ASUCI JUDICIAL BOARD

Logan Knight,
Ryan Pavey,
Kenny Tranluu,
James Huston-Aispuro.

v.

Elections Commissioner

Petitioners represented by Mr. Lindsey, B.

Ruling

Dated: April 17, 2020

Synopsis:

On April 6th, 2020 petitioner brought suit against the ASUCI Elections Commissioner, contending that the respondent failed to meet quorum to conduct meetings, unlawfully applied an 'older' version of the elections code, and was acting outside of the body of the Elections Commission. Petitioners also alleged that James Huston-Aispuro, who had been disqualified based on lack of qualifications to run for office, could validly appear on the ballot. Finally, the petitioners pleaded to the Judicial Board for injunctive relief. On April 8th, the Judicial Board ordered preliminary injunctions on three grounds: first, that Huston-Aispuro would appear on the ballot; second, that slate names for the SAG were to appear on the ballot; and third, that the Elections Commissioner ought to operate inside of the Elections Commission, unless upon a validly petitioned response alleging otherwise. On April 14th, respondent responded, arguing that the office of the Elections Commissioner, allegedly being the only valid member of the Elections Commission, could unilaterally act to impartially adjudicate the elections code, which included determining which draft of the elections code to implement. Respondent also argued that the 'new' version of the Elections Code was submitted past the timeline, and therefore, could not be implemented. On a grant of certiorari, the Judicial Board held that: (1) statutory guidance in the Bylaws suffice to demand application of RONR to the definition of quorum, absent of greater definition in the governing documents, for Election Commission action; (2) RONR demands quorum in all meetings, and all meetings require a minimum of two properly seated members; (3) the ASUCI Elections Code became updated immediately upon approval in the Senate and failure to veto by Executives, thus nullifying prior, earlier editions; (4) the Elections Code infringes upon fundamental and protected rights of students granted in the ASUCI Constitution, and is therefore struck; (5) the Judicial Board holds authority to adjudicate elections disputes and can therefore enjoin action by the Elections Commission, under the current extreme circumstance such as when quorum fails to be met in the Elections Commission, pursuant to the rules of order; (6) the Governance and Internal Policy Joint Committee, lacking notices relevant to the Chief and Vice Chief Justices, was improperly called and therefore, action proceeding out of such must be voided, therefore nullifying the seating of the Deputy Commissioners appointed in CR55-04.

Gandall, K., delivered the opinion of the Board, in which Abundis, M., Sanchez R., Gerald Q., and Naqvi K. joined. Bunda J. dissented. Anayat T., took no part in the consideration or decision of the case.

Justice Gandall delivered the opinion of the Board,

On March 10th, the Senate passed CR55-04, which, in effect, appointed three Deputy Commissioners to the Elections Commission. This action was not, at the time and as alleged by the respondent, deemed legitimate by the Elections Commissioner. Next, on February 18th, the ASUCI Senate passed R55-38, "The 2020 Elections Code Revision Act," which sought to provide "a full revision" to the ASUCI Elections Code. R55-38, ¶5. As a result, petitioners allege, R55-38 superseded the prior Elections Code. Despite this, the Elections Commissioner published the election packet based on the old set of Election Codes on February 20th, effectively ignoring the action by the Senate. Furthermore, the Elections Commissioner thereby removed petitioner James Huston-Aispuro, contending that the petitioner failed the necessary qualification to have a GPA of over 2.0 when running for office.

On April 6th, in response to alleged grievances by the respondent, the petitioners then brought suit, asking for six injunctions: first, to enforce the new elections code; second, to order slate names on the ballot; third, to allow the Student Advocate General (SAG) to participate on slates; fourth, to reverse the disqualification of James Huston-Aispuro; fifth, to enforce the ruling by the Deputy Election Commissioners representing the Elections Commission that the new code is to be enforced; and sixth, to enforce rulings made by the Deputy represented Elections Commission. (Appendix A). On April 8th, the Judicial Board issued three preliminary injunctions against the respondent: first, the Board required that slate names be on the ballot, including affiliations to the SAG. Second, the Judicial Board ordered that James Huston-Aispuro, pending a full hearing, be allowed to be run and be placed on the ballot. And third, that the Elections Commissioner ought to work with the full Elections Commission, including the Deputy Commissioners. On April 14th, the respondent responded. (Appendix B).

Today, the Judicial Board faces a number of complicated technical and procedural questions. Fundamentally, these questions challenge the essence of individual autonomy and authority in government, as well as inherent rights under the constitution to participate in elections. As such, the Judicial Board divides this case into four primary questions: First, we inquire if the Deputy Commissioners were properly appointed, and valid notice of their appointment given. We find notice, for the meeting of the Governance and Internal Policy Joint Committee (GIP), was not provided and therefore Deputy Commissioners were not properly appointed. Second, as to the necessary conditions to meet quorum for the Elections Commission to validly transact business, we hold that the Elections Commissioner, being merely a member of the Elections Commission, requires a minimum of one other member to constitute a quorum. Third, as to which version of the Elections Code, the prior or the most updated, to approve, we hold that, upon being approved,

the new Elections Code, pursuant to the revision standard in RONR, did indeed come into effect at the time passage.[1] Fourth, and finally, we inquire as to the application of extra-constitutional qualifications to candidates running for office. In doing so, we hold that the unqualified right of James Huston-Aispuro to run for office was violated by the imposition of requirements not equally held in the ASUCI Constitution. As such, we strike down the Elections Code.

Accordingly, the decisions of the Elections Commission are vacated, the ASUCI Elections Code and CR55-04 are struck, and, in lieu of a properly appointed Elections Commission, the Judicial Board shall ratify the elections.

I.

First, we seek to clarify if the Deputy Commissioners were properly appointed; indeed, if they were, the April 1st ruling from these Commissioners may have rendered much of this case moot.[2] The respondent alleges that because "many members of the committee were not invited to attend the [GIP] meeting," at which Deputy Commissioners were recommended for appointment, the GIP Committee failed to meet the necessary constitutional threshold. To determine the legitimacy of this argument, we must identify the rule to be applied to the GIP Committee that the respondent alleges was improperly met.

We begin our analysis on determining preference of authority. To identify the relevant authority, we look to the ASUCI Bylaws for guidance. The ASUCI Bylaws, §1.1, require that all business with ASUCI occur under Robert's Rules of Order, 11th edition: "The purpose of these Bylaws shall be to provide procedures in conducting the business of the organization, pursuant to Robert's Rules of Order Newly Revised (RONR)..." More specifically, we find that the "business of the organization" not only refers to the Senate, but, where applicable and no other relevant rules apply, universal to the body of ASUCI. Furthermore, we hold that RONR is binding whenever there are no inconsistencies between it and other governing documents and when there are no other recourses for rules.[3] Therefore, we apply the rules in RONR.

Next, we identify the rule for notice. In this case, because there are no rules of notice in the ASUCI governing documents, RONR rules of notice are applicable. However, two different rules exist as to the type of body; indeed, for a committee, there must only be "reasonable notice of its time and place" RONR (11th ed.), p. 499,

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[1] Pending cases ruled before this opinion will be reviewed on a case by case basis regarding the applicable standard that was violated. *See*: R55-38: The 2020 Elections Code Revision Act.

[2] The Judicial Board did not conduct fact-finding into the procedure followed in the April 1st meeting as the substance of the meeting became irrelevant, upon the striking of CR55-04.

