



FINAL ELECTIONS COMMITTEE CHALLENGE REPORT

Spring 2013 SA Undergraduate Election

Candidate: Stephen Breedon

After extensive review, the Elections Committee determined that Stephen Breedon, a candidate for the positions of Student Assembly (SA) President and Student Assembly At-large Representative, is disqualified for violating the Elections Rules. An elections challenge, filed on March 6th at 3:06 PM, noted that Breedon “organized a campaign rally that violated the Code of Conduct, on March 4th at 1:30 PM.” The Committee held a hearing on the merits of the challenge and in the process received testimony from the challenger, the candidate, a supporter of the candidate, and a member of the administration. The Committee deliberated the challenge in a fair, objective and unbiased manner consistent with the responsibilities of the Committee outlined in the Elections Rules and Student Assembly Charter. All committee members involved in the final decision to disqualify the candidate were in good standing and in compliance with Elections Rules.

The Elections Committee affirmed that a preponderance of the evidence substantiated the alleged violation of unauthorized use of amplified sound, which is a violation of University policy and by extension the Elections Rules. The Elections Committee also affirmed that the substantiated violation compromised the fairness of the election, exceeding the two-thirds necessary for disqualification.

The candidate was challenged for violating the SA Elections Rules. The [Election Rules](#) state:

3. Compliance with Campus Life Policies and Conduct Codes

Candidates and supporters acting on their behalf must be aware of and comply with all applicable campus policies and conduct codes, including but not limited to:

- 1. University Postering & Chalking Policy,*
- 2. Campus Life policy for posting in Residence Halls,*
- 3. Dining hall policies, including a prohibition on distributing printed campaign materials in dining halls without permission from authorized staff, and,*
- 4. Campus Code of Conduct.*

A violation of any University policy is a violation of these rules and therefore grounds for a challenge if it compromises the fairness of the election.

The University policy the challenger cites as having been violated is the Noise Ordinance noted in the [Student Activity Organizations Handbook policy on Registration of Events](#). That policy states:

Rallies

Many organizations use rallies on campus as forums to present views on campus, national, and world issues. Titles III and IV of the Campus Code of Conduct outline the university policy on responsible speech and expression. Rally organizers are expected to be familiar with the campus code, assure each speaker's right to free speech, and take reasonable steps to ensure the safety of speakers and participants. The rally space is located on Ho Plaza between WSH and the Campus Store. To reserve this space, organizations must submit a request on-line at <http://registrar.sas.cornell.edu/Sched/R25/> and complete the UUP form. In accordance with the campus noise ordinance, and to minimize the potential for disruption of classes, amplified sound is permitted on campus only between the hours of noon and 1 p.m. on weekdays. This is the only time organizations may use a microphone or megaphone at rallies. Emergency regulations forbid crowds on and in front of the WSH steps.

*Noise Ordinance**

Because many classes and university administrative functions are scheduled during the week, amplified sound is not permitted anywhere on campus Monday through Friday, except in front of WSH between noon and 1 p.m. (with appropriate approval). The noise levels at those times must be within reasonable limits as determined by WSH staff members.

Amplified sound is permitted on Saturday and Sunday, but a noise permit must be obtained from the City of Ithaca mayor's office for all outdoor events with amplified sound except rallies (see Rallies below) where only a microphone or megaphone is provided for individual speakers. Applications for noise permits may be obtained from the SAO (521 WSH). Plan ahead! It may take at least three weeks for the city to review your request.

** Cornell University may choose to require time and location requirements.*

The Student Activities Office (SAO) policy clearly governs and is consistent with the Code of Conduct. An individual is explicitly precluded from using amplified sound on campus Monday – Friday, except in front of Willard Straight Hall between 12 PM and 1 PM with appropriate approval.

It is evident that the candidate used amplified sound on campus in prohibited locations at a prohibited time. The candidate and his supporters, with the candidate's approval, used a

megaphone on Ho Plaza, the Arts Quad and Tower Road and thus used amplified sound on campus outside the designated area in front of Willard Straight Hall. The use of the amplified sound is acknowledged by the candidate and is documented in photos posted to Facebook and a video posted to YouTube. According to the candidate and emails, the megaphone was used from 1:30 PM – 2 PM. The amplified sound was used outside of the permitted timeframe, outside of the permitted location and without the necessary approval. Associate Dean of Students for Student Activities Catherine A. Holmes confirmed that this was indeed a violation of the noise ordinance. Thus, the University policy prohibiting amplified sound was violated, and by extension the Elections Rules were violated.

