



Elections Complaint Appeal

Chief Justice Sanders delivered the Majority Opinion of the Judicial Council on April 3rd, 2020, in which Associate Justices Bellamy, Cloud, De Meillon, Gruntmeir, and Jackson joined.

Complaint and Ruling

On March 31st, 2020, the Judicial Council received an appeal from Hannah Good and Sydney De Vault-Garvey regarding the ruling reached by the ASUW Elections Commissioner on a complaint filed against their campaign. The complaint addressed two issues:

1. “The candidates sent a mass, generic email to over 200, individual student emails.”
2. “Furthermore, the method of obtaining these emails may be questionable as it seems to be an RSO president listserv that the Director of RSO Relations may have had access to for that job, but should not be using for campaign purposes.”

The Elections Commissioner handed down the following ruling and punishment:

1. “Per the ASUW Elections Policy, candidates may not conduct any official campaign work while in the ASUW office/working within an ASUW Executive position. The use of an email list serve that the Director of RSO Relations had access to for that position is a clear violation of this rule.”
2. “24 Hour Social Media Suspension – These 24 hours must be consecutive and may be enacted at any time by the candidates. This suspension must be completed in the next 7 days –no later than Sunday, April 5th.”

Decision

In this appeal hearing, the Judicial Council addressed three issues.

First, the Council addressed the fact that the Elections Commissioner’s ruling was not released within 72 hours of the complaint being submitted. The Council decided not to rule on this violation of the ASUW Elections Policy because the appealing party failed to mention it in the appeal.

Second, the Council noticed that the Elections Commissioner’s ruling failed to address both issues of the complaint. The first issue was regarding Article 5, Section 5.05, Subsection 1, Clause A, Subclause b which states, “...No candidate may send campaign e-mails to more than fifty (50) UW e-mail accounts within a 24-hour period (list serves shall count only as one account; third-party list serves are prohibited)...” The Council will not reach the merits of this issue because it was not addressed in the Elections Commissioner’s ruling nor did the candidates’ appeal challenge the failure to address the issue.



Finally, the Council decided that the ruling reached by the Elections Commissioner regarding the second issue of the complaint is invalid. The Council based this decision on the information provided in the candidates' appeal and the original email sent by the candidates to the RSO presidents. The Council found no evidence that the candidate who currently serves as the Director of RSO Relations improperly used her position to benefit her campaign. The email addresses contacted by the candidates were compiled from UW Connect, which is a website that all UW students have access to, and the email was sent outside of both ASUW office hours and normal university hours. There was no evidence that the candidates sent the email from the ASUW office. Additionally, the Council analyzed the email and found that the candidates did not use a list serve as they sent the email to individual accounts. The Council found that the candidates met their burden of proof.

The Judicial Council therefore invalidates the ruling of the Elections Commissioner regarding the complaint filed on March 20th, 2020 on the campaign of Hannah Good and Sydney De Vault-Garvey. As such, the candidates will not be required to fulfill the punishment set down by the Elections Commissioner.

Notes and Recommendations

During the course of the appeal meeting, the Judicial Council found several failures within the procedure for handling elections complaints. The Council notes that because the first issue of the complaint was not addressed within the Elections Commissioner's ruling, a new complaint can be filed about this issue to be ruled upon by the Elections Commissioner. The Elections Commissioner cannot, however, hand down a new ruling on this current complaint regarding the first issue because the 72-hour deadline for releasing a decision has passed. The Council also notes that the ASUW Elections Policy does not specify what happens if the Elections Commissioner fails to release a decision within 72 hours of a complaint being filed. As such, the Council recommends that the ASUW Senate take legislative action to remedy this failure. Finally, the Council notes that a proper investigation was not conducted by the Elections Commissioner before a decision was released as the candidates the complaint was levied against were not contacted regarding the complaint. The Council recommends that in the future, the parties who have a complaint submitted against them be contacted to discuss the complaint before a decision is reached.