[3] "When a society or an assembly has adopted a particular parliamentary manual… as its authority, the rules contained in that manual are binding upon it in all cases where they are not inconsistent with the bylaws (or constitution) of the body, any of its special rules of order, or any provisions of local, state, or national law applying to the particular type of organization." RONR (11th ed.), p. 16, ll. 21 - 7.

ll. 19 - 28.[4] This notice, however, can be issued by only two members in the case that the chairman fails to call a meeting. RONR (11th ed.), p. 499, ll. 20 - 5. In contrast, boards, or "deliberative assemblies" can only "transact business… in a regular or properly called meeting of which every board member has been notified." RONR (11th ed.), p. 486, ll. 29 - 34. On face, these two standards of notice appear similar but are functionally different in effect: while the committee can never use notice to individually take action as a "free agent," a deliberative body can. RONR (11th ed.), p. lii. As a result, while boards are "a form of assembly" that are not "accountable to a higher authority in some way not characteristic of an assembly," committees are "subordinate instruments of an assembly." RONR (11th ed.), p. 9, ll. 21 - 35. *See also*: "Generally the term committee implies that, within the area of its assigned responsibilities, the committee has less authority to act independently for the society... than a board is usually understood to have." RONR (11th ed.), p. 490, ll. 8 - 11.[5] Therefore, it follows that notice in a committee must deal with matters set solely before it by the deliberative body; whereas in the board, matters may be taken up independent of the deliberative body.[6] Thus, while it is not sufficient for the mere existence of independence to constitute a deliberative assembly, it is necessary that a committee be dependent.

In application to GIP, it is obvious to this board that while the ASUCI Constitution may label the body as a "committee" it fails the fundamental necessary conditions of dependence for three reasons. First, the practice of GIP has been to independently report to the Senate, rather than report a referred item. For instance, CR55-04 first appeared on the Senate docket as an authored legislation, not referred item. This procedural nuance is important because it prevents the Senate from discharging the GIP. In practice, that is, "[for] the assembly [to] take the matter out of the committee's hands…" RONR (11th ed.), p. 310, ll. 30 - 3. In short, the Board finds the Senate unable to supersede any deliberations that are already charged to the GIP. Second, a truly dependent committee may only carry out tasks "on specific instructions" provided by the deliberative body; indeed, if this was so, the GIP would be unable to fulfill a number of constitutional obligations, such as to determine the number of Senate seats prior to an election, without first seeking Senate approval. *ASUCI Constitution*, Art. 11 §3(a)(4). Therefore, because the GIP must fulfill certain constitutional obligations outside of the grounds of

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[4] We acknowledge this provision is vague. However, this opinion, intentionally, does not deem it necessary to provide precedence in this matter because, as we explain in application to the GIP, committee notice is not relevant to the proper approval of the Deputy Commissioners.

[5] Boards are a type of deliberative body. RONR (11th ed.), p. 5, l. 18.

[6] It is still possible that boards have responsibilities and powers to conferred to it by outside powers. To be more specific, Boards are not inferior bodies to the deliberative body, and are thus free to govern within their own rules. This freedom, as such, cannot be bounded by the Assembly through a discharge or other motion, as may occur with a committee. For any Board, the Assembly (Senate) would need to change the rules. RONR (11th ed.), pp. 8 - 9.

dependence, it must be taken as a hybrid-board.[7] Third, case precedent requires that the GIP be distinguished from subservience to the Senate deliberative body: *JUDICIAL RULING ON R54-88*, at 2 - 3: "The Governance and Internal Policy Committee has unique and distinguishable characteristics that separate it from what the Senate or even the Rules Committee are. The Governance and Internal Policy Committee is comprised of ASUCI members that are normally not part of a voting Senate, including the Internal Student Advocate General, which chairs this committee, and the Elections Commissioner (as needed)." Thus, as Justice Abundis wisely wrote, one cannot take GIP as a dependent body on the Senate, and neither do we.

As such, because GIP fails the necessary condition of dependence to be a committee, we must assume the body has a deliberative form[8]. In the case of notice, boards require that "every board member has been notified." RONR (11th ed.), p. 486, ll. 29 - 34. This is the case in CR55-04, which failed to provide notice to the Chief Justice and Vice Chief Justice, both of whom are members. *ASUCI Constitution*, Art. 11 §3(b)(5). In response, petitioner argued that Judicial Board members were not actual members because they failed to meet all four prongs of the parliamentary test for a member. More specifically, this argument contended that the Judicial Board Chief and Vice Chief Justices, being only "advisory," and therefore lacking the right to vote, failed to be technical members.[9] We reject this argument, as the constitution still holds the Chief and Vice Justices as "members," but simply, through a special rule, modifies their position to be "advisory." This modification, however, only changes the right to vote, not the right to be notified. The rules of order, furthermore, prohibit the suspension of any additional rights of members without a disciplinary process: "Rules protecting a basic right of the individual member cannot be suspended." RONR (11th ed.), p. 264, ll. 6 - 7. In effect, the decision of the majority GIP to refuse to provide notice to the Chief and Vice Justice violated the fundamental first right of these members to attend the meeting, even if these members did not hold the fourth right to vote. RONR (11th

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[7] This term was heavily debated by the majority opinion; Justice Gandall, for one, insisted on a completely absolutist term to be referred by RONR. This would, in effect, implicate the term with other parliamentary modifications, including the permission of informal discussion. However, for the purposes of the majority opinion, a hybrid-board simply means a deliberative assembly that has a necessary condition of notice for members and which views all members as having the basic parliamentary rights, with the exception of advisory members, whose only difference is an absence of voting rights. Members who are invited "as needed" are exceptions to these notice requirements, as described in this majority opinion.

[8] The nomenclature used in the ASUCI Constitution when calling the GIP a committee is for such reasons found not to be beholden to the definitions ascribed by RONR regarding committees or any other defined body. Indeed the hybrid-form that was created in the text of the ASUCI Constitution supersedes the redefinition of committees that exists in RONR.

[9] *See:* RONR (11th ed.), p. 3, ll. 1 - 5: "A member of the an assembly, in the parliamentary sense, as mentioned above, is a person entitled to full participation in its proceedings, that is, as explained in 3 and 4, the right to attend meetings, to make motions, to speak in debate, and to vote."

ed.), p. 3, l. 4. For this reason, proceeding business from GIP, at the meeting of CR55-04, is invalid.

In summary, because GIP fails the necessary condition of dependency to be a committee, we identify the body as a hybrid deliberative body. All boards in this hybrid state must provide notice to all members, voting or not; thus, in lieu of proper notice, business conducted at GIP to approve CR55-04 is null and void.

II.

Before examining the nature of the rules for the election, we identify the necessary conditions for the Elections Commission to act. In doing so, we divide our analysis into three parts: first, the definition and distinction of the Elections Commission and the Elections Commissioner (part II (A)). Second, the necessary conditions of a quorum (part II (B)). And third, in applying the rule, we illustrate the Elections Commissioner acted unlawfully (part II (C)).

A.

First, we distinguish the Elections Commission and Elections Commissioner. More specifically, indicated by the ASUCI Constitution, the Elections Commissioner is but one of five members of the Elections Commission: *ASUCI Constitution*, Art. 10 §2: "The Elections Commission is composed of one Elections Commissioner and four Deputy Commissioners." That is, the Commissioner is functionally a part, but not the whole of the Commission.[10] This difference is not merely academic; indeed, Art. 10 §2 specifies that "The Elections Commission has all authority for ASUCI elections and related activities." Furthermore, the Constitution makes almost no specifications of the powers of the Elections Commissioner, but instead defers these authorities to the commission. Therefore, we conclude that the duties and powers of the Elections Commission and the Election Commissioner are separate.

B.

