

Syllabus

## **JUDICIAL BOARD OF THE U.S.A., UCLA**

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### **Ramneek Hazrah et al. v. USAC Election Board (erroneously titled)**

ON A PETITION FOR CONSIDERATION TO  
THE JUDICIAL BOARD OF THE UNDERGRADUATE STUDENTS  
ASSOCIATION AT UCLA

[No. 18-6] Argued May 25, 2018—Decided May 29, 2018

On May 15, 2018, Ramneek Hazrah (“Petitioner”) filed a Petition for Consideration alleging that the USAC Election Board (“Respondent”) violated Election Code Article 2.4.c., 2.7., 6.1., 8.1., 11.1.3., 11.3.1., 11.3.5.a-d., 11.4., and USAC Constitution Article 9.b.1. The Petitioner also alleged that the Election Board violated the 18-4 Order issued by the Judicial Board. The remedy that the Petitioner sought is for a reasonable sanction to be given in complaints #C59, C61, C62, C63, C64, C65, C66, C67, C68, C69, C70, and C71-S2018. The remedy also sought for the Judicial Board to recommend disqualification as a reasonable sanction to the USAC Election Board.

*Held:*

1. This Board has jurisdiction to consider the merits of this case based on the claim of jurisdiction listed in the Petition for Consideration, which is satisfied.
  - (a) The claim of jurisdiction made by the Petitioner is that of USAC Election Code, 11.4, which states, “Election Board decisions may be appealed in writing to the Undergraduate Students Association Judicial Board.”
2. The USAC Election Board violated Election Code 2.7 by failing to maintain contact with the filer of a complaint to discuss the alleged violation and provide context for the situation under Election Code 2.7.1.d.
3. The Election Board violated the 18-4 Order issued by the Judicial Board.

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CHAPMAN, A., delivered the opinion of the Board, in which GIBBS, J., PHAM, L., and YEUNG, M., joined.

## **JUDICIAL BOARD OF THE U.S.A., UCLA**

No. 18-6

### **RAMNEEK HAZRAH ET AL. *v.* USAC ELECTION BOARD (erroneously titled)**

ON A PETITION FOR CONSIDERATION TO  
THE JUDICIAL BOARD OF THE UNDERGRADUATE STUDENTS  
ASSOCIATION AT UCLA

[June 5, 2018]

ASSOCIATE CHIEF JUSTICE CHAPMAN delivered the opinion of the Board.

Although the Petition for Consideration alleges that the USAC Election Board violated Election Code Article 2.4.c., 6.1., 2.7., 8.1., 11.1.3., 11.3.1., 11.3.5.a-d., 11.4., and USAC Constitution Article 9.b.1, the Judicial Board chose to only evaluate allegations that were argued at the hearing.

Thus, this case requires the Judicial Board to determine two issues. The first issue to be determined by the Judicial Board is whether or not the USAC Election Board violated USAC Election Code 2.7.d., which requires the USAC Election Board to contact the filer of a complaint to discuss the alleged violation to provide context for a situation. The second issue to be determined by the Judicial Board is whether or not the USAC Election Board violated Order 18-4 issued by the Judicial Board, which requested that the Election Board issue a reasonable sanction in #C59-S2018 for voter coercion.

With respect to the first issue, the Petitioner contends that the USAC Election Board failed to interview Matthew Richard on his alleged complaint after initially requesting one. In turn, the Respondent argues that Richard's communication with the USAC Election Board does not constitute a formal complaint and thus should not invoke Election Code Article 2.7.d.

The Judicial Board has consistently held that, barring any direct violation of the Election Code, the Election Board has broad discretion over its decisions so long as the decisions are reasonable (See *Ian Cocroft v. USAC Election Board*, see also *Social Justice Referendum et al., vs. USAC Election Board*). In order to evaluate the Petitioner's claim that the USAC Election Board violated Election Code 2.7, the Judicial Board must use the guidelines provided by Election Code 2.7.d to determine if the USAC Election Board's actions were reasonable and in compliance with the Election Code. The burden of proof falls on the Petitioner to prove that the allegations are more likely true than not.

With respect to the second issue, the Petitioner contends that the Election Board violated Judicial Board Order 18-4 by not issuing a sanction at all. In turn, the Election Board argues that not issuing a sanction is a form of reasonable sanction.

## I. Background

### A. Background on the Alleged Violation of Election Code 2.7

On May 11, 2018 at 11:14 p.m., Richard emailed the USAC Election Board alleged evidence of Bruins United engaging in voter coercion at fraternities over the past year.

