerning any applicable complaints or concerns related to the referendum process.*

*3) The budget for the current year together with details of any subsequent amendments or deviations and an estimate of actual income and expenditures to date. An audited statement of accounts for the previous financial year showing sources of income and nature of expenditures may also be required.*

For the purposes of a request for a fee increase to support membership in the CFS, the items outlined in point 3 above (i.e., financial documents) are not required.

As is the case for all requests for student society fee requests, when the results are ratified by the societies and Student Affairs receives the formal requests for increases to the respective fees, I complete an assessment of the process. With respect to this referendum, the assessment has paid particular attention to fairness and democracy, as well as compliance with all applicable rules, procedures and policies. The assessment has not been affected by the results.

### **Conclusions & Recommendations**

As a result of my assessment of the referendum processes, I have reached the following conclusions:

1. I continue to have concerns about the fairness of the referendum processes. In particular, I have a number of concerns about the oversight and management of the referenda. As a result, I cannot certify that the processes have been fair.
2. There appear to have been a significant number of violations of by-law requirements, as well as rules and procedures within the societies. Therefore, there is insufficient evidence to verify that the request for fee increases has been authorized by due constitutional process of the organization.
3. There may have been an unbalanced playing field in favor of a 'yes' vote in the referenda.

The core rationale for reaching these conclusions is reported in the attachment to this letter.

**On the basis of these conclusions, there are insufficient grounds to recommend approval of the fee increases to the University Affairs Board of the Governing Council.** This should not be interpreted to mean that there has been a

formal finding that the process was unfair and undemocratic. It does mean, however, that I do not have sufficient comfort with the process or the fee increase requests in order to stand behind a recommendation for a fee increase.

I acknowledge that the CFS has already accepted the results for the purposes of joining the Federation and that the CFS, under its by-laws expects each of your organizations to remit membership fee payments beginning in the fall of 2003.<sup>4</sup> It is, however, worthwhile to also note that membership in the CFS was accepted at recent general meetings of the Federation notwithstanding formal ratification/acceptance of the results by each of your organizations.

I further acknowledge that, compared to the University, the Federation may have different standards and expectations with respect to referenda. However, the University's policies and procedures on these matters are not concerned with the actions or expectations of external organizations. Moreover, the University's policies and procedures assume that requests for fee increases are initiated and wholly governed by student societies within the U of T.

Therefore, while it might be said that the referenda processes are sufficient for federating with the CFS, the processes may not be sufficient for the purposes of requests for fee increases within the University of Toronto.

It is important to understand that the assessment of the referendum process is a normal and expected practice of this office. It is not a comment on membership in the Canadian Federation of Students. The assessment is merely an analysis of the process by which undergraduate students might demonstrate their consent to an increase to the respective society fees to support the cost of membership in the CFS. From the Federation's perspective, this might be considered a simple vote on membership. From the University's perspective, this was a referendum on a fee increase as required under University policy.

I also acknowledge that this type of assessment may not take place at every institution at which students have sought membership in the CFS. It is however a practice and expectation at the University of Toronto. It is my duty, therefore, to undertake the assessment with due diligence and integrity.

On the basis of my conclusions, I recommend taking the following actions:

1. SAC, APUS, and SCSU should hold new referenda, under improved procedures and rules, focusing only on the question of a fee increase to support the costs of membership in the CFS. My strong advice is to use existing internal mechanisms to hold such referenda rather than

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<sup>4</sup> The CFS membership by-laws provide that "A local association's application for membership, once accepted by the Federation, shall constitute a binding contract to collect and remit to the Federation full membership fees for the duration of the membership."

adopting external procedures. I would also recommend that these referenda be held independently (within SAC, APUS and SCSU) rather than as a joint process as was the case in November.