At this point, both the petitioner and respondent still concur. However, difference emerges as the respondent argues that he, in lieu of properly appointed deputy commissioners, has the sole power to operate the Elections Commission: *Respondent's Brief*, at 2: "I, being the sole appointed member of the Commission at the time, chose to enforce the Elections Code as written." We disagree with the respondent for two reasons. First, as we have already concluded in part I, we must

[10] This difference is also asserted in lower governing documents, including both drafts of the ASUCI Elections Code: *ASUCI Elections Code* 'Old', Art. X §A: "The Elections Commission is composed of the following people, who are nominated by the Governance and Internal Policy Committee and confirmed by the Senate: 1. The Elections Commissioner. i . In the event of a vacancy in the position of the Elections Commissioner, the ASUCI Senate must appoint an Interim Elections Commissioner within two weeks. 2. Four (4) Deputy Elections Commissioners." This is further inferred by the prior code's requirement that "This Commission shall meet daily during Election week to review all official complaints submitted online." *ASUCI Elections Code* 'Old', Art. X §B. In the new Elections Code, this is made even more explicit, requiring a majority of the Elections Commission, rather than the individual Elections Commissioner, to issue injunctions: *ASUCI Elections Code* 'New', §14.2: "All injunctions shall be approved at a meeting of the Elections Commission by a majority vote."

look to current governing documents to draw inferences as to credible authorities. As the constitution makes no mention of quorum, but the rules of order do, we defer to the lowest existing governing document. ASUCI Bylaws §1.1:"The purpose of these Bylaws shall be to provide procedures in conducting the business of the organization, pursuant to Robert's Rules of Order Newly Revised (RONR)..." Given our holding that RONR is the proper authority, it follows that any deliberative body must have at minimum two people present to meet a quorum: "A deliberative assembly - the kind of gathering to which parliamentary law is generally understood to apply - has the following distinguishing characteristics… it is a group of people, having or assuming freedom to act in concert…" RONR (11th ed.), p. 1, ll. 1 - 11. Simply put, a group of people is always more than one.[11] This minimum requirement also makes practical sense: indeed, to do so otherwise would be to defeat the very purpose of a quorum to defend against a small number of individuals from taking unrepresentative action: "The requirement of a quorum is a protection against totally unrepresentative action in the name of the body by an unduly small number of persons." RONR (11th ed.), p. 21, ll. 6 - 8. In holding that one person cannot constitute a meeting, it therefore follows that any decision must occur at a meeting that has at least two members present.[12] Moreover, any deliberative assembly requires a minimum of two officers present, namely, a presiding officer and a secretary: "The minimum essential officers for the conduct of business in a deliberative assembly are a presiding officer, who conducts the meeting and sees that the rules are observed, and a secretary, or clerk…" RONR (11th ed.), p. 22, ll. 1 - 4. Given the basic assumption that two officers are necessary, [13] it further follows that two individuals are needed for any meeting. Thus, as we conclude, it is a necessary condition of any deliberative body to have at least two members present for a valid quorum. In common parlance, it takes two to tango.

We further hold that without a valid quorum no business may be transacted: "In the absence of a quorum, any business transacted… is null and void." RONR (11th ed.), p. 347, ll. 22 - 4. *See also:* "a quorum in an assembly is the number of members who must be present in order that business can be validly transacted." RONR (11th ed.), p. 345, ll. 1 - 5.

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[11] Demeter, the academic source for parliamentary law as court's have interpreted it, stipulates that a meeting is "an assembly of persons." p. 203. And again, even even in more technical terms, the idea that a meeting requires more than one person is reflected.

[12] This is not to infer that abstaining members could kill a proposition. Indeed, if a meeting has 10 members present, with 9 members abstaining and 1 member favoring the proposition, the motion is carried. Quorum, therefore, is simply the number of people present, not the number voting in favor: "The quorum refers to the number of members present, not to the number actually voting on a particular question" RONR (11th ed.), p. 345, ll. 10 - 15. *See also*: "The minimum number of members who must be present at the meetings of a deliberative assembly for business to be validly transacted is the quorum of the assembly." RONR (11th ed.), p. 21, ll. 1 - 5.

[13] This is the de jure assumption without a special order given by the assembly.

In summary, we hold that the necessary condition requiring a minimum of two members at any meeting, or the two-to-tango rule, must be met for any valid action or business to be handled by a deliberative body.

C.

Finally, we apply this rule to the case today. In referencing our ruling in part I, because Deputy Commissioners were not validly appointed, the Elections Commission only had one officer. Maintaining the two-to-tango necessary condition for any quorum, it therefore follows that quorum in the Elections Commission could not be met. Therefore, we deem the actions undertaken by the Elections Commission as null and void.

III.

We now pivot to decide which set of rules are binding to the ASUCI Elections. As we explain, prior to the official notice and publication of the ASUCI Elections website, the 'new' Elections code, that of which is enumerated in R55-38, had been binding as all legislation takes effect immediately upon approval of the Senate.[14]

A.

First, we address the argument by the respondent that there is a legitimate difference between 'substantive' and 'administrative' authorities of the Senate and Elections Commission. The Respondent, as such, contends that "administrative responsibilities are not substantive in nature," as the constitution contains "an intentional contrapositive to negate [the Election Commissioner's power] from the Senate's powers." As we explain, while there is a distinction, such difference emerges as to the specific cases that the code applies to, not the existence of the code itself.

First, we find that there is no difference in the actual separation of the rules. Nowhere in parliamentary literature, nor procedural law in general, is there a significant distinguishment of administrative and substantive 'codes' as outlined by the respondent. Instead, RONR lays out the "various kinds of rules which a society may formally adopt," and such includes, relevant to today's case, "standing rules." RONR (11th ed.), p. 10, ll. 30 -5. More specifically, the standing rules are that "which are related to the details of administration of a society rather than the parliamentary procedure." RONR (11th ed.), p. 18, ll. 4 - 5. The ASUCI constitution, furthermore, offers the power to adopt such standing rules - or that of the administrative nature[15] - to the Senate: *ASUCI Constitution*, Art. 6 §2: "The Senate has primary policy making legislative authority, and final administrative authority,

[14] Except in those cases that such legislation has a properly inserted provisio or is pending a Judicial Board hearing and has a pending preliminary injunction.

[15] We hold that of which is of the administrative nature is simply that which is not of the parliamentary nature. See, e.g. in reference to an Executive of a society: "the president hasd duties as an administrative or executive officer; but these are outside the scope of parliamentary law." RONR (11th ed.), p. 456, ll. 25 - 7.

for ASUCI and under this authority has the power." The Senate, also holding the power to dictate parliamentary rules as evident by the process of amending the bylaws, may also therefore mandate the creation of administrative Election Rules.

Second, we distinguish the powers of the Elections Commission and the Senate. Firstmost, the Elections Commission cannot draft rules, or interpret the supremacy of other rules, in contrast to the will of the Senate. Respondent is correct to assert that one must follow the rules of "independence" and "impartiality" found in the constitution, but such principled responsibilities do not thereby empower the Elections Commissioner to independently construct rules.[16] Instead, the Elections Commissioner implements the rules case by case and, as a member of the deliberative body of the Elections Commission, decides the application of rules, not the actual text of the rules.

Third, the Elections Commissioner cannot function as a member of the deliberative body of the Elections Commission without a quorum, so the alternative is unfeasible. As we discuss in part II, and rule in part II (C), there is and at the time, was, no quorum. Therefore, the Elections Commissioner could not have properly ruled upon the old set of rules, regardless of who held jurisdiction over the rules of election.

In sum, the Elections Commissioner has no jurisdiction over the decision of which rules to use, only as to the application of those rules.

B.

A second and most important part of our analysis is the timeline of implementation of the Elections Code. Indeed, the respondent is correct to point out that the prior edition of the Elections Code created a required timetable as to implementation in the elections cycle. *Respondent's Brief*, at 8. *See also*: *Elections Code 'old'*, Art. IV: "Any amendments to the Elections Code, which are to be applied to an upcoming election must be made prior to the publication of the Elections Website. Any amendments made subsequent to this date will not be binding until the following elections cycle." Respondent, as such, contends that R55-38, allegedly passed after publication of the website, is not valid. In response, plaintiff argues that the website was not technically 'published' because of a lack of proper public notice. We find neither argument convincing, and thus do not comment as to the actual nature of public notice. Instead, as we explain, the Elections Code, as revised in R55-38, "The 2020 Elections Code Revision Act," should take precedent for two reasons: first, while the Elections Commission holds broad deference as a deliberative body to interpret the code, the Elections Commission, lacking quorum under the 'two to tango' rule, has been silent; and second, that this board refers to the rules of order, and that of the presumption of constitutionality, in lieu of administrative advice by the Elections Commission.

First, we find that the Elections Commission, as a deliberative body, may interpret the rules of the code; and while, as we pointed out in III(A), the Elections

[16] While the Elections Commissioner can create some rules, as permitted by the Elections code, those rules must be approved by the Senate: *ASUCI Constitution*, Art. 10 §2(m): "To create rules, policies, and processes under the authority of the Elections Code, subject to approval by the Senate."

Commission may not be able to write the text, we grant broad deference as to the findings of all practical interpretations that require factual inspection. In the case today, the Elections Commission is making a factual argument as to the actual "publication of the Elections Website." *ASUCI Elections Code 'old'*, Art. IV. *See also*: *Respondent's Brief*, at 1. There is a good reason for this; indeed, as held similarly under the Chevron deference, it is a general principle of statutory interpretation that the factual understanding by agencies is to be favored because such institutions understand the nuances of the topic.[17] However, as again necessitated by the two-to-tango rule outlined in part II, the Elections Commission, lacking a quorum, cannot transact business, and therefore cannot set stances. As such, the Elections Commission remains silent as to the factual interpretation of the publication of the website, and we draw no conclusion otherwise.

Second, the rules of order clearly indicate that legislation immediately takes effect upon being passed. More specifically, the parliamentary rules provide that, "an amendment to the bylaws goes into effect immediately…"RONR (11th ed.), p. 597, ll. 2 - 3. While it is possible for Senate to attach a provisio indicating a different time frame, no such provisio was implemented;[18] in fact, the very opposite occurred, with the Senate President demanding immediate implementation. As a result, we defer to the rules of order established as guidelines in the ASUCI Bylaws, and therefore, find that R55-38 must be immediately implemented.

In summary, because no advice was received by the Elections Commission as to the publication of the website required under Art. IV of the 'old' Elections Code, we defer to the rules of order established in the Bylaws for guidance on matters of timeframes. The rules of order require immediate implementation, and thus, we find R55-38 is indeed the standing Elections Code.

IV.

Finally, we analyze the case of disqualification of petitioner Huston-Aispuro. As we explain, the ASUCI Constitution holds an unqualified right to run for office, one of which was violated by the Elections Code demanding that Huston-Aispuro conform to a set of extra-constitutional GPA standards.

A.

[17] This is consistent with historical precedent. More specifically, case law generally reflects a similar concern with agency deference. *See, e.g.Chevron U.S.A., Inc. v. Natural Resources Defense Council, Inc.*, 467 U.S. 837 (1984), at 14: "We have long recognized that considerable weight should be accorded to an executive department's construction of a statutory scheme it is entrusted to administer, and the principle of deference to administrative interpretations… [it] has been consistently followed by this Court whenever decision as to the meaning or reach of a statute has involved reconciling conflicting policies, and a full understanding of the force of the statutory policy in the given situation has depended upon more than ordinary knowledge respecting the matters subjected to agency regulations." *See also: Morton v. Ruiz,* 415 U.S. 199, 231 (1974) and *United States v. Shimer*, 367 U.S. 374 (1961) for further analysis of why agencies ought to be deferred in matters of specific factual contention.

[18] *See*, e.g. RONR (11th ed.), p. 597, ll. 10 - 23.

The ASUCI Constitution makes the explicit assertion that all UCI Undergraduates may run for office:

> *All UCI undergraduate students have the right to run for elected office in ASUCI.* ASUCI Constitution, Art. 3 §1(b).

This provision does not state 'some UCI undergraduate students may run for office given certain qualifications.' Nor does the provision stammer in providing the right to run for office. While we recognize there are requirements to holding office - for instance, the constitutional requirement in Art. 5 §1(a)(1) of having a "2.0 cumulative GPA" - those conditions only reference holding office, not running for office: *ASUCI Constitution*, Art. 5 §1(a): "The qualifications required to hold any elected position are…" Thus, as we hold, extra-constitutional qualifications may not be inserted, wherein the constitution guarantees the right to run.

Here, the Judicial Board clearly distinguishes between regulations and outright bans.[19] Regulations apply to all candidates equally. Bans target particular subsets of students who are otherwise granted rights to certain behavior. Bans are necessarily unconstitutional for abridging a constitutional right, and especially for doing so in a discriminatory fashion; bans target a particular class of students, a fundamental opposition to an otherwise universal right. The bylaws, or constitution in our case, create a specific right to run for office for all UCI Undergraduates. Therefore, more specific enumerations of this right, in restricting the definition, are not in order because they would otherwise contradict the effect of allowing all students to run for office Art 3 §1(b). GPA, for instance, would substitute the right of all students to run for office, to the right of some students to run for office. In contrast, the mere reporting of financial statements or campaign finance rules do not infringe such a right, because all students can equally do so, regardless of statute. Simply put, the right to run in the constitution is a specific, protected civil right; and such a right cannot be further clarified by legislative means, except that of which would modify the constitution itself, i.e. a constitutional revision. Adding regulations such as the requirement to report financial statements for such reasons are distinguishable from the imposition of GPA requirements that were set in the Elections Code to run for office.

Furthermore, the constitution, in contrast to the respondent's argument, does not set classes of people that may be targeted by the legislative to be eliminated, but rather, permits equally applicable standards across the board. To hold otherwise would create a number of absurdities, and we hold that such absurdities should never be favored: "When a provision of the bylaws is susceptible to two meanings, one of which conflicts with or renders absurd another bylaw provision, and the other meaning does not, the latter must be taken as the true meaning." RONR (11th ed.), p. 589, ll. 4 - 7. Indeed, if we were to accept that a right could be extensively modified, it would render the phrase "All UCI undergraduate students"

[19] See, e.g. ASUCI Constitution, Art. 5 §1(a)(3) requiring that to hold an office candidates must "follow[sic] all elections regulations."

meaningless, as a regulator could always attach the convenient 'All UCI undergraduate students **except those that are deemed unqualified by a set of codes established by the legislative**' to the end of any provision. Perhaps, as the majority fears, there will be a qualification that could 'students who do not have a 3.75 GPA cannot run for office.' If one was to hold to the respondent's position, this would be perfectly in line with the Elections Code. In contrast, we find that blanket bans on certain classes of characteristics of any student are prohibited.[20]

In summary, because the new Elections Code, by mandating a 2.0 GPA to run for office, creates a blanket ban on a certain class characteristic, we find it unconstitutional.

B.

We find it important to revisit the method of which the Judicial Board overturns legislation, and to the effect of such. Firstmost, under *In Re R54-38* we held that line item vetos, or that of which would allow the Judicial Board to strike certain sections of a legislation, were unconstitutional as, "The Judicial Board would therefore have de facto legislative powers with the explicit ability to edit legislation directly before allowing it to pass…" For this reason, Justice Gerald wrote *In Re R54-38* that "this Board has never ruled only one part of a legislation to be unconstitutional, but rules on a legislation in its entirety." As such, in finding legislation unconstitutional, we strike the entire legislation, rather than any specific part of the act.

C.

Finally, we apply both rules to the case of petitioner Huston-Aispuro. In petitioner's instance, he was disqualified as a result of the violation of §4.1 of the Elections Code, as approved in R55-38: that is due to qualifications to hold office with the rules to run.

> *...members who meet the qualifications required to hold any elected position as specified by the ASUCI Constitution may run for elected office.* Elections Code, §4.1.

However, as we found in part I(A), no regulation may be imposed on a candidate running for office that creates a blanket ban on any class of characteristics. Because petitioner's class of characteristic - an allegedly low GPA[21] - is the codification of a

[20] We reject the archaic and arbitrary 'tests' of legal competence inserted by courts of law; indeed, while we concur with the Menter court that certain case precedent may be useful in conveying certain ideas, those cases should not be construed as binding upon a student government. To do otherwise not only ignores the reality that the US constitution refers to negative liberties, or the prohibition of government action, and the ASUCI constitution refers to positive rights, or the active requirement of the government to do something, but would decay our jurisprudence to a messy set of legal mental gymnastics.