On May 11, 2018 at 11:19 p.m., Richard emailed the USAC Election Board alleged screenshots of text messages from an individual in Pi Kappa Phi alleging that their president told fraternity members not to participate in any complaint filed with the USAC Election Board.

On May 11, 2018 at 11:24 p.m. Richard emailed the USAC Election Board testimony presented at the Judicial Board hearing 18-4.

On May 11, 2018 at 11:26 p.m., Richard emailed the USAC Election Board a link to a google drive folder that contained what Richard alleges is evidence of Aneri Suthar's campaign engaging in row walking, knocking on doors, and using students who live in dorms to create spreadsheets with other students' contact information.

On May 12, 2018 at 12:26 a.m., the USAC Election Board emailed Richard to establish context for his email sent on May 11, 2018. The USAC Election Board stated that they would appreciate the opportunity to interview Richard for context and asked Richard to respond with times he would be available for an interview. The subject of the email was "Complaint report."

On May 12, 2018 at 3:00 p.m., Richard responded to the USAC Election Board's previous email stating that he would be available for an interview until 6:00 p.m. Richard asked the USAC Election Board to indicate when they would be free to interview him.

On May 13, 2018 at 9:41 p.m., Richard sent USAC Election Board an additional email that said "Just wondering if you still wanted to talk."

#### B. Background on the Alleged Violation of Judicial Board Order 18-4

On May 10, 2018 the Judicial Board issued an official order in Case 18-4, Ramneek Hazrah et al. v. USAC Election Board. The Judicial Board requested that the USAC Election Board issue a reasonable sanction in accordance with Election Code Article 11.3.5.a-d after an admission of guilt from the USAC Election Board for failing to issue a sanction in #C59-S2018 for attempted voter coercion.

On May 15, 2018 the USAC Election Board published a second Notice of Finding in #C59-S2018 in which the Election Board

reaffirmed its previous finding of voter privacy invasion by Victoria Solkovits and Bella Martin. The USAC Election Board also found Solkovits and Martin to have engaged in voter coercion. This second Notice of Finding did not have a delineated section in which a sanction or lack thereof was issued.

USAC Election Board Chair Jack Price stated that a sanction section was not delineated due to a lack of time.

The remedy sought by the Petitioner is for a reasonable sanction to be given in complaints #C59, C61, C62, C63, C64, C65, C66, C67, C68, C69, C70, and C71-S2018. The remedy also sought for the Judicial Board to recommend disqualification as a reasonable sanction to the USAC Election Board.

## II. Discussion

### A. Determination of the Definition of Complaint

The Judicial Board must first determine whether the e-mail(s) sent to the USAC Election Board by Richard on May 11, 2018 constitute a complaint. The Election Code does not provide a definition as to what constitutes a complaint. The USAC Election Board admits that it would consider an email a complaint so long as it met their requirements of a complaint.

The USAC Election Board contends that, at minimum, a complaint must cite a part of Election Code that the complaint alleges is violated. Richard's complaint did not cite any portion of Election Code.

Although the Judicial Board believes that the Election Board has broad discretion over its decisions, including its requirements for a complaint, the Judicial Board believes that the USAC Election Board's actions taken regarding Richard's emails ratify the emails as a complaint for two reasons.

First, USAC Election board demonstrated their belief that Richard's email constituted a complaint by titling their initial email to Richard on May 12, 2018, "complaint report."

Second, the initial email to Richard used the language relevant to a complaint in 2.7.d by indicating the USAC Election Board was "reaching out to establish context for [Richard's] complaint, submitted on May 11, 2018." The USAC Election Boards explicit reference to Election Code protocol on a complaint clearly indicates the USAC Election Board's belief that Richard's email(s) on May 11, 2018 constitute a complaint.

#### B. Failure to Establish Context for a Complaint

The Judicial Board believes that The USAC Election Board's failure to respond to either of Richard's emails that indicated his desire to be interviewed violates Election Code 2.7.d. Although the USAC Election Board did contact Richard initially, they failed to maintain contact even when repeatedly contacted by Richard. This disallows for the possibility of discussing the alleged violation in order to provide context for the situation.

#### C. No Sanction is a Reasonable Sanction Once the Voting Period Has Ended

With respect to the USAC Election Board's violation of Order 18-4 Issued by the Judicial Board, the Petitioner and Respondent disagree to its occurrence. As a result, the Judicial Board must determine whether the violation occurred.

Given that the voting period had ended at the time a sanction would have been issued on #C59-S2018, the penalty for the act of voter coercion committed by Martin and Solkovits functionally could only be no sanction or disqualification. The necessary determination becomes whether no sanction and/or disqualification constitutes a reasonable sanction.