2. If you continue to believe that the results from November should be accepted and if you wish to have the fee increases considered by the University Affairs Board in the absence of a recommendation from the administration, you should seek advice from Beverly Stefureak, Assistant Secretary, Governing Council (and Secretary of the University Affairs Board), in the Office of the Governing Council. If it is possible to have the matter brought before the Board without a recommendation from the administration, this office will not object.

As a result of my attention to this issue, I will be recommending a number of improvements to the University's procedures for handling fee increase requests from student societies. In particular, once a consultation with the student societies has occurred, I will be recommending approval of an appendix to the *Policy for Compulsory Non-Academic Incidental Fees* setting out the University's expectations and guidelines concerning fee increase referenda held by student societies. I would be pleased to receive suggestions from you on this issue.

I realize that this is not the ultimate conclusion you hoped to achieve with your efforts to seek membership with the Federation. I hope, however, that you consider my conclusions and recommendations seriously and that you will seek a solution which represents the needs of your members in a democratic and fair manner in compliance with your organizations' by-laws.

If you have any questions about my conclusions or recommendations, please contact me at any time. My office phone number is 416-978-4027 and my cell phone number is 416-561-3774. My email address is <jim.delaney@utoronto.ca>.

Yours sincerely,

Jim Delaney  
Assistant Director, Student Affairs

- cc. D. Farrar, Vice-Provost, Students  
S. Addario, Director, Student Affairs  
R. Kusi-Achampong, President, Students' Administrative Council  
L. Charpentier, Secretary, Governing Council  
B. Stefureak, Assistant Secretary, Governing Council  
J. Nestor, Chair, University Affairs Board  
S. Levy, Vice-President, Government & Institutional Relations

JD/

## **CFS Referendum Details**

### **Dates**

Polling: November 5 to 7, 2002

Campaign Period: October 21, 2002 to November 7, 2002

### **Eligible Voters**

The CFS accepted prospective membership from SAC, APUS and SCSU in the winter and spring of 2002. Because of the arrangement with SCSU, UTSC students would be included in the list of eligible voters for SCSU instead of SAC and APUS.

SAC: full-time undergraduate students on St. George and UTM campuses

APUS: part-time undergraduate students on St. George and UTM campuses

SCSU: full-time and part-time undergraduate students on the UTSC campus

### **Referendum Question**

#### ***Preamble:***

*The Canadian Federation of Students is a national and provincial students' organization with over 450,000 members. The Federation was formed in 1981 to advocate for an affordable, high quality system of post-secondary education, and to provide cost-saving services to students.*

*The current membership fee for the Canadian Federation of Students is \$3.42 per session for full-time students or \$1.71 per session for part-time students. The current membership fee for the Canadian Federation of Students – Ontario is \$2.85 per session for full-time students or \$1.43 per session for part-time students. The fees are adjusted up or down each year by the rate of increase or decrease in the Canadian Consumer Price Index (CPI) during the previous calendar year.*

*By voting 'yes' below, you are indicating that you support an additional portion (\$6.27 for full-time students or \$3.14 for part-time students per session) to be collected with your student society fee as described above. Each student would pay the fee through the appropriate student society, either the Students' Administrative Council (SAC), the Association of Part-Time Undergraduate Students (APUS), or the Scarborough Campus Students' Union (SCSU).*

#### ***Question:***

*Are you in favour of membership in the Canadian Federation of Students and the Canadian Federation of Students – Ontario, as described in the preamble?*

**Vote Results**

Results are reported here as totals applicable for the purposes of the fee increase requests. Since SCSU is being treated as a separate fee increase request, the SAC and APUS total reported here exclude the UTSC numbers. Both organizations included the UTSC numbers as part of the totals submitted with the fee increase requests.

It should be noted that the voter turnout for this referendum is higher than any turnout for elections in recent memory.

Results Applicable to SAC (St. George and UTM only):

YES	2,585	58.6%	
NO	1,723	39.1%	
<u>Spoiled</u>	<u>104</u>	<u>2.4%</u>	
Total	4,412		13.7% of 32,183 eligible voters

Difference between YES and NO: 862 votes (2.7% of eligible voters)

Results Applicable to APUS (St. George and UTM only):

YES	527	78.0%	
NO	138	20.4%	
<u>Spoiled</u>	<u>11</u>	<u>1.6%</u>	
Total	676		7.9% of 8,545 eligible voters

Difference between YES and NO: 389 votes (4.6% of eligible voters)

Results Applicable to SCSU (UTSC only / all part-time and full-time):

YES	1,017	87.1%	
NO	140	12.0%	
<u>Spoiled</u>	<u>10</u>	<u>0.9%</u>	
Total	1,167		16.9% of 6,893 eligible voters

Difference between YES and NO: 877 votes (12.7% of eligible voters)



## Concerns About Referendum Processes

### Oversight and Management of the Process

Notwithstanding the Federation's recent submission to me concerning the oversight structure of the referenda, I continue to have a number of concerns. The reference materials that I have reviewed suggest that the oversight of elections and referenda must be carried out by individuals acting in a strictly neutral and unbiased manner in every matter related to the process. An election and referendum oversight body should be independent and non-partisan. This body should be composed of individuals who are (and are perceived to be) fair and capable of acting in an impartial manner. Moreover, it is important that participants in the process have some trust in the fairness of the process — which does not appear to be the case in this referendum.

In my consideration of issues related to oversight of the referendum processes, I am guided by a core belief that the processes must not only be fair, they must be *perceived* to be fair. In coming to this understanding, I reviewed a considerable number of resource materials concerning elections and democracy. In particular, the Administration and Cost of Elections (ACE) Project<sup>5</sup> provided me with a number of insights and a deep understanding of election and referendum related issues. Because of its significance in guiding my understanding of these issues, I reprint here major portions of the ACE Project's Guiding Principles<sup>6</sup> for electoral management which includes portions of the International Institute for Democracy and Electoral Assistance (IDEA)<sup>7</sup> code of conduct for the ethical and professional administration of elections:

*Whilst there will always be an argument about the meaning of democracy, there is a great deal of agreement emerging about the guiding principles that should govern election management. An election management body (EMB) should be founded on principles of independence, nonpartisanship, and professionalism. It should have clear procedures to make it accountable and have equally clear procedures for reviewing its effectiveness both as a management organisation and as a service deliverer. It must be nonpolitical but capable of operating in a political environment.*

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<sup>5</sup> According to its web site, "the ACE Electronic Publication strives to provide complete and systematic election information to those who are faced with designing electoral systems and procedures and support those who furnish advisory assistance to election management bodies world-wide." See <<http://www.aceproject.org>> for more information.

<sup>6</sup> See <<http://www.aceproject.org/main/english/em/em20.htm>> for the complete set of Guiding Principles.

<sup>7</sup> IDEA's objective is to "promote and advance sustainable democracy world-wide and to improve and consolidate electoral processes." See <<http://www.idea.int/>> for more information.

### **Guiding Principles**

**Independent:** ... an EMB attracts the confidence of all parties only if it is seen to be independent of any party and of the sitting government. It is essential that the EMB have this confidence or else the process of the election and the results will be brought into question. ... The EMB itself should also be structured to protect it from influence. ...

**Nonpartisan:** Nonpartisan is not the same thing as independent. Rather, it implies that the EMB should not care about who wins or loses the election it is administering. Its interest should be in establishing a level playing field on which candidates and parties may compete, in giving all voters sufficient information so they can cast their vote in a reasonably informed manner, and in adding up votes and declaring results without prejudice toward any party or candidate. The EMB should be composed of people who are, and who are perceived by the key players to be, capable of acting impartially ... In many cases, this means that the members or policymakers of the EMB are not members of any political party. ...

**Professional:** No matter how independent or impartial an EMB may be, an equally important characteristic is professionalism in its approach to the huge administrative task that is electoral management. ...

An EMB should ensure that the electoral law is faithfully administered and that all candidates, parties, and voters are treated equally and fairly. ...

### **Managerial and Ethical Principles**

...

The integrity of election administration is crucial to ensure that the electoral process is considered to be legitimate. There is little point in holding elections, which are expensive operations, if the outcome is questionable because of either the inefficiency of the EMB or doubt about its impartiality. At the time of an election as well as during the compilation of the voters list, the attention of many will fall on the role of the EMB, and the EMB should be certain that it can withstand such scrutiny and ensure the legitimacy of the processes for which it is responsible.

The International Institute for Democracy and Electoral Assistance (IDEA) has published a Code of Conduct for the ethical and professional administration of elections. The code details the five ethical principles that should form the basis of electoral administration to ensure both the appearance and the actual integrity of the electoral process. ...

**Ethical Principle 1 - Election administration must demonstrate respect for the law.** The success of an election depends on the extent to which it is accepted as legitimate and binding by the participants in the political process. ...

**Ethical Principle 2** - Election administration must be **nonpartisan and neutral**. For an election to be successful, participants in the process have to trust that the election administrators will carry out their functions in a politically neutral way. If the people managing an election are perceived to have a commitment to any particular election result, the public credibility of the election process will be so seriously compromised that it will be difficult to restore faith in the process. Election administrators must therefore perform all their tasks in a manner that is strictly nonpartisan and politically neutral.

At times, a country may choose people to be election administrators because they represent a political party or political tendency. In that case, even though the administrators are chosen because of their political affiliation, they must still perform their election administration tasks in a manner that is strictly nonpartisan and politically neutral.

Election administrators should

- act in a strictly neutral and unbiased manner in every matter concerning a political party, candidate, voter, or member of the press or media,
- do nothing that could indicate, or be seen as indicating, partisan support for a candidate, political party, political actor or political tendency,
- at all times, conduct themselves in an irreproachable manner, exercise sound judgement, and observe the highest levels of personal discretion,
- disclose any relationship that could lead to a conflict of interest with their duties as election administrators,
- not accept any gift or favour from a political party, organisation, or person involved in the election process,
- reject any improper influences, and, except as provided by law or custom, refrain from accepting directions relating to the performance of their tasks,
- not participate in any unauthorized activity, including any private activity, that could lead to an actual or perceived conflict of interest with their duties as election administrators,
- not participate in any activity, including any private activity, that could lead to a perception of sympathy for a particular candidate, political party, political actor, or political tendency,
- not express a view on any subject that is likely to be a political issue in the election,
- not communicate with any voter on a matter of partisan significance,
- not wear, carry, or display any obviously partisan party symbols or colours.

**Ethical Principle 3** - Election administration must be **transparent**. For an election to be successful, participants in the process have to accept the decisions of the election administration. Participants are most likely to accept those decisions if they can easily satisfy themselves that the decisions were made appropriately. ...

***Ethical Principle 4*** - Election administration must be **accurate**. It follows from the discussion of Ethical Principle 3 that, for decisions of election administrators to be satisfactory for the participants, the information on which the decision is based must be accurate as well as accessible. ...

***Ethical Principle 5*** - Election administration must be **designed to serve the voters**. Election administrators and administrations should work to provide to every voter the highest quality service required to enable voters to exercise their rights with the least possible inconvenience ...

The CFS by-laws, without any apparent opportunity for variation, establish a number of specific requirements for administering a campaign to federate with the CFS. In particular, a “Joint Referendum Committee” (JRC) is established according to the following provisions:

*The vote shall be overseen by a committee comprised of two (2) members appointed by the Federation and two (2) members appointed by the students’ association. The committee shall be responsible for:*

- i. deciding the manner of voting, be that by referendum, general meeting or mailout ballot;*
- ii. deciding the number and location of polling stations;*
- iii. approving all materials to be distributed;*
- iv. deciding the ballot question;*
- v. overseeing the voting;*
- vi. counting ballots;*
- vii. adjudicating all appeals; and*
- viii. establishing all other rules and regulations for the vote.*

In contrast, the commonly employed election and referendum processes at the University of Toronto, with some variation, normally provide for a chief returning officer who is accountable to an elections committee, which is in turn accountable to the board or council of the student society. This structure provides a series of checks and balances which enhances the integrity of the election and referendum process. A decision of a chief returning officer can be challenged to the elections committee. The decision of a committee can be appealed to a board.

At their core, the respective JRCs fail to provide opportunities for checks and balances because they apparently owe no accountability to the SAC, APUS or SCSU boards. More importantly, since the JRCs function as both chief returning officer and the oversight body, there is no real opportunity for appeals of decisions. Without accountability or concern that another body might overturn a decision of the JRC, the committee is, in theory, free to act in a biased manner.

At a number of levels, the JRC structure and implementation fails to meet many of the requirements outlined by the ACE Project's Guiding Principles. In particular, the following points outline my main concerns with the oversight process.

1. The JRCs are probably not independent. The composition of the respective committees is made up of individuals representing organizations which all support joining the Federation. Even with respect to certain individuals on one JRC who may not personally support membership, there is evidence that suggests that this student society may have attempted to exercise control over the opinions of committee members. In addition, a CFS representative is quoted in the minutes of a JRC meeting as stating "we're held accountable as Federation representatives to this committee for our actions and the positions that we take."
2. Some members of the JRCs have probably acted in a partisan manner. This may have included campaigning in favor of joining the Federation. Even if these activities did not result in partisanship within the committee, it can lead to the development of perceptions that committee members will not act in a nonpartisan manner.
3. Decisions and the decision-making processes of the JRC were probably not transparent. Not only did individuals complain about not knowing how to submit a complaint and about failing to receive formal notice of decisions, a member of one committee reports that the consensus decision-making model employed by the committee was not understood. According to this member, the decision-making process was exploited by both sides as a means of exercising a veto on many issues.
4. Some actions taken by the JRCs are the subject of intense criticism for being biased. In one case, it was alleged that one JRC deliberately delayed and blocked the approval of 'NO' committee publicity materials. A member of one committee contends that this indeed might be the case.

Some have suggested the JRCs are designed along the lines of a group which oversees the certification of an employee group with a trade union. However, in Ontario such certification votes are overseen by the Ontario Labour Relations Board, not the union with which the certification vote is associated. The CFS argues that no such similar body exists which might oversee votes to federate. At the same time, the Federation argues that it has found historically that it cannot trust existing local mechanisms to provide fair processes for joining the Federation. I would contend that another oversight model can be found which is adaptable to meet the needs of local student associations, the requirements of institutions (if any exist), and the expectations of the Federation.

It is one thing to create the expectations and standards for votes to federate and another to obligate student associations to implement an oversight model to enforce those expectations and standards.

In its submission to me, the Federation failed to persuade me that the oversight model should be considered to be consistent with the accepted principles for fairness in electoral processes. The Federation attempted to argue that strength in the model lies in the actions of the committee. However, it is in some committee actions and the possibility that other errors or omissions might have occurred, that I continue to have concerns. With a thorough examination of the model, with reference to accepted standards for democratic processes, I question whether or not the design of the model creates an inherent bias in the process in favor of the Federation.

Finally, I continue to be concerned about the perception of the fairness of this oversight model. Perceptions arise out of students' understanding of the world around them. It is the world as it is perceived that influences attitudes and behavior.

The Federation contends that this perception of a lack of fairness arises only because there was a systematic effort to undermine the validity of the process. I agree that there are some indications that a specific tactic of the 'NO' side was to generate doubt in the validity of the process. In fact, I would note that I find this tactic to be dishonorable and disrespectful to the other students wishing to engage in a fair and democratic process.

Nonetheless, I truly question the effectiveness of this effort in creating widespread concern. Arguably, much of this effort was directed at this office because it was known that this assessment of the referendum would occur. In addition, many of the issues cited by those casting doubt on the process have not surfaced as significant issues for me. Nonetheless, references to the fairness of the process continue to appear in the campus media months after the referendum.

In his submission to the Advisory Committee of Registered Political Parties of Elections Canada, André Blais of the Université de Montréal reports that "groups will accept the outcome of elections provided they feel that the process is *fair*, that it is not systematically *biased* against them." He also states that "losers in an election may finally accept the outcome because they perceive the electoral procedure to be legitimate."<sup>8</sup>

My assessment is that the ongoing questioning of the CFS referendum results arises not because of a campaign to cast doubt on the validity of the process, but because there are a significant number of members of the campus community who

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<sup>8</sup> Blais, André. *Criteria for Assessing Electoral Systems*, Advisory Committee of Registered Political Parties, Elections Canada, April 23, 1999.

developed their own conclusions about the referendum and continue to vocalize those concerns.

### **Specific Procedural Concerns**

The following areas continue to be of concern to me:

1. **Three Student Societies, Three Joint Referendum Committees, One Process:** Despite the fact that the polling was operated as a joint activity, the 3 JRCs apparently operated in a distinct manner. Despite the assertion by the Federation that the three committees worked together to a considerable extent, one student society representative of one JRC contends that the committees never officially communicated. My principle concern here is that operating three independent JRCs might conceivably be seen as a means to argue that complaints were not received by one or two organizations and that even if the results from one organization are rejected, the results from the other two should be accepted. Many of the primary concerns arise for me in relation to all three student societies because this was, for the most part, operated as a joint process even if the JRCs did not, per se, work together.
2. **An Absence of an Appropriate Appeals Mechanism:** As noted above, the JRC structure failed to provide a sound appeals mechanism. It is inappropriate for the same body to hear appeals of its own decisions. An absence or low occurrence of appeals should not be considered evidence that the current system is appropriate. Rather, it might be an indication that no appeals were filed because the complainants deemed it would be a waste of time.
3. **JRC Communications:** I am concerned about the lack of consistency in the manner in which notices of JRC meetings was given and the manner in which decisions were communicated. Integrity in the process is, in part, derived from complying with the relevant regulations and acting in a consistent manner within each committee and among the three committees.
4. **Proper Notice to Members:** APUS failed to provide the minimum amount of notice to its members by failing to publish the full text of the referendum question at least 21 days prior to the referendum (APUS by-laws, section 11.04). SAC failed to comply with its referendum code (section IX(a)) to publish the locations of polling stations in the campus media. In addition, while a number of people contend that 5,000 posters outlining polling locations and procedures were distributed on campus, a number of students, including a member of one JRC, doubt the validity of this.

5. **Professional Experience Year (PEY) Students:** I continued to be concerned that PEY students (members of APUS), especially those located away from the Toronto area, were not provided with an opportunity to vote.
6. **Approval of Campaign Materials:** It appears to me that a resolution was never reached with respect to disputes over what should be considered campaign materials. Moreover, the definitions of campaign materials appeared to be inconsistent among the three JRCs. I also continue to question whether or not there was compliance with SCSU's resolution on this matter (which deemed all CFS material to be campaign material).
7. **Mixed Voter Eligibility Lists and Systems:** I continue to be concerned about using different voter verification systems (voter lists in some locations and double envelope balloting in other locations) and voter lists originating from different University offices. Integrity in the voting system is preserved by employing one eligibility system with one voter eligibility list. While I acknowledge that the system employed apparently caught a number of people attempting to vote more than once, some doubt might remain about other multiple voters under the mixed system which was employed. In particular, the lists provided by this office were explicitly generated by searching for charges of the APUS and SAC fees while other lists were generated by searching for registration in a particular division. It is conceivable that a student with a SAC fee charge on his or her account might show up on another list as being registered part-time in a particular division.

I should note for the record that attempting to vote on multiple occasions might conceivably be considered an offence under the *University's Code of Student Conduct*.

8. **Activities of Poll Clerks:** There is a sufficient number of reports of improper conduct of poll clerks to suggest that much more additional investigation is necessary. The reports which warrant further inquiry all relate to comments allegedly made by poll clerks which might be considered campaign activities. Some complainants suggest that the improper conduct is associated only with the poll clerks selected by the CFS. However, I have not received conclusive evidence on this issue. Without a definitive outcome on this area of complaint, I continue to be concerned about whether or not poll clerks did indeed act properly and in compliance with the instructions provided by the Federation.
9. **Campaigning on Voting Days:** The normal practice among most University of Toronto student societies is to prohibit active campaigning on election days. I continue to have concerns about allowing campaigning on election days and the emergence of "gauntlets" of



campaign workers coercing students to vote. Some argue that the high voter turn out resulted from intense support for the membership in the CFS. I worry that the high turnout was a result of high pressure tactics by both sides on students entering some spaces. The Federation contends that a “no-campaign rule during any referendum unduly benefits the side promoting the status quo.” Without specific references, it is hard to verify the validity of this claim. However, if this is true, one might also conclude that the opposite may be true — that allowing campaigning on voting days favors change (in this case a vote to join the CFS).

10. **Status of JRCs with Student Societies:** While the role of the SCSU-CFS JRC appears to be constitutionally compliant (because SCSU formally appointed the JRC as its election convener), I continue to have doubts about the constitutional validity of the SAC-CFS JRC. A resolution approved by the SAC Board on September 23rd provides that all decisions of the SAC-CFS JRC must be ratified by the SAC Board. However, the resolution approved by the SAC Board on November 28th was limited to ratification of the results as reported by the JRC.

The Federation reported to me that the JRC is “an independent entity whose decisions are not subject to authorization or interference by the student association or the Federation.” The CFS also stated that the decisions of the JRC “were not ultimately contingent on approval by the board.” With respect to another issue, the CFS also stated that the CFS representatives on the SCSU-CFS JRC “were not bound by resolutions” approved by the SCSU Board. If all these assertions are true, then the referenda processes were managed by independent bodies. In this context, I seriously question whether or not these processes should be considered processes of the student societies and, therefore, whether or not there is sufficient evidence which demonstrates that the fee requests were made in compliance with the student societies’ by-laws and procedures.

11. **Three Different Referendum Codes Approved by Different Processes:** Although there is a considerable amount of agreement among the SAC and SCSU referendum codes (I was not provided with an APUS code, if it exists), under a joint process involving three student societies, it would have been appropriate to establish a single code. I also question the validity of the SCSU code since it was never approved by the SCSU Board. The Federation stated that “formal approval of the referendum code by the board of the Scarborough Campus Students’ Union is not a precondition to the oversight of the referendum process.” Given that SCSU has existing procedures for referenda, I am concerned that the CFS referendum might not have been operated under duly approved procedures.

### **An Unbalanced Playing Field**

Based upon everything that I have heard, I would conclude that both the 'YES' and 'NO' campaigns engaged in questionable conduct. Indeed, it might be said that the 'NO' side engaged in more inappropriate campaign conduct than the 'YES' side. It might also be said that the 'NO' side engaged in a deliberate attempt to undermine the validity of the process.

However, upon reflection on the issues related to oversight and fairness in electoral management, and in consideration of all of the above procedural issues, I continue to have concerns about the overall process favoring the 'YES' side. While both sides engaged in questionable conduct in the solicitation of votes, the 'YES' may have had a systematic advantage in the structure and implementation of the referendum process.

In my view, the oversight structure and referenda processes may have advantaged the 'YES' side.