[21] The Judicial Board did not and does not need to further fact-find as to whether the characteristic was met as the ban is unconstitutional regardless.

class of characteristics necessary to run for office, it violates the ASUCI Constitution, Art. 3 §1(b) that "All UCI undergraduate students have the right to run for elected office in ASUCI." Therefore, we overturn R55-38.

Finally, we are further required to overturn the entirety of R55-38 under the *Gerald* standard held *In Re R54-38*. Thus, we strike down the entirety of the Elections Code.

*** * ***

Many times in the law, Justices are forced to make difficult decisions: in the matter today, the Board was forced to reconcile various rules and governmental prerogatives with the fundamental rights of students. It goes, as Justices in our higher branch of office have put it, that a happy Judge is a bad Judge. Perhaps best to describe this act is the scene depicted in Bolt's famous legal literary, *A Man for All Seasons*; in such, two English statesman - Roper, an overzealous activist keen on wiping out all evils before England, and another, More, a scholar who sought to commit himself to principle - quarrel over rule of law:

> William Roper: "So, now you give the Devil the benefit of law!"
>
> Sir Thomas More: "Yes! What would you do? Cut a great road through the law to get after the Devil?"
>
> William Roper: "Yes, I'd cut down every law in England to do that!"
>
> Sir Thomas More: "Oh? And when the **last law was down**, and the **Devil turned 'round on you, where would you hide, Roper, the laws all being flat?** This country is planted thick with laws, from coast to coast, Man's laws, not God's! And if you cut them down, and you're just the man to do it, do you really think you could stand upright in the winds that would blow then? **Yes, I'd give the Devil benefit of law, for my own safety's sake!"**

As More opined, this board too understands that without the law to guide and protect students, the angry and passionate voice of the mob would dominate our government. Or worse, as More feared, the anarchy of the mob would become the tyrannical rule of one. We hold, therefore, that the rule of law is not only sacred, but fundamental to our free and open society - even when the implications can be shocking and unfortunate.

Therefore, pursuant to our aforementioned opinion, we hereby order:

1. That Elections Commissioner ceases and desist function of Election rulings without approval by the Judicial Board.[22] This shall include:
    a. Submission of a properly filed Teller's Report by 5:00 PM, April 22nd to the Judicial Board. The Teller's Report shall close on April 17th exactly at 5:00 PM and shall include: (1) the number of votes cast; (2) the necessary number of votes to win election in each office; (3) the number of votes each candidate received; and (4) any illegal or inconsistent votes cast. RONR (11th ed.), p. 417, ll. 17 - 33.[23]
    b. For the Elections Commissioner to hold all results until ratification by the Judicial Board through a majority vote. RONR (11th ed.), p. 124, ll. 10 - 35. In short, the results shall not be published until approved by the Judicial Board RONR (11th ed.), p. 417, ll. 20 - 1.
    c. The ceasing of all Elections Commission rulings without Judicial Board approval.
2. That appeals from the Elections shall be heard until the next properly called Judicial Board meeting on April 22nd. In short, all candidates may appeal to the Elections Commission within five days of the end of voting, upon which the Elections Commission may submit a recommendation for ruling to the Judicial Board until the Elections Commission gains the membership required to meet quorum.
3. That the Judicial Board ratifies the closing of voting to be Friday, April 17th at 5:00 PM.
4. That the Elections Code is unconstitutional, and hereby deemed null and void.

The rulings of the Elections Commission are vacated, and the Elections Commissioner is enjoined to the orders of this ruling.

It is so ordered.

[22] The Elections Commissioner may draft recommendations to the Judicial Board, pending any formal complaints to his office.

[23] If the Judicial Board believes there are various inconsistencies to the election results, we hold the right to order a recount. RONR (11th ed.), p. 419, ll. 1 - 5.

Michelle Abundis
Chief Justice

Quincy Gerald
Vice Chief Justice

Kulsoom Naqvi
Associate Justice

Ryan Sanchez
Associate Justice

Kimo Gandall
Associate Justice

Appendix A: Petitioner Brief

ISSUES PRESENTED

1. The Elections Commissioner refuses to implement the Elections Code. The Elections Code was revised by the Senate on February 18, 2020. Since the passing of this revision, the Senate President as well as the Elections Commission have ordered that the binding Elections Code be followed. The Elections Commissioner continues to act in defiance towards the Senate as well as the Elections Commission, and most recently sent out a campus wide email stating that the prior elections code shall be used. By declining to implement the Elections Code, candidates for Student Advocate General are unable to run with a slate, slate names will not appear on the ballot, and a host of non-binding campaign regulations may be enforced.

2. The Elections Commissioner is acting as the sole, independent entity of the Elections Commission. The current seated composition of the Elections Commission is a deliberative body of four members: one Elections Commissioner as the presiding officer, and three Deputy Elections Commissioners. The Elections Commissioner has taken sole decision making and bureaucratic authority upon himself, and acts opposite to decisions made by the Elections Commission. In doing so, the Elections Commissioner has nullified the Elections Commission constitutional composition of a deliberative body, which strips authority from the Deputy Elections Commissioners and puts candidates at harm.

TABLE OF AUTHORITIES

GOVERNING DOCUMENTS

ASUCI Constitution, Art. V, § 1(a)(1)
ASUCI Constitution, Art. V, § 2(a)
ASUCI Constitution, Art. VI, § 2 preamble
ASUCI Constitution, Art. X, § 1(a)
ASUCI Constitution, Art. X, § 2 preamble
ASUCI Elections Code, § 5.3
ASUCI Elections Code, § 12.1
ASUCI Elections Code, § 14.1
ASUCI Elections Code, § 14.2
ASUCI Elections Code, § 15.2
Prior ASUCI Elections Code, Art. IV
ASUCI Elections Commission Minutes 4/1/2020
RONR (11th ed.), p. 89, ll. 15 – 22

LEGISLATION

R55-38, "The 2020 Elections Code Revision Act" (2020)

PETITION FOR A HEARING

Statement of the Case

The Elections Commissioner refuses to implement the Elections Code despite being ordered to by the Senate President and the Elections Commission. After the revision of the Elections Code on February 18, 2020, the Elections Commissioner notified the Senate President that the Elections Code will not be implemented. He justified his obstruction by citing Art. IV of the prior elections code which did not carry over into the new revision and states:

Any amendments to the Elections Code, which are to be applied to an upcoming election must be made prior to the publication of the Elections website. Any amendments made subsequent to this date will not be binding until the following elections cycle.

The Senate President responded explaining why his interpretation is unfounded and with an order to implement the new Elections Code. The Elections Commissioner declined to follow this order and continued to inform candidates that the prior Elections Code is to be followed. On April 1st, 2020 the Elections Commission convened and made three rulings:

1. that this office rules that the new elections code as codified in R55-38 as passed on February 18th, with the exception of the timeline per Elections Code standing rules, shall be implemented.
2. Slate names on the ballot.
3. Require that the Elections Commission follow the new election code.

The Elections Commissioner then acted in defiance to the Elections Commission by sending out a campus-wide email on April 3rd, 2020 titled "ASUCI Elections 2020 Status: Updates and Clarification." The Elections Commissioner stated that the prior elections code shall be used.

The Elections Commissioner is also acting as the individual entity and soul authority of the Elections Commission. The Elections Commissioner notified the plaintiff James Huston-Aispuro of his disqualification without following the elections code enforcement process and charging the plaintiff with violations not defined in the elections code.

Argument

The Elections Commissioner does not have the authority to rule the revised Elections Code to not be non-binding nor does he have the authority to refuse to implement it. ASUCI Constitution Art. VI § 2 states

> *The Senate has primary policy making legislative authority, and final administrative authority, for ASUCI and under this authority has the power.*

As evidenced, final administrative authority falls under the Senate. Therefore, the Elections Commissioner has no authority to determine whether to implement the revised Elections Code.