The USAC Election Board consistently maintains that the lack of sanction on #C59-S2018 after Order 18-4 issued was the product of a deliberation over Election Code Article 11.3.5, as it provides a framework by which penalties are to be determined. It lists the following in order of decreasing importance:

- a. The validity of the charge
- b. The severity and effect of the offense on the election
- c. The intent of the offender and/or his/her campaign staff and the number of times this same violation has been found to be valid
- d. The cooperativeness of the offender and/or his/her campaign staff

The Judicial Board believes that Petitioner has not proved, based on a preponderance of evidence, that #C59-S2018 was not reasonable given Election Code 11.3.5.

The Petitioner argues that screenshots of messages from a Bruins United Slack channel should be used as evidence in favor of disqualification based on 11.3.5.c, which holds that the intent of the offender and/or his/her campaign staff ought to be taken into account when determining a penalty.

The screenshots sent to USAC Election Board and presented at the hearing show Bruins United candidate Claire Fieldman stating “So pumped to take over westwood tonight and get those votes.” Similarly, a message sent by Rafi Sands, says “if you’re planning on going out to get votes later come ready for that!” While the Petitioner argues that the word ‘get’ indicates an intent to coerce votes, the Judicial Board disagrees and believes that the word ‘get’ should be interpreted in its general usage as “to come to have or hold.” This definition does not imply the sort of force that would take place with coercion.

The Judicial Board also considers the statements made by Kayla He and Ashraf Beshay, that the Petitioner alleges demonstrates a coordinated slate culture that encourages voter coercion. However,



because neither He nor Beshay submitted a complaint to the USAC Election Board, their statements cannot be used as evidence to show intent by the Bruins United Slate or their candidates to coerce votes. The USAC Election Board cannot be held responsible for knowing of or utilizing evidence they were not presented with when determining a penalty.

The USAC Election Board maintains, in adherence to Election Code 11.3.5, that because the validity of the charge is the most important determinant when levying a penalty, the lack of corroboration of the allegation in #C59-S2018 makes disqualification too severe of a penalty.

Absent a preponderance of evidence demonstrated by the Petitioner to show that disqualification was a reasonable sanction in #C59-S2018, the USAC Election Board is within its discretion to interpret that no sanction was a reasonable sanction since the voting period had ended.

#### D. A Sanction Section is a Necessary Component of a Sanction

It has been precedent that the USAC Election Board include a delineated sanction section in their published notice of findings, even if there was no sanction or penalty imposed.

The only argument presented by the USAC Election Board as to why #C59-S2018 did not contain a sanction section was that the USAC Election Board did not have enough time. The Judicial Board does not believe this is a sufficient justification to break precedent as the sanction section is usually an incredibly small component, if not the smallest, in a notice of findings.

The USAC Election Board's belief that in this particular situation, no sanction is a sanction, requires that they include such a determination in a clearly labeled and delineated sanction section as they have in the past.

### III. Conclusion

The Judicial Board finds that the USAC Election Board violated Election Code 2.7 based on the Election Board's failure to maintain contact with Matthew Richard on his alleged violation in order to provide context for the situation.

The Judicial Board does not believe that any part of the remedy requested by the Petitioner is a proportional response to the violation of Election Code committed by the USAC Election Board as the remedy requests for sanctions to be issued against particular candidates. The Judicial Board does not feel it is appropriate to punish individual candidates for violations committed by the USAC Election Board.

The Judicial Board recommends that the USAC Election Board amend the Election Code to clearly define a complaint and the necessary requirements of a complaint.

The Judicial Board finds that the USAC Election Board violated Judicial Board Order 18-4 based on the fact that the Election Board failed to delineate a specific section titled "sanction" in the Notice of Findings in #C59-S2018.

Therefore, the Judicial Board affirms the Petitioner's remedy in part and requests the USAC Election Board to issue a reasonable sanction in #C59-S2018. The Judicial Board agrees with the USAC Election Board that issuing no sanction is in accordance with Order 18-4 so long as the Election Board believes that no sanction is reasonable given that the voting period had ended. However, the Judicial Board requests that Election Board clearly delineate a 'sanction' section within the Notice of Findings. The Judicial Board further requests that the Election Board describe the sanction that would have been issued had the voting period not ended.

While the remedy also requests for a reasonable sanction to be issued #C61, C62, C63, C64, C65, C66, C67, C68, C69, C70, and C71-S2018, the Petitioner makes no arguments at the Judicial Board hearing as to why the original sanction was not reasonable. Therefore, the Judicial Board will not request the USAC Election Board to issue a reasonable sanction in #C61, C62, C63, C64, C65, C66, C67, C68, C69, C70, and C71-S2018.

*It is so ordered.*