

June 05, 2020

Grievance Hearing: Club Endorsements

**Decided by members of the Elections Board:** Nathalie Wagler (chair), Francis Neff, Breaker Chittenden, Daniela Tierra, Rukhsar Sadat, LaShaiah Dickerson, and Zion Gemechu

**Complainant:** Abdul-Malik Ford

**Filed Against:** Nate Jo, Nicole Ballard, Nora Harren

**Grievance case:** (directly from the filed grievances) “On Tuesday, April 28, 2020, Students for Self-Operated Dining System (Shred the Contract) released endorsement for AS candidates. There was no meeting held to decide these endorsements and candidates were not given an opportunity to speak and present their campaign to Shred the Contract and its board. Instead, these endorsements were released via Instagram and shared. Nate Jo, Nicole Ballard, and Nora Harren acknowledged and posted on their social media promoting their endorsement from Shred the Contract. On Wednesday, April 29th, I [Abdul-Malik Ford] consulted with Ina LaGrandeur and she stated that a meeting is necessary to endorse a candidate. On Tuesday, May 5, I [Abdul-Malik Ford] brought the endorsement to Ina LaGrandeur’s attention and she consulted with Annie Byers who proceeded to send out an email regarding campaigning and the election code.”

**Decision:** Disqualification of Nate Jo (AS President elect), Nora Harren (AS VP for Sustainability elect), and Nicole Ballard (AS VP for Governmental Affairs elect)

**Majority Opinion:** On June 4, 2020 a formal grievance hearing took place with the above candidates, Ina LaGrandeur, Abdul-Malik Ford, who filed the grievances, and members of the AS Elections Board Committee. The Committee heard claims from all parties involved and decided that a decision for a disqualification of the above candidates was the most appropriate action to take.

In this particular situation, Section IV, § E, of the AS Elections Code was violated by the above candidates. Specifically, sharing unapproved endorsements on social media with the intention of knowing that endorsements in elections have direct influence and impact on members of the student body. Their actions of posting the endorsements deprived the other opponents of an opportunity to have a fair and just election. The candidates stated that they were not aware of a meeting that took place with Shred the Contract about the endorsements, and were notified when Shred the Contract published the endorsements on their Instagram page. Prior to publicizing their endorsements on their social media platforms, the candidates acknowledged that it was ethically questionable. The candidates stated that they had verified the AS Elections Code multiple times, and saw that it did not violate the AS Elections Code. Therefore, they believed that by posting the endorsements on their social media pages did not violate the AS Elections Code. However, their lack of communication to Shred the Contract about their endorsements shows that the candidates were not willing to address the unfairness in this election and bring this to attention to the appropriate parties, which includes Annie Byers and Ina LaGrandeur, the AS Elections Coordinator.

Furthermore, their previous and current positions in the Associated Students have allowed them to properly comprehend and understand the policies within the AS Elections Code. Thus, this indicates that the candidates were well-versed and well-aware about the policies in the AS Elections Code. The candidates chose not to convey any concern about the certain injustices of receiving the endorsements from Shred the Contract when it is known that Shred the Contract has a large following and platform of 900+ individuals that would influence many student votes. These two examples show that the candidates' endorsements would likely be in their favor.

Furthermore, the elected candidates had the responsibility of not only as candidates, but as current AS employees to ensure fairness in this election cycle, as it was not honored in the previous election cycle towards the end of the 2018-2019 academic year. While it may be argued that there is no direct causation to the inappropriate actions conducted by the candidates in the AS Elections Code, it is evident that their intentions behind a significant endorsement—one that is well known in the WWU community—is clear of the AS Elections Code being violated. Since the issue of endorsements has been raised in multiple elections, causing this Elections Code to be modified twice, it is most prudent in this case to hold the candidates involved accountable. They are the ones who represent the reputation of the Associated Students, and thus have the responsibility to ensure that a fair and impartial system is in place.

The Associated Students is for the students and paid by the students. However, this incident has occurred twice towards the complainant, which has directly contributed to the silencing of

Black voices within the AS due to the fact that Mr. Ford is a prominent figure in the Black community at Western. These repeated incidents have compromised the integrity of the Associated Students and their employees.