With regards to Art. IV of the prior elections code which the Elections Commissioner claims to nullify the revised Elections Code, this argument is void for many reasons. The commissioner claims that the upload of the website alone constitutes its "publication". This is incorrect as "publish" means "to make known to the general public." Law Dictionary, p. 441. To make known, however, requires notice, as notice is simply the practice of offering information. And that information, when electronic, must be sent to each member. RONR (11th ed.), p. 89, ll. 15 – 22 specifies:

> *When notice is required to be sent, unless a different standard is specified that requirement is met if written notice is sent to each member either:*
>
> *a. By postal mail...*
>
> *b. by a form of electronic communication...*

Members were neither directly sent or provided a form of electronic communication to know of publication. Therefore, the webite was not published. Had the Elections Commissioner choosen to do so, he may have sent a campus wide email. But because he did not, he did not suffice the notice standard inherent to publication and required by RONR.

The Elections Commissioner also does not have the authority to act as the sole entity of the Elections Commission and make decisions without separate from the Elections Commission. ASUCI Constitution, Art. X, § 1(a) sets the composition of the Elections Commission as being

> *...composed of one Elections Commissioner and four Deputy Commissioners.*

As seen, The Elections Commissioner is one of the four current commissioners on the board. The Constitution is also clear with regards to enumerating the powers

listed under Art. X §2 to the Elections Commission, and not to a single individual on the commission. ASUCI Constitution, Art. X, § 2's preamble states

> *The Elections Commission has all authority for ASUCI elections and related activities, and under this authority has the power—*

As seen, these powers are vested in the Election Commission. Examination of all of Art. X §2 finds that the Elections Commissioner is not mentioned, further displaying the corporate nature of these powers and Authorities.

The disqualification of plaintiff James Huston-Aispuro for his Grade Point Average (GPA) is not only unconstitutional due to the independent ruling of the Elections Commissioner, but also because the reasoning is not codified as a violation and the elections code enforcement process was not followed. ASUCI Elections Code, § 15.2 lists all violations which are grounds for punitive measures. GPA is not listed as one of them. The Elections Code enforcement process as outlined in ASUCI Elections Code, § 14.1 was not followed either. No citation of offense or required notice were given. The action did not follow ASUCI Elections Code, § 14.2 which states

> *All injunctions shall be approved at a meeting of the Elections Commission by a majority vote.*

This ruling was not done in this manner, but rather at the whims of the Elections Commissioner.

With regards to the merit of GPA preventing a candidate from running, the Elections Code does not codify any restrictions. ASUCI Constitution, Art. V, § 1(a)(1) states

> *(a) The qualifications required to hold any elected position are— (1) Having a 2.0 cumulative GPA;*

The constitution makes it clear that there is a GPA restriction to "hold" office, and not to "run" for office. To "hold" office means to be in a position of authority. Running for office does not constitute holding it. A candidate who is elected will begin to hold office which is described in the ASUCI Constitution, Art. V, § 2(a)

> *The terms of office for all elected officials of ASUCI is one academic year, beginning the last day of the spring quarter in which they were elected and ending the second to last day of the following year's spring quarter.*

As specified, this date would be the last day of spring quarter. Therefore, a candidate's current GPA status does not prohibit them from running, but may prohibit them from holding office if they are elected.

Prayer for Relief

We are requesting an injunction against the respondent for the following

1. To enforce the Elections Code as codified in R55-38 as passed on February 18th, with the exception of the timeline per Elections Code standing rules, shall be implemented.

2. To order slate names be placed on the ballot, as specified in ASUCI Elections Code, § 5.3.
3. To allow candidates for Student Advocate General to run on a slate, as specified by the definition of a slate in the ASUCI Elections Code, § 12.1.
4. To reverse the disqualification of James Huston-Aispuro and any other candidate on the basis of GPA.
5. To enforce the structure of the Elections Commission: that all rulings and decisions must be made by the Elections Commission as a deliberative body as specified in ASUCI Constitution, Art. X, § 2.
6. To enforce rulings made by the Elections Commission on 4/1/2020 as specified in the Elections Commission minutes.

Appendix B: Respondent Brief

Issue 1

I, the Elections Commissioner, do have the authority to rule the amended Elections Code non-binding and do have the authority to refuse to implement it. Though the Petitioners cite one area of the Constitution, there is then another in
Art. X Sec. 2 "Authority and Powers [of the Elections Commission]," "*The Elections Commission has all authority for ASUCI elections and related activities.*" The
Constitution is clear that the Elections Commission holds all authority for ASUCI Elections. This is distinctly different from what the Petitioners cite as Sente's administrative authority. Administrative responsibilities are not substantive in nature. Substantive responsibilities, as per the Constitution fall onto the Elections Commission. It must be understood that in choosing to grant the Elections
Commission "*all authority for ASUCI elections and related activities,*" it was an intentional contrapositive to negate that power from the Senate's powers. So even if we were to accept the premise of an administrative power of the Senate encompassing the enforcement of the Elections Code, in granting the much more
specific "*authority for ASUCI elections,*" this excluded that power from the Senate.

When it comes to orders from the Senate to the Elections Commission the Commission must ensure it remains independent and impartial as stated in the Constitution Art. X Sec. 3 "Responsibilities [of the Elections Commission]" Subsection (i), "*Adhere to the following principles in all actions: (1) Independence;*
(2) Impartiality." The Commission must act on its own to retain these principles in circumstances such as these. The authority to administer elections including enforcing the Elections Code falls to the Elections Commission not to the Senate, and when the Senate attempts to intervene it is the duty of the Elections
Commission to remain independent and impartial. As evidenced it is within the Commission's power to authorize the current election cycle to operate under the current Elections Code.

Further, if amendments are passed for a document, those amendments must comply with rules of the governing document when said document prescribes rules on how to amend itself. The Elections Code has provisions for amendment.
However, the amendments to the Elections Code did not follow these

provisions. The Elections Code under Art. IV "Amendments" states, "*Any amendments to the*
Elections Code, which are to be applied to an upcoming election must be made prior to the publication of the Elections Website. Any amendments made subsequent to this date will not be binding until the following elections cycle." The Petitioners' case
relies on a single definition of the word, "*publish,*" as "*to make known to the general*

public," citing a Law Dictionary. Other legal dictionaries offer different interpretations of the word. For example, Merriam-Webster's Dictionary of Law defines the word as, "*to make known to another or to the public generally.*" From this definition one can infer that informing a single individual "*another,*" would suffice. I informed the Senate as well as my commission interns and interim deputies.
Instructing one such interim deputy to post on the "ASUCI 2019-2020 MEMBERS" Facebook Page that the website and packet had just been made live. Black's Law
D ictionary 2nd Ed. defines "*publishing,*" as, "*Communicating a document or a message by way of media such as print, radio and television. A document that goes through the publishing process that means it can be seen or read by any one person.*" The website and packet were available on the internet for anyone to see or read.
That fits another definition. I'll offer one more definition, this one coming from The
People's Law Dictionary offering, "*to make public to at least one other person by any means,*" as the definition for "*publish.*" Again this was done. At least one other person was notified by some means. See earlier examples.

Ultimately, the Elections Commission has the power, as authorized by the Constitution, to enforce the Elections Code. I, being the sole appointed member of the Commission at the time, chose to enforce the Elections Code as written. To
retain the principles in all actions from the Constitution cited earlier I will add, "*(4) Transparency; (5) Efficiency and effectiveness; (6) Service-mindedness.*" In following with these principles and following the preamble of Sec. 3 of Art. X, *"Responsibilities," This section describes the core responsibilities of the Elections Commission and serves as a contract between the Commission and the undergraduate students of UCI regarding the conduct of the elections process.*" In
order to uphold the Constitution and make good on my contract with the

students of UCI I did what I did and used my authority to enforce the Elections Code to fulfill my responsibilities. The Elections Website and Packet had been published, students were filing for candidacy, I wasn't informed of any legislation passed, students were confused as to what was going on. So I acted in good faith to fulfill my
Constitutional duty.

