The Judicial Council of the Associated Students, University of California, Davis
Concurring Opinion of the Council

Butt et al. v. Heurlin

Decided: February 17, 2018

Judicial Council Vice Chair DEVO LEICHTER delivers the concurring opinion.

I

With the assistance of his campaign staff, senatorial candidate Colin Heurlin participated in this election cycle’s mandatory candidate workshop from out of state via Skype. Although he accomplished this on his own accord, the Elections Committee marked Heurlin as present for the workshop, indicating their allowance of special circumstances for Heurlin’s unique inability to physically attend the workshop. Unfortunately, the Elections Committee, prior to the workshop, failed to offer special accommodations to candidates other than those with “documented medical emergencies.” The Elections Committee cannot retroactively allow for special accommodations without notifying their availability to all candidates, some of whom may have liked to utilize such accommodations for legitimate reasons: For this reason, the Judicial Council must disqualify Heurlin to no fault of his own, as to set the standard that ASUCD cannot tolerate preferential treatment in elections, regardless of intent.

II

Given the individualistic nature of this opinion, I wish to take this opportunity to present my perspective as to how and why this debacle surrounding the mandatory candidate workshop unfolded, to perhaps provide deeper insight for those reading who may hold strong cynicism or frustration towards the Elections Committee, the Judicial Council, or even ASUCD as a whole going forward. These issues stem partly from the sheer number of candidates, and the lack of
resources from the Elections Committee to address their needs while simultaneously ensuring the election runs efficiently. We must remember that the Elections Committee consists of four members, all scrambling to make sure things run smoothly while attempting to remain impartial and bylawful, but with so many candidates testing the boundaries of existing regulations, and with so many personal interests at stake, these issues will inevitably arise and force the organization to confront its own institutional shortcomings. The Elections Committee’s failure to properly respond to emails from candidates, with requests for clarification on the workshop’s attendance policies and whether special accommodations could be made, stems not from personally-held bias towards certain candidates, but rather a lack of understanding of its own enumerated authority. Specifically, because the Elections Committee wished to avoid seeming biased, it directed candidates to read the bylaws and adhere to existing precedent related to the mandatory workshop rather than directly answer these questions. Unfortunately, when instances arose that neither the bylaws nor precedent could address (such as candidates leaving early, or Skyping in) the Elections Committee dealt with them on an individual basis, leaving other candidates, who had followed the explicit rules outlined to them, feeling ripped off.

I suggest the elections committee reviews their existing practices, and addresses the following questions come next election: (1) How will the Elections Committee better correspond with candidates? (2) What types of circumstances warrant special accommodations for candidates with regard to the mandatory candidates workshop and other aspects of the election process? (3) When faced with questions with no clear answer, how will the Elections Committee come to a decision? Codifying practices which answer these questions, I believe, will serve to remedy the many issues between candidates and the Elections Committee which plagued this quarter’s election process.

III

Finally, I wish to dissent with my fellow councilmembers in upholding the precedent established by the Judicial Council Oversight Committee (JCOC) during *Hatefi-Deshpande v. Elections Committee*, which established that “the bylaws clearly state candidates not physically in attendance at the mandatory candidates workshop should be disqualified by the Elections Committee.” The bylaw in question, specifically 403(A)(a)(iv), states that “no student may run for elected office if they do not attend the mandatory candidate workshop set by the Elections Committee,” and makes no mention of physical attendance or otherwise. Furthermore, the topic of physical presence never presented itself as a point of discussion during the *Hatefi-Deshpande* hearing; therefore, JCOC should not force this interpretation of the bylaw upon the judiciary, as no argument even exists to provide rationale of this interpretation. Personally, I feel as though JCOC issued this ruling in an attempt to guide the Judicial Council in their decision-making for this case in particular. For these reasons, I wish to overturn the precedent, and ask JCOC to
further reflect on the potential influence it might assert over the judiciary in regard to establishing precedent without proper debate of its merits.

OPINION RENDERED
Devo Leichter concurring.