ASUCI JUDICIAL BOARD

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Judicial Board Ruling

"All Judicial authority of ASUCI shall be vested in the Judicial Board. The Judicial Board's authority shall extend to all judicial cases arising under [the ASUCI] Constitution; the various by-laws of ASUCI; all official actions of the Executive Officers, Legislative Council members, and ASUCI Commissioners; and any matters delegated to the Judicial Board by the Legislative Council."

Item Number: **61** Legislation Number: **R43-50**

Synopsis: **Elections Code Revisions**

Date of Ruling: 03/14/2008

JUSTICE RASTAD announces the judgment and delivers the opinion of the Judicial Board, in which CHIEF JUSTICE DE LA VEGA, REID, and HAROUTONIAN joined.

Before the Judicial Board is legislation that has made elections code revisions that the Judicial Board has found unconstitutional and those changes interfere with the spirit of fair and transparent elections. While the Legislative Council has passed said legislation with the intent to "[ensure] fairness and equity of the elections process," the changes to the elections code made by the legislation have only made the regulations in place less stringent and have misconstrued the original intent of the regulation in the elections code. R43-50 is failed in part and passed in part. The specific changes to Article XVII, Section C, Subsections 1-2 pass.

Article IX, Section C, subsection 6 of the ASUCI Elections Code reads as follows, "conduct a Mandatory Orientation meeting for all candidates or their representatives at which the time the Elections Code and the Dean of Students Posting Policy shall be reviewed and the rules explained." The change deletes the word "Mandatory" from the Elections Code, effectively removing the requirement of attendance for the candidates. The purpose of the meeting is to inform the candidates of the rules of the election so that there is no confusion about the electoral process, which helps safeguard against electoral complaints.

We disagree with the proposed Section F under Article XVII because it is misleading. We hold that the purpose of the candidate financial statement is to provide a detailed statement of all campaign expenditures. The spirit and intent of this new clause

is in conflict with the proposed changes of Article XVII, Section C, Subsections 1-2, which have been changed to include the word "all" in the clauses describing the detail to which the campaign expenditures and donations should be documented. The very idea of a fair and transparent election requires an accurate and detailed account of financial transaction of each candidate's campaign, something that requires "meticulous scrutiny," supported by the Liwag-Estrada v. Johnson (2007) opinion.

Article XXI, Section A, which was changed to read, "the only violations which shall result in a candidate being disqualified from office are as follows," is unduly limiting and conflicts with other provisions in the Elections Code. By adding "only" to the clause in Section A, it in effect provides no recourse or consequence for any other violation of the Elections Code. A violation of any other section of the Elections Code may potentially be grounds for disqualification. A regulation that has no consequence will have no binding effect on participants, and is not a regulation at all. The intent of the examples of violations listed in Section A is not to limit those as the only violations that may result in disqualification. Furthermore, by changing the clause to read "disqualified from office," rather than disqualified from the election or candidacy, the change creates more confusion regarding the rules of the election and the stages to which they apply.

Furthermore, the addition of Subsection 6 to Article XXI, which places a monetary value on the types of violations that can be classified as "fraudulent claims," and defines falsification as a "stated" and "deliberate attempt to circumvent the spirit of the ASUCI Elections Code" undermines the entire purpose of the candidate financial statement for three reasons: First, by defining falsification as fraud, and including that there must be intent to deceive in the financial statement, is not only impossible to prove in practice, but it creates an undue burden of proof for the Elections Commissioner. Furthermore, it conflicts with the provisions that require that a candidate provide a list of *all* campaign expenditures and a list of *all* donated money in that it creates a loophole for inaccuracies. Third, in placing a strict monetary value on what constitutes fraud, this legislation makes a mockery of the very ideas of integrity and fairness as intended by the ASUCI Elections Code in general, and more specifically, Articles XVII and XVIII of the Elections Code. Potentially, these changes if enacted would allow a candidate to hypothetically have an unlimited number of fraudulent claims on their financial statement, as long as those instances of fraud are under $100. This is not fairness. There is no precedent or justification that could allow such an egregious infringement upon the electoral process and the trust of the student body.

Whereas part of R43-50 is acceptable and all other changes are deemed in conflict with the Elections Code itself and the spirit of fair and transparent elections, and whereas it is the duty of the Judicial Board to review legislation, let it therefore be resolved that Article XVII, Sec. C, Sub. 1 of the ASUCI Elections Code reads as follows "A list of all campaign expenditures including the source and amount of each expenditure,"

And therefore also let it be resolved that Article XVII, Sec. C, Sub. 2 of the ASUCI Elections Code reads as follows, "A list of all donated money, supplies, or materials," as stipulated by R43-50.

The Judicial Board of the Associated Students of the University of California, Irvine, on this day, April 2, 2008 has ruled on this issue.

It is so ordered.

THE JUDICIAL BOARD OF THE ASSOCIATED STUDENTS OF THE UNIVERSITY OF CALIFORNIA, IRVINE, ON THE DATE OF **03/14/2008** HAS RULED ON THIS LEGISLATION.

FINAL VOTE: YEA: **4** NAY: **0** ABS: **0**

RULING: **FAIL IN PART, PASS IN PART**

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MARK DE LA VEGA
Judicial Board Chair

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NADA RASTAD
Judicial Board Vice Chair