

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

Syllabus

Brandon J. Broukhim. v. USAC Election Board

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

[No. 19-1] Argued April 11, 2019—Decided April 12, 2019

On April 7, 2019, Brandon J. Broukhim (“Petitioner”) filed a Petition for Consideration alleging that the USAC Election Board (“Respondent”) violated USA Constitution Article 3.B.1, and Election Code Article 1.2., 2.1.2., 2.4.1.o.i., 2.6.1.a, 2.6.1.d., 2.6.1.g., 2.6.1.h., 2.6.1.j., and 2.8.1.a., inhibiting a fair and open election and unfairly excluding Brandon J. Broukhim from the opportunity to run for a position on the USA Council.

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 Election Board violated USA Constitution Article 3.B.1.
3. The Election Board violated USAC Election Code Article 1.2.
4. The Election Board violated USAC Election Code Article 2.1.2.
5. The Election Board violated USAC Election Code Article 2.4.1.o.i.
6. The Election Board violated USAC Election Code article 2.6.1.a.
7. The Election Board did not violate USAC Election Code Article 2.6.1.d.
8. The Election Board violated USAC Election Code Article 2.6.1.g.
9. The Election Board violated USAC Election Code Article 2.6.1.h.

10. The Election Board did not violate USAC Election Code Article 2.6.1.j.
11. The Election Board did not violate USAC Election Code Article 2.8.1.a.

CHAPMAN, A., delivered the opinion of the Board, in which CABRERA, K., COLTUN SCHNEIDER, K., GIBBS, J., PARK., E., AND SCHAEFFER, J., joined.

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

No. 19-1

Brandon J. Broukhim v. USAC ELECTION BOARD

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

[April 12, 2019]

CHIEF JUSTICE CHAPMAN delivered the opinion of the Board.

This case requires The Judicial Board to determine if the Election Board violated either the USA Constitution or the Election Code.

The Petitioner alleges that the Election Board's violations of the Election Code and USA Constitution prevented Brandon J. Broukhim, and other candidates, from having an equitable chance at participating in the 2019 Spring USAC Election.

Although the Judicial Board finds that the Election Board violated both the USA Constitution and the Election Code, none of the violations directly contributed to Brandon J. Broukhim's failure to turn in his registration packet on time and subsequent disqualification from running in the election.

The actions taken by the Election Board that allegedly violate the USA Constitution and Election Code fall into two main categories: illegitimately changing the deadline to turn in slate and candidate registration packets, and failure to adequately advertise the election and its deadlines.

Legitimacy of the Deadline Change

The Petitioner argues that the Election Board violated both the USA Constitution and the Election Code in changing the deadline to turn in slate and candidate registration packets from

March 18th, 2019, to April 1st, 2019 without presentation of the change to The USA Council.

First, this action is alleged to violate Election Code Article 2.4.1., which requires the Election Board to present the Election Calendar to USAC including the deadline for picking up and returning registration packets. The Petitioner argues that the April 1st deadline was illegitimate because it was not presented to The USA Council.

Second, this action is alleged to violate USA Constitution Article 3.B.1. and USA Election Code Article 1.2. which requires that Officers of the Association be elected in fair and open elections, and that each candidate is afforded equal opportunity for election, respectively. The Petitioner argues that that because the April 1st, 2019 deadline was not legitimate, it unfairly afforded some candidates extended time to turn in their registration packets.

Third, this action is alleged to violate Election Code Article 2.1.2., which says that the authority of the Election Board shall be limited in scope to only those duties stated in the USA Constitution, its Bylaws, the Election Code, and duties essential and imperative to carrying out the same. The Petitioner argues that the Election Board Chair exceeded her authority in changing the deadline without presentation to The USA Council.

Sufficiency of the Advertisement

The Petitioner also alleges that the Election Board violated the Election Code in failing to advertise the 2019 Spring USAC Election and its deadlines.

The Petitioner argues that the Election Board failed to advertise the election and deadlines in several ways. First, that the Election Board failed to maintain an Election Board Website. Second, the Election Board did not publish any advertisements or notices in the Daily Bruin. Third, the Election Board did not tweet

from the USAC Election Board Twitter account. Fourth, the Election Board changed their Facebook page from “USAC Election Board at UCLA,” to “USAC Election Board at UCLA 2019,” an account with 114 likes.

These alleged failures to advertise have the potential to violate six parts of the Election Code. First, Article 2.6.1.a., which requires the Election Board promote elections. Second, Article 2.6.1.d., which requires the Election Board be responsible for advertisement and publicity of campaign packets and deadlines prior to elections. Third, Article 2.6.1.g., which requires the Election Board be responsible for maintaining and updating the Election Board Website and social media. Fourth, Article 2.1.6.h., which requires the Election Board update election forms and documents on the website prior to elections. Fifth, Article 2.1.6.j., which requires Election Board to provide extensive publicity of the candidate filing period and election, in such a manner to aim that all elements of the campus community will receive equal notice.

