



CHIEF RETURNING OFFICER DECISION

Re: Diljot Narula – Eligibility to stand as candidate for Indigenous Students Representative Position

This decision is in response to a complaint received concerning the eligibility of Diljot Narula to run in the 2023 Kwantlen Student Association general election for the Indigenous Students Representative position.

Narula was advised of the complaint I was investigating concerning his eligibility to run for this position and he was invited to provide a response, and he did provide a response. The complainant was provided with Narula's response and provided a reply.

In his nomination package, in which Narula submitted his nomination for the Indigenous Students Representative position, Narula checked a box indicating, "I am a candidate for Constituency Representative and I confirm that I am a Member of the Society and I confirm that I am a member of the Constituency that I seek to represent." The checking of this box was required for any member submitting a nomination for a constituent representative position in this election, pursuant to Section XI, article 3(2)(c) of the KSA Regulations.

Narula's membership in the KSA is not in question. What is in question is Narula's membership in the constituency he seeks to represent.

Section XI, article 3(2)(c) of the KSA Regulations states:

"Each candidate for Constituency Representative shall be a Member of the Society who self-identifies as a member of the Constituency. A candidate for Constituency Representative must self-identify as a member of the Constituency that they seek to represent by indicating their self-identification on the nomination form."

(the "Eligibility Regulation")

There are seven "Constituency Representative" positions on the KSA Council, as specified in Article 9(8) of the KSA Bylaws, to which the Eligibility Regulation applies: Indigenous Students Representative, International Students Representative, Mature Students Representative, Queer Students Representative, Students of Colour Representative, Students with Disabilities Representative, and Women's Representative.

It is clear to me that the intention behind the Eligibility Regulation is that members of certain historically marginalized or underrepresented constituencies should be assured representation

on KSA's Council and, importantly, that such representation should come from the membership of the relevant constituency group. While it is no doubt true that these constituencies benefit from the support of non-member allies, it is meaningful to reserve seats on KSA's Council for individuals who actually self-identify as members of these constituencies.

Section XI, Article 10(1) of the Regulations grants the Chief Returning Officer the power to make interpretations during an election. It is obvious to me that the Eligibility Regulation requires that a candidate's self-identified membership in a relevant constituency must be made in good faith.

The matter of self-identification is difficult. Indeed, in his response to the complaint, Narula raised that significant issues would arise if one were to call into question a person's identity as a Queer student (another KSA constituency position to which the Eligibility Regulation applies). In this matter, I am not required to consider an investigation into a person's identity as a Queer student. Rather, the issue is whether I can investigate self-identification as an Indigenous person.

Self-identification by individuals as Indigenous for personal gain has become something of a hot-button issue in national discourse during recent years, including at universities where faculty positions are sometimes reserved for Indigenous people.¹ While demanding that Indigenous people prove that they are Indigenous has the potential to do further harm to a marginalized group, so too does allowing those with no legitimate claim to being Indigenous to usurp positions reserved for Indigenous people. Such an outcome not only negates the benefit of creating these positions, but does further additional harm.

The Eligibility Regulation avoids placing the burden of proof of constituency membership on nominees for constituency positions by requiring only that they self-identify as members of the relevant constituency. However, the self-identification must be made in good faith. Here, Narula's self-identification has been challenged and he has been given an opportunity to respond.

Narula does not appear to be of Indigenous descent. The name Narula is an Indian Punjabi name.² Narula was previously an international student.³ The complaint and these factors, in my view, in the absence of any evidence supporting a conclusion that Narula's self-identification was made in good faith, gave rise to reasonable grounds for me to take the minimally intrusive step of asking Narula to advise me of the basis for his self-identification as an Indigenous student in order to help ensure that this position on KSA's Council would be reserved for members who self-identify

¹ For example, see <https://www.macleans.ca/longforms/the-curious-case-of-gina-adams-a-pretendian-investigation/>

² Dictionary of American Family Names (1 ed.): Entry for "Narula"
(<https://www.oxfordreference.com/display/10.1093/acref/9780195081374.001.0001/acref-9780195081374-e-44605?rskey=taKvm7&result=44601>)

³ <https://runnermag.ca/2022/10/meet-the-ksa-byelection-candidates/#:~:text=I%20was%20an%20international%20student%20in%202017%20and%20graduated%20from%20KPU%20in%202020%20with%20a%20diploma.%20Now%2C%20I'm%20a%20returning%20student%20doing%20a%20Bachelor%20of%20Information%20Technology.%20I'm%20a%20business%20student%20again%20and%20now%20a%20domestic%20student%2C%20so%20I'm%20bringing%20the%20best%20of%20both%20worlds.%C2%A0>

in good faith as Indigenous students. He chose not to do so. For example, he did not provide any statement about any ties to any Indigenous group.

In my e-mail to Narula, I advised that the basis for his self-identification was not apparent to me and that if he did not advise me of the basis for his self-identification by the stated deadline, I would conclude that his indication made in his nomination package that he self-identifies as an Indigenous student was not made in good faith and I would disqualify him on that basis.

Narula's response, however, made no attempt to provide any basis for his self-identification as an Indigenous student. Rather, his response merely restated, without providing any basis, that he self-identifies as an Indigenous student. Narula's response focused on the unfairness of being questioned on his self-identification; his view that candidates for other constituency positions do not have to prove their eligibility; his position that he has met the requirement under the Eligibility Regulation by simply stating his self-identification; his desire to keep his identification and the handling of this complaint private and confidential; and concerns that others have publicly criticized him for running for the Indigenous Students Representative position.

For the reasons discussed above, I do not agree that it is unfair for a candidate seeking a position reserved for Indigenous students to be asked to provide a basis for their self-identification as an Indigenous person when reasonable grounds exist for questioning the sincerity of the self-identification. I believe it would be unfair to the very students Narula seeks to represent, in the circumstances, for me not to take reasonable and minimally intrusive steps to seek to ensure that the Indigenous Students Representative position is reserved for those who self-identify in good faith as Indigenous students.

As for Narula's request that I handle this matter in a private and confidential matter, I am not at liberty to do so as this is a transparent election and decisions of the Chief Returning Officer must be published.

Narula also stated in his response that he wants to work for the Indigenous community at the university. This is a noble intention, but it does not satisfy the requirements of the Eligibility Regulation.

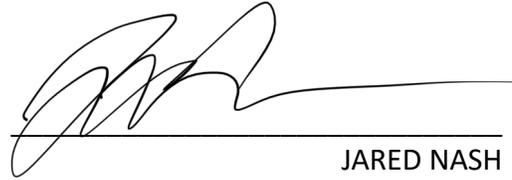
The other aforementioned points raised in Narula's response have either already been addressed above or are irrelevant to the determination of this complaint.

In comments provided by the complainant regarding Narula's response, the complainant expressed the view that the plain-wording interpretation of the Eligibility Regulation advocated for by Narula in his response amounted to taking advantage a loophole. The idea that the Eligibility Regulation contains a loophole in this regard suggests that a person can indicate self-identification without doing so in good faith and still be in compliance with the regulation. I do not agree that the Eligibility Regulation creates a loophole (particularly in light of my view that it is a requirement that candidates must act in good faith), but rather seeks to balance reserving the constituency positions for members of those constituencies against placing an inappropriate burden of proof of constituency membership on nominees.

The complainant also noted that the Indigenous Students Representative position was a special position that is reserved for Indigenous members, and that allowing non-Indigenous members to occupy that position would be unfair to the Indigenous community and would create a precedent for non-Indigenous members running as candidates for this position. I agree with this.

For all of these reasons, Diljot Narula is disqualified from this election.

February 21, 2023

A handwritten signature in black ink, appearing to read 'Jared Nash', is written over a horizontal line.

JARED NASH
Chief Returning Officer