The Petitioners cite the need "*to make known,*" when describing the definition of "*publication.*" and then go on say this requires notice. They then offer a definition of "*notice,*" as "*the practice of offering information,*" taking a definition of the word out of RONR (11th ed.). However, the definition which they offer has very specific parameters within the parliamentary handbook. This definition of notice is
specifically when it comes to notifying someone of a meeting, if a meeting has been called by resolution. This is a different issue altogether and has nothing to do with

the publication of the Elections Website and Packet. The quotation the Petitioners offer is taken wildly out of context. Directly prefacing the section which the
Petitioners cite is this, "*If, instead, an organization follows the practice of scheduling the dates of its regular meetings by resolution, notice must be sent to all members in advance of each regular meeting, and the number of days' notice required should be prescribed by the bylaws…*" RONR (11th ed.), p. 89, II. 10 - 15. This shows that the passage which the Petitioners cite is taken out of context when it comes to defining the word "*notice.*"

Aside from them having one - not unanimously - agreed upon definition of "*publish,*" they also take their provided definition and run with it building upon it with another definition taken out of context. As the earlier definitions offered within this document show, the Elections Website and Packet were in fact published prior to the Senate amending the Elections Code. This would mean the previous Elections Code remains binding pending the current elections cycle. Lastly,
I began the process of further disseminating this information immediately after informing the immediate parties. Instructing interns to begin promoting the website as well as putting in a campus wide email request and asking for it to be
expedited. Further, should the Petitioners rely on their arguments concerning the very strict interpretation of certain verbiage then should they not have provided

myself, the Elections Commissioner, who is serving in full capacity as the Elections Commission alone, that amendments to the Elections Code were passed by the Senate in the first place? How was the I to know that the Senate had passed amendments to the Elections Code, if they never notified the me of the amendments until much, much, later. The Senate and Petitioners cannot have this both ways.
Either all should be beholden to the definitions which the Petitioners provide or none should. They cannot pick and choose when certain rules apply and when they don't. Seeing as how I was never informed within the 24 hours following the
legislation's passage, nor throughout the week that this legislation was passed, that it had in fact been passed. I do not see how I am expected to know of the state of the legislation and implement it, when no notice from the Senate is being delivered to me on the state of legislation directly affecting my office. Due diligence was done in respect to the publication of the site on my part, however, not on the part of the Senate, therefore I continued on with my implementation of the ASUCI Spring 2020 Elections as I had been for this school year.

Issue 2

That being said the next area is where we move into circumstances truly laden with folly. I agree that I, the Elections Commissioner, do not have the sole authority to act as the Elections Commission when the Commission has other official members. However, as of the current timeline I, the Elections
Commissioner, am the only sitting member of the Commission proper. As the facts go the Deputy Commissioners are only pending their appointment. Even if we were to make the fallacious leap and recognize CR55-04 as a constitutional appointment, the Senate never formally notified me, the Commissioner, that any Deputies had been appointed as is usual. It is standard for the Chair of the Senate to inform others that the Senate has appointed individuals to their body. It is why Chief Justice Abundis for example received a message when Justices Gandall and Naqvi were appointed by the Senate to the Judicial Board. Now, nowhere is this codified, but how else is one expected to know when appointments are made? How could
Chief Justice Abundis or myself know to include appointees in meetings if we don't know they've been appointed? We can't. This is why the Senate must inform officers as such. Which I was not.

That all is if we even accept CR55-04 as being Constitutional. There's an argument to be made however, that it is not, an argument which I further stand by. The crux being that a proper meeting of the Governance and Internal Policy

Committee was never held. The Constitution is very clear that under Art. XI, Sec. 3, Subsection (b) that the membership of this Committee is made up of not only the Internal Student Advocate General as Chair as well as the entire Senate Rules
Committee, but also all Executive Officers as needed, the Chief and Vice Chief Justices as advisory members, the Elections Commissioner as needed, and two Deputy Elections Commissioners as needed. However, many members of the
Committee were not invited to attend the meeting . Including myself as the Elections Commissioner, somehow who would seem needed when choosing Deputy Commissioners to be recommended to the Senate, but also the External Vice
President. We are members "*as needed,*" but there is no formal definition of what that means. Following the definition of notice as prescribed by the Petitioners, none was afforded to many members of the Committee. Even if the as needed members were not considered needed then the Vice Chief and Chief Justices have the right to be invited as advisory members. By not inviting them the Committee failed to meet its Constitutional makeup and carried out an unconstitutional meeting. According
to the Senate Rules Committee Memo dated February 12th 2020 the meeting of the Governance and Internal Policy Committee was invalid, and to quote the Senate

Parliamentarian in his memo, "*therefore actions proceeding out of such should not be in effect.*"

I will outline this quite specifically from the Rules Committee's earlier findings. The 2/12 Memo states, "*Proper issued notice must be given to any meeting.*" Following up with, "*This requirement is only subject to members of the Executive*
Cabinet. Amongst those members are non-voting members, including:
ASUCI Constitution, Art. 7 §1(c): "The President of the Senate; (2) The President
ProTempore of the Senate." For the sake of the meeting at hand here replace the, "*Executive Cabinet,*" with the, "*Governance and Internal Policy Committee.*" Replace the Constitutional Citation with, "*Art. XI, Sec. 3 Subsection (b), Clause (5): The*
Chief Justice and ViceChief Justice, as advisory members of the committee." Should the Senate Rules Committee's earlier findings remain resolute then the Constitutionality of CR55-04 is put into question. If the meeting at which the Executive Cabinet failed to meet the Rules Committee definition of "*notice,*"

was found to have results not be effective, then it only follows that this meeting of the Governance and Internal Policy Committee should also have its outcomes nullified. To finish this point the 2/12 memo states: "*However, neither the President of the*
Senate nor the President Pro-Tempore were notified, and therefore actions proceeding out of such should not be in effect." Replace here "*the President of the Senate nor the President Pro-Tempore,*" with, "*the Chief Justice nor the Vice Chief Justice,*" and everything follows the same. What this renders is that CR55-04 is unconstitutional according to the Senate Rules Committee's own decisions. If the
2/12 Committee Memo is resolute then this argument is compelling enough to have CR55-04 invalidated and make the appointment of these Deputies pending at best.
If the 2/12 Committee Memo however is not resolute it means the Senate's impeachment of President Yan on this count must be thrown out.

Now I will operate on a few hypotheticals to finish this portion of my case. If the Board were to throw out the charge against President Yan and therefore throw out a significant portion of the Rules Committee's findings and therefore validate both the meeting of the Governance and Internal Policy Committee and the meeting of the Executive Cabinet, then there is a hypothetical chance CR55-04 would be
rendered valid. Even then operating under the notion that despite my lack of notification somehow I knew these people had been appointed to the Commission, well ,then I would extend an invitation to them to join our general meetings.

However, when it comes to the most important investigatory and punitive levels of power which this Commission wields they must wait. Student Government

and Student Media operates as an auxiliary service provided under the Department of Student Affairs which has very important processes for onboarding student staff, especially under this service and especially those students who deal with sensitive matters which can delve into student privacy matters. Students who fall under this category fall under a few branches including the Judicial Board and the Elections
Commission. Assuming that these appointments were hypothetically carried out properly and were Constitutionally sound, then they would be directed to be onboarded and trained for their position. This is simply done by the Senate

President informing me, which didn't happen, or the Senate President to take it upon themselves to notify the Executive Director and Human Resources
Representative of Student Government and Student Media that new appointments were made and student employees must be onboarded. This has not occurred for any of these student pending appointees as neither the Executive Director nor the Human Resources Representative have received word. Two key documents which appointees must sign and agree to as well as meet the criteria of, include both the, "*SGSM Appointment Criteria,*" and, "*SGSM HR Confidentiality Agreement.*" These forms must be explained to student employees by professional staff, and professional staff must verify that students meet the requirements outlined therein and have signed these forms before they begin doing the work which they are paid to do. This as of now, has not happened. Even hypothetically granting the most
generous stretches of Constitutional infringement allowed, these pending appointees still do not meet the criteria necessary to begin passing judgement and serving as members of the Elections Commission. Therefore, I remain the sole formally appointed member of the Elections Commission. Therefore, there was no overstretch of Constitutional authority by me acting unilaterally.