Over the years, the AS has been accused of being anti-Black and not listening to Black voices on campus, as well as not having sufficient Black representation within the AS. The Associated Students of WWU released a statement on June 4, 2020, acknowledging that they had failed the Black students at WWU consistently and claimed to change their ways. The ASWWU declared in that email stating, "The ASWWU recognizes that an apology- or even a statement- means nothing if it is not backed by actions." The disqualification of these candidates will be the first action towards this change to ensure that an incident similar to this does not occur again.

In order to change as an organization, we must hold individuals accountable and learn from previous mistakes to ensure that justice is served, so that these repeated incidents that directly impact marginalized students are not normalized, and do not become a consistent pattern of neglect here at the Associated Students of Western Washington University. As members of this Elections Committee Board, we state again that the disqualifications of these candidates are the most appropriate actions. By disqualifying the candidates, it is putting an end to the complacency of anti-Blackness within the AS as well as putting an end to anti-Blackness and elitism within our community.

**Dissenting Opinion:** Within those who voted against disqualification, there was not a unanimous opinion. The first section of our dissent focuses on why the AS Elections Code was not violated; this section is supported by two members of the seven-member AS Elections Board Committee excluding the vote of the Chair. The second section calls into question the action of disqualifying the candidates named in the grievance; this section was supported by three members of the board. For full transparency, below is the exact wording of Section IV, § E, of the AS Elections Code, the section allegedly broken by the candidates, as per the filed grievances.

e. AS clubs and Hall Councils may officially endorse candidates or measures of their choice starting on the first day following the Mandatory Election Meeting [04/20/2020]. AS clubs and Hall Councils may not organize events, spend money or use any AS or residence hall resources for or on behalf of a candidate, but may sponsor events where all candidates for a particular position are invited to participate at least three (3) days in advance. AS Clubs and Hall Councils may organize events on behalf of measures following the Mandatory Election Meeting [04/20/2020] but may not spend funds in support of measures.

(1) Candidates have the responsibility to ensure that all candidates for a particular position are invited to participate at least three (3) days in advance to a AS club or residence hall meeting. If all candidates are not properly invited to a meeting and a candidate still chooses to attend, then they may have a grievance filed against them.

The grievance claims that this section was violated by the candidates, named in the grievance, when each of them shared on their campaign Instagram accounts as an endorsement given to them by the AS club Shred the Contract. The grievances claim that the endorsement was handled improperly when Shred The Contract decided to make endorsements without holding a meeting with all the candidates from each race, and that the candidates were complicit to the violation when they shared their endorsements on Instagram. The problem with this claim, and the entire grievance, is that nowhere in Section IV, § E does it state that a meeting is required

for a club to make an endorsement. The code does say it may hold a meeting where all candidates are present, but does not say it must hold a meeting to endorse.

To refer to the majority's opinion, nowhere in their opinion makes it clear what part of Section IV, § E of the AS Elections Code was violated. Nowhere in their statement do they directly cite a sentence of the code that was broken or violated. In fact, they barely refer to it, other than to say,

“Section IV, § E, of the AS Elections Code was violated by the above candidates. Specifically, sharing unapproved endorsements on social media with the intention of knowing that endorsements in elections have direct influence and impact on members of the student body.”

Additionally, the first sentence of Section IV, § E specifically states that a club can endorse the day after all candidates are finalized at the mandatory election meeting. This rule implies that an endorsement event is not necessary for a club to officially endorse candidates as it is completely impossible to invite candidates 72 hours in advance when you do not know who the candidates are until 24 hours before the event. This first sentence, while vague, seems to imply that a club does not need to seek out any endorsement event in order to endorse candidates as a club, due to how quickly a club is able to endorse following candidate filing.

These two aspects in section IV, § E of the AS Elections Code support that candidates receiving club endorsements, without attending any meeting, committed no explicit violation of the AS Elections Code. By following the AS Elections Code, the highest ruling laws in the AS Elections, candidates were correct in determining that the endorsements received were not in violation of

the AS Elections Code and should not be considered at fault for reposting the endorsements themselves.

The majority decision made it clear that the violations do not correlate to specific election code wording, but is a ruling made based on the ambiguous context of the grievance- an unjust election which could have swayed the results in favor of the candidates who committed violations against the AS Elections Code. We also believe this grievance does provide evidence of an unfair election but not due to any specific candidate's actions taken during the election, rather due to gaping holes in the AS Elections Code, an ineffