Decision of the Elections Commission
Kirk Nakamoto vs. Grace Poon
Submitted: Wednesday, April 21st, 2010 at 7:36 PM

Based on the information submitted, and after adequate review and discussion, the Elections Commission has cleared Grace Poon of any wrongdoing. In the complaint submitted, Ms. Poon was accused of attempting to solicit votes in the LARC class where she serves as an instructor. The class is located in the Woodhall dorm in the Middle Earth housing community on campus. The complainant states that Ms. Poon is in violation of Article XX, Section A, Clause 4 of the ASUCI Elections Code, which states that, "Failure to comply with University Policy, which includes Housing Complex Rules and Federal and State Law" will be subjected to an immediate disqualification. The complainant also cites two sections of the University Policy in which they allege Ms. Poon has violated: 102.13 of the Policy On Student Conduct and Discipline, which states, "Obstruction or disruption of teaching, research, administration, disciplinary procedures, or other University activities" calls for disciplinary action, and section 30.30 of the Speech and Advocacy section, which states, "The University has a special obligation to protect free inquiry and free expression. On University grounds open to the public generally, all persons may exercise the constitutionally protected rights of free expression, speech, and assembly. Such activities must not, however, interfere with the right of the University to conduct its affairs in an orderly manner and to maintain its property, nor may they interfere with the University's obligation to protect rights of all to teach, study, and fully exchange ideas. Physical force, the threat of force, or other coercive activities used to subject anyone to a speech of any kind is expressly forbidden."

Because the LARC classroom is located in Middle Earth housing, and because Ms. Poon is the instructor for the course located in that classroom, she has reason to be in the Woodhall dorm in Middle Earth. Both parties agreed on the fact that Ms. Poon had asked her students to vote in the elections, but she did not explicitly ask them to vote for her. In the complaint, it is stated that Ms. Poon placed the laptop in the front of the classroom when she asked students to vote for her. During the Evidentiary Hearing, it was determined that Kirk Nakamoto, the individual who issued the complaint, was not present when the violation occurred. Witnesses from both parties contradicted the claim made by Mr. Nakamoto in his complaint form. Puja Patel and Lauren Quijano, witnesses brought in by Ms. Poon, claimed that the laptop was located on a side table, and not in the front of the classroom. **Witness 1**, a witness brought in by Mr. Nakamoto, verified the claims of Ms. Poon's witnesses by saying that the laptop was located on a side table in the classroom. Witnesses from both parties also agreed that no one was put in an uncomfortable position in which they felt obligated to vote. Ms. Poon merely made an announcement to the class about the elections and gave them the opportunity to vote on a laptop that was located in the classroom. **Witness 2**, a witness brought in by Mr. Nakamoto, contradicted claims from **Witness 1**, Mr. Nakamoto's other witness. They stated that they were informed that Ms. Poon had the students pass the laptop around the classroom and vote, which made students in the classroom feel pressured to vote. Because Mr. Nakamoto and **Witness 2** were not present during the time of the incident, and because it would be difficult to verify, their testimony was viewed as hearsay by the commission. After reviewing P. 26 of the Housing Policies located in the Undergraduate Housing Handbook & Planner, we have determined that

there was not sufficient evidence provided to prove Ms. Poon was soliciting in Middle Earth housing. Also, there was no evidence to prove that Ms. Poon violated her student's freedom of speech or expression. Witnesses from both parties have affirmed that Ms. Poon never solicited them for votes, and that they were not forced to do anything they did not want to do.

Ms. Poon and her witnesses claimed that she talked about the elections before and after class, but not during class. **Witness 1** told the commission that he arrived late to class. He was quoted as saying there was "a lull in the class period" when he arrived. During this time, Ms. Poon had asked him if he had voted, and provided him the opportunity to vote if he wanted to. He told Ms. Poon that he intended on voting for Jun Wang, the opposing candidate, but she said that was fine and still offered him the chance to vote on her laptop if he wanted to. He took this opportunity to vote in the election on Ms. Poon's laptop. Although the voting occurred during the class period, there is not enough evidence to convince the commission that Ms. Poon disrupted, or obstructed, teaching the class to ask students to vote. **Witness 1** said that there was a pause in the class before he arrived, which means that Ms. Poon did not deliberately stop class to ask **Witness 1** to vote. Therefore, on the basis of witness testimony provided by both parties, Mr. Nakamoto has not substantially shown that Ms. Poon has violated 102.13 of the Policy On Student Conduct and Discipline.

Calvin Sung has also petitioned that Ms. Poon violated Article XVIII, section B in the ASUCI Elections Code, which states that "Candidates are prohibited from soliciting votes inside and within fifty (50) feet of any unofficial polling location." According to the Elections Code, polling locations are determined to be any study areas on campus with computers, or any computer labs. The location at which the incident occurred was determined to be a classroom and not a study area, so Ms. Poon did not violate this section of the Elections Code.

Due to the reasons mentioned in this decision, the Elections Commission has determined that Grace Poon is not guilty of the charges filed against her.

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John Kim
Elections Commissioner

Complaint submitted as follows:
A report has come to light from a student that **Witness 2** is in contact with over an incident that the candidate Grace Poon has taken advantage of her university employee status to solicit votes. She announced in her LARC class room in Woodhall dorm in Middle Earth Housing that she was running for Student Services VP. Ms. Poon place her laptop in the front of the classroom, and told people to vote in the ASUCI elections if they have not. She announced her candidacy to the class as the same time. There was a report that at least 4 students did go up to use the

computer to vote. This student was one of the individuals who voted, but as of now she is not willing to testify. (note this is a separate student from a previous complaint that has come in)

There was also a student who came in late, **Witness 1**, and the Ms. Poon stop the class and ask if **Witness 1** had voted yet. The student responded that he has not, and Ms. Poon announced that she was running for Student Services VP and told him can vote right then. The student complied and voted on her laptop.

Due to the intimacy and the duration of the LARC sessions, students are extremely unwilling to testify about such events in a public and recorded setting. Many students are Freshman and intimidated by the heavy bureaucracy involved and afraid of a backlash from Ms. Poon in their LARC class.

On a side note, the Assistant Dean of the Undergraduate Education has been notified of this situation, and LARC has received a call about this issue last week.