Issue 3

I believe this issue to be the simplest in this case. I have taken the liberty of separating it from the previous issue for ease of organization. This issue concerns the removal of James Huston-Aispuro from the ballot due to his GPA. The current Elections Code upon which I am operating clearly lays out the reasoning for his
removal from the ballot. Art. XIII "Candidate Requirements," Section A states, "*A*
candidate shall be defined as any member of the Associated Students of UCI who has filed a Declaration of Candidacy with the Elections Commission and has met the following criteria." This is followed by Subsection 1: "*Must have a cumulative GPA of 2.0 or higher on a 4.0 scale.*" Although James was a candidate during the initial period of this election upon the Registrar's reception and update of student records
to reflect grades submitted by faculty for Winter Quarter 2020 James ceased to meet this requirement. Professional staff who review this information for privacy reasons relayed this information to me. Because James ceased to meet this
requirement he no longer met the definition of a "*Candidate*" as outlined in the Elections Code. Further, because the Elections Code only outlines

punitive
measures to be taken against "*Candidates*" there was no need to carry out the formal process for issuing a decision on behalf of the Elections Commission. James was not, according to the Elections Code, a "*Candidate*." Therefore, he wasn't disqualified as a punitive measure for violating the Elections Code, but he was just removed from the ballot upon his inability to meet the requirements to be a
candidate and thereby causing his candidacy to cease to exist.

This decision was made following the precedent set by both professional staff and the Elections Commission for several years past. This has been the protocol of the Elections Commission and standing interpretation of the Elections Code for all four of my years being either the Commissioner, a Deputy Commissioner, or an Intern for the Elections Commission. This is also the protocol advised by professional staff whose duty it is to advise me. Even before my arrival at UCI this was the course of action and precedent. The Petitioners' understanding of the
Elections Code is erroneous and a removal as a candidate was in line with the language of ASUCI Governing Documents. Should the Board reinstate James as a
candidate they are only prolonging the inevitable as once he would be seated he will not meet the requirements outlined in our Governing Documents and on Student Government and Student Media onboarding documents which were detailed above. A reinstatement of his candidacy would only act to prolong what is inevitable.

Conclusion

To conclude I remind the points which I find to be true. James Huston-Aispuro should remain as a non-candidate. He does not meet the definition of a candidate and therefore should remain as such. Reimplementing a candidacy on his behalf only acts to delay his eventual inability to serve as an ASUCI official. It is why the Code precludes those who do not already meet this criteria from becoming or staying as candidates in the first place. I, as the Elections Commissioner, did not overstep my Constitutional authority in acting unilaterally. I was in line with the
Constitution by acting as such as the sole formally appointed member of the Elections Commission. Any others who are pending appointments are just that, pending. They are not formally appointed and as such must wait to be included in the decision making processes of the Elections Commission. Further, the current Elections Code should remain binding. The Elections

Code and other governing documents are clear in how the Code is to be amended. This process was not followed and was not even completed in time to be applied to the current elections cycle. Therefore, the current Elections Code should remain binding. This not only
follows the Governing Documents of ASUCI, but maintains transparency and trust with the undergraduate students of UCI in our elections process. Any attempts to
implement two different Elections Codes piecemeal are unfounded. There is no prescription for such in the Governing Documents, and to do such a thing would only tarnish ASUCI's standing amongst the student body. In such uncertain and divisive times as these the student body should be able to rely on the Elections
Commission to be acting in their service. With the shutdown of our campus, home, and life having been implemented let any confusion or error in the election process be put to rest. End any stress and chaos caused by this issue and give the
candidates, the undergraduate students, and the election peace and stability.

Misc.

I present from here forward information relevant and substantive to my argument, but which I would have the board look to, should my arguments not prove compelling enough. Though I stand by my arguments and believe in them, I provide here more information for consideration on different aspects of the
Petitioners' case.

On the meeting cited as ruling made by the Elections Commission: Kenny is a pending Deputy Elections Commissioner who alongside two other pending Deputies called for a meeting of the Elections Commission under the authority of
Robert's Rules of Order Newly Revised citing: RONR (11th ed.), p. 499, II. 21-22: "If its Chairman fails to call a meeting, the committee must meet on the call of any two of its members." There is already an issue here and it is threefold.

For one Kenny and the others failed to achieve the next few lines of Robert's Rules: RONR (11th ed.), p. 499, II. 25-28: "*It is the responsibility of the person or persons calling a committee meeting to ensure that reasonable notice of its time and place is sent to every committee member*." I was only notified of this meeting at 10:23 AM on Wed. 4/1 for a meeting meant to take place less than

six hours later. In a
time where people from UCI have been split up across the globe and there can be time differences of up to an entire day, less than six hours, in no reasonable mind, should be considered "reasonable notice."

Tangential to this point is Kenny's perhaps intentionally misleading wording in the message he sent to me. "*If there are any issues with the zoom meeting link, another will be sent out tomorrow before the meeting.*" The meeting in question was in fact scheduled by Kenny to be on the day he sent the message, and not the day
after (the, "*tomorrow,*" in the message). This could be seen as an intentional attempt to prevent me from attending the meeting by sending incorrect information in said message.

The second stems from the fact that this meeting took place electronically. Seeing the footnote also located on p. 499 of RONR (11th ed.) directs the reader to p. 97-99, "*Electronic Meetings.*" Although the ASUCI Senate has adopted legislation allowing for electronic meetings to be held by them, the Elections Commission is not part of the Senate. The legislations in, question R55-53 and R55-55, have specific
information for when an electronic meeting is allowed, "*If by declaration of the*

Chancellor, a signed petition of 2/3rd of the Senate, or by resolution of the Senate, the Senate deems individuals or the whole to be a public health risk when meeting in person, the Senate President may call for meeting by electronic communication." This however, only applies to the Senate, as stated the Elections Commission is an
independent body established by the ASUCI Constitution. The Senate Bylaws do not govern other branches of the government. Because the Elections Commission is expressly established by the Constitution it would require a change to the rules
governing the Elections Commission to meet electronically. See RONR (11th ed.) p. 98 II. 21-24. Because no rule allows this there are no grounds for the Commission to meet electronically.

These first two issues arise under the assumption that the Elections Commission operates using RONR (11th ed.) which Kenny implied in his message to me. However, nowhere in the Constitution nor the Elections Code does RONR
come up. Though under the Constitution the Senate has the power to make its own rules, and they have under the Senate bylaws, they do not have the power

to dictate to other authorities established by the Constitution what procedures to use except when amending Governing Documents. The authority of the Elections Commission comes from the Elections Code which is empowered by the Constitution as the
supreme governing document of ASUCI. The current Elections Code further has no mention of RONR. As such they continue to not apply to the Elections Commission. The Elections Commission is not empowered by the Senate, but by the Elections
Code and the Constitution, neither of which subject the Commission to the procedures of RONR.

Therefore it would follow that even if in a hypothetical situation the pending appointees to the Deputy Commissioner positions were in fact able to operate in
that position, their meeting would still be invalidated by the regulations which I have expressed in this section. Should this case move any farther forward as well I am prepared to do so. However, I found all arguments within this document sound and satisfactory to explain that I followed all proper protocol and procedure
throughout the election process and in good faith and accordance with ASUCI Governing Documents and the undergraduate students of UCI.