In order to evaluate the Petitioner’s claims, the Judicial Board must determine whether the April 1st, 2019 filing deadline was a legitimate deadline, and whether the Election Board failed to advertise the Spring 2019 USAC Election in a way that would violate Election Code.

The burden of proof falls on the Petitioner to prove the allegations.

I. Background

On October 30th, 2018, Richard White was confirmed by the USA Council to be the Election Board Chair. In his time as Chair, the Election Board presented the Election Calendar to the council and uploaded the Election Calendar and Candidate Forms to the USAC website.

On March 5, 2019, the USA Council voted to remove White from his position as Election Board Chair.

On March 12, 2019, Kyana Shajari was confirmed by USA Council as the Election Board Chair.

Upon assuming her role, Shajari found the passwords to have been changed for the prior Election Board's accounts including the "USAC Election Board at UCLA" Facebook page and the "USAC Election Board" Twitter account.

Shajari made several attempts to regain the passwords for the accounts. On March 13, 2019 at 6:07 PM, Shajari messaged White on GroupMe asking if she could speak with him. On March 21st, 2019 at 1:27 PM, Shajari texted White's mobile number requesting the passwords for the accounts.

Shajari created a new Facebook page "USAC Election Board at UCLA 2019." The new Facebook page was advertised on the "UCLA USAC Office of the Internal Vice President" Page as well as the "UCLA Undergraduate Students Association Council (USAC)" page. The new page was also briefly advertised on the prior Election Board Facebook page, but soon deleted by White, according to Shajari.

On March 17th, 2019 The Election Board announced that the filing period would be extended from March 18th 2019 to April 1st, 2019.

On March 17th, 2019 the Facebook page "USAC Election Board at UCLA 2019" posted that campaign packets would be accepted through April 1st, 2019.

On March 17th, 2019, Shajari posted from her personal Facebook account "Kyana Shajari" that the deadline would be extended in the following student Facebook groups: "UCLA Class of 2021- Official Group," "UCLA Official Group – Class of 2020,"

“UCLA Class of 2022 – Official Group,” “UCLA Transfer Students,” “UCLA Fall 2018 Transfers,” “UCLA Class of 2019 LADIES,” “UCLA First Generation Students,” and the “UCLA First Generation Students.”

On April 10th, 2019 Jeremy Wildman, the Business Manager for Daily Bruin Advertising, wrote in an email to Brandon J. Broukhim that the Election Board had not advertised in the Daily Bruin. Wildman also wrote that he and Shajari had exchanged contact numbers on March 12th, 2019. Wildman’s email suggests that he told Shajari that Daily Bruin ads could be put up immediately, at which point Shajari did not respond.

At the time of the hearing, April 11th, 2019 at 7 p.m., the USAC Election site, usac.ucla.edu/documents/elections.php, had the USA Council approved Calendar as the current Election Calendar with the March 18th deadline.

On April 8, 2019, the Judicial Board accepted the petition and ordered that the Election Board may not upload the final candidate names until the Judicial Board released a decision in case No. 19-1. All other election activities were allowed to carry on as normal.

The remedy that the Petitioner sought was that either a) all candidates who attended candidate orientation and have already submitted their forms be allowed to run or b) no candidates who submitted any paperwork or forms after the March 18th, 2019, 12 p.m. filing deadline as stated on the USA approved Election Calendar, be allowed to run.

II. Discussion

A. Legitimacy of the changed filing deadline

During the Hearing, The Election Board Chair admitted that the change in deadline to turn in slate and candidate

registration packets from March 18th, 2019 to April 1st, 2019 was not presented to USA Council. The Judicial Board takes this as a clear concession of violation of USA Election Code Article 2.4..i.o which requires that deadlines for picking up and returning petitions for candidacy on the Election Calendar be presented to The USA Council.

Thus, The Judicial Board holds that the legitimate deadline to turn in registration packets is March 18th, 2019 at 12:00 p.m.

The Judicial Board must now consider whether the action taken by the Election Board to change the deadline violates Election Code Article 2.1.2. which limits the authority of the Election Board to duties stated in the USA Constitution, its Bylaws, the Election Code, and duties essential and imperative to carrying out the same.

Given that the change in deadline was a direct violation of the Election Code, the Judicial Board does not believe that the action to change the deadline was within its explicit or discretionary powers, and finds the Election Board to be in violation of Election Board Article 2.1.2.

The Judicial Board considers next whether the illegitimate change in deadline violates USA Constitution Article 3.B.1 which requires Officers of the Association be elected in fair and open elections, and Election Code Article 1.2 which requires that candidates be afforded an opportunity for election equal to that of any other candidate.