Recognizing that a preponderance of the evidence substantiates a violation of the elections rules, the next question becomes whether the substantiated violation compromised the fairness of the election to the extent the challenged candidate should be disqualified. The Committee found the fairness of the election was compromised such that the candidate should be disqualified, in a vote exceeding a two-thirds majority required of the Committee.

The Committee concluded that the candidate had an unfair advantage in his use of amplified sound. The campus rules clearly prevent the candidate from using amplified sound anywhere other than the designated area in front of Willard Straight Hall, regardless of the time. A candidate following the rules would not have equitable access to amplified sound and thus the fairness of the election was compromised.

Use of amplified sound automatically increases the potency of the events hosted by the candidate. While we reject the notion that any violation ought to yield a disqualification, we do believe that the use of amplified sound in the course of rallies or parades greatly magnifies their importance and potential for impact. Those who organize rallies like the event hosted by the candidate attempt to garner attention through both visual and auditory means. Because of the advantage amplified sound affords a rally and parade, we must treat its use with significant weight.

The University's rule discusses in no uncertain terms the unique potential for disturbance that actions like those taken by the candidate represent. That we have evidence of staff members in Willard Straight Hall who testify to having been disturbed by the megaphone confirms that the University's concerns are valid and merit considerable weight. The Noise Ordinance is enforced in order to prevent the disturbance of "classes and university administrative functions" (as stated in the SAO Handbook) and while Student Assembly elections are not explicitly listed as a possible source of disturbance, it is clear that candidates are not exempt from this policy. Thus, violating these policies, which by definition constitute an explicit violation of the Elections Rules, could allow a candidate to gain an unfair advantage in an election due to the fact that other candidates would not be allowed to undergo actions beneficial to their election campaigns that would cause a similar disturbance.

While the megaphone was only used within a limited time frame, what makes the violation most pronounced is the fact that the amplified sound was used in various locations around campus. The use of amplified sound is not permitted at any time in any of these locations, aside from Ho Plaza. The use of amplified sound across campus compromised the fairness of the election in part because its use in various locations resulted in far more exposure for the candidate than if the use of amplified sound was confined to Ho Plaza. The candidate's violation is more substantial because he was able to reach more students by using the amplified sound in various locations, not because it was at 1:30 PM instead of between 12 PM and 1 PM. The candidate's decision to use the megaphone as a prop repeatedly in his video, in various locations, highlights its relative importance in the course of the event.

Moreover, the candidate acknowledged the idea for the event in which the megaphone was used came about on Friday evening or Saturday morning, two days before the event took place. Given that, it would have been impossible for the candidate to gain the necessary approval to use the amplified sound even on Ho Plaza. A rule-abiding candidate in the same situation would have been unable to use amplified sound at all in any location and so its use clearly compromised the fairness of the election.

Furthermore, the Committee gave additional weight to the infraction due to the fact that it occurred within the first 24 hours of the designated voting period. The voting period is a time when violations can have the largest impact on the elections process and compromise the fairness of the election to a greater degree. The impact of the use of the megaphone without a permit and in multiple locations on those who cast their votes in that next day or two made the violation far more likely to impact the integrity of the election than if the violation took place during the earlier days of the campaign.

The Elections Committee clearly made all candidates aware of the importance of abiding by Elections Rules. The candidate signed that he read and understood all rules, and was also present at multiple meetings where members of the Elections Committee stressed the importance of clarifying rules and regulations, including those of the University. Members of the Elections Committee made themselves readily available to answer any and all questions. The candidate, moreover, sought out members of the Committee with Elections Rules questions on other occasions which clearly demonstrates his understanding of the importance of abiding by the rules. There is no excuse for a violation of the Elections Rules.

The Elections Committee recognizes that the Noise Ordinance policy itself is not in the text of the Elections Rules. However, it is very clearly stated in text of the Elections Rules – and was stated in person multiple times – that a violation of any University policy is a violation of Elections Rules. This point was made very clear at all times. That the Noise Ordinance is not one of the University policies explicitly mentioned in the text of the Elections Rules is not a reflection of its relative lack of importance. The onus falls on the candidate, not the Elections Committee, to understand and consult relevant University policy when planning a campaign

activity. The onus also falls on the candidate to clarify any ambiguous policies or campaign activities with the Director of Elections before the activities take place, as was clearly stated and understood by the candidate.

Accordingly, the Elections Committee found that the use of amplified sound by the candidate, in violation of University policy and thus Elections Rules, “compromised the fairness of the election to the extent the challenged candidate should be disqualified by a two-thirds majority.” Therefore, the Committee determined that Stephen Breedon is disqualified from the Spring 2013 Student Assembly Election.