During the hearing, the Election Board Chair confirmed that at least one candidate submitted their registration packet after the March 18th, 2019 deadline and before the April 1st, 2019 deadline. As the Judicial Board holds that the only legitimate deadline to turn in registration packets March 18th, 2019, at least one candidate was unfairly given the opportunity to run in the 2019 Spring USAC Election. The Judicial Board holds that this

prevented a fair election and inhibited equal opportunity for each candidate.

B. Sufficiency of Election Advertisement

The Judicial Board determines the adequacy of advertisement by the Election Board as it pertains to each alleged violation.

During the Hearing, the Election Board Chair admitted that the Election Board does not have a current website. The Judicial Board takes this as a clear violation of Election Code Article 2.6.1.g and 2.6.1.h which requires the Election Board to maintain an Election Board website and update election forms and documents on the website prior to elections.

Election Article 2.6.1.a. and 2.8.1. both speak to the requirements concerning the relationship between the Election Board and the Daily Bruin.

As of the date of the Hearing, April 11th, 2019, the Election Board had published no ads or notices in the Daily Bruin. After Shajari assumed her role as Election Board Chair, she had a conversation with the Daily Bruin Business Manager on March 12th, 2019 and they exchanged contact information. At the Hearing, Shajari said that she had a meeting scheduled in the future with the Daily Bruin to discuss advertisements.

Election Code Article 2.6.1.a requires that the Election Board promote elections, including all advertising in the campus media concerning the elections. Given that the Election Board did not purchase an ad or take any other action that might constitute advertisement in the Daily Bruin or any other form of campus media, the Judicial Board finds the Election Board in violation of Article 2.6.1.a, as it requires some form of advertisement in campus media.

Additionally, Election Code Article 2.8.1 says that the Election Board is responsible for communication and coordination with such bodies such as the Daily Bruin, Residential Life, MyUCLA, and other administrative groups, throughout the election process. The Petitioner argues that the Election Board violates because they posted zero ads or notices in the daily bruin.

The Judicial Board must determine if the Election Board communicated and coordinated with the Daily Bruin about the 2019 Spring USAC Election.

Election Board Article 2.8.1. does not say in what manner or to what extent the Election Board needs to coordinate and communicate with the Daily Bruin. Because of this, the Judicial Board does not believe that there is sufficient reason to believe that the interaction(s) between the Election Board and the Daily Bruin violate Article 2.8.1.

Election Code Article 2.6.1.h. and 2.6.1.j. both require the Election Board to advertise the election or aspects of the election. These articles do not describe the manner and extent of this advertising.

The Petitioner argues that the new Facebook page “USAC Election Board at UCLA 2019” with 114 likes, and the posts about the Election from Shajari’s personal Facebook account in the 14 student group pages are not adequate forms of advertising the election.

The Election Board argues that Shajari was forced to create a new Election Board Facebook account after Richard White, the former Election Board Chair, refused to give her the password to the prior page “USAC Election Board at UCLA.” The Election Board also argues that they were not given the passwords to other forms of social media including the Twitter account and Instagram account.

Ultimately, the Judicial Board does not believe that Election Code Article 2.6.1.h. and 2.6.1.j say to what manner and extent the Election Board must advertise the election and aspects of the elections and believes actions taken by the Election Board are not in violation.

C. On the Issue of Brandon J. Broukhim's Candidacy

The Judicial Board is evaluating the claims made by the Petitioner regarding Brandon J. Broukhim's candidacy under the Judicial Board holding that the only legitimate deadline to turn in registration packets was March 18th, 2019.

The Petitioner argues that Brandon J. Broukhim was unfairly prohibited from running in the 2019 Spring USAC Election because of unclear deadlines advertised by the Election Board.

However, Brandon J. Broukhim failed to turn in his registration packet before both the March 18th, 2019, and the illegitimate deadline of April 1st, 2019.

Although the Judicial Board finds that the Election Board violates both the Election Code, and the USA Constitution in ways that prevented a fair and equitable election, the Judicial Board does not find Brandon J. Broukhim's candidacy to be affected by such violations.

The March 18th, 2019 deadline held by the Judicial Board was presented to USA Council, on the approved Election Calendar, and on the official candidate forms on the USAC website.

Further, The Petitioner both requests, as one of the remedies, that the Judicial Board reinforce the March 18th 2019 deadline, and, does not demonstrate sufficient reason why Brandon J. Broukhim should not be held to the March 18th, 2019 deadline.

The Judicial Board holds that violations by the Election Board in this case did not affect Brandon J. Broukhim's candidacy.

III. Conclusion

The Judicial Board finds that the Election Board violated USA Constitution Article 3.B.1., and USAC Election Code Article 1.2., 2.1.2., 2.4.o.i., 2.6.1.a., 2.6.1.g., and 2.6.1.h.

The Judicial Board holds that the only legitimate deadline for slate and candidate registration packets to be turned in is March 18th, 2019 at 12 p.m. The Judicial Board orders that all candidates who turned in their packets after that deadline be disqualified.

It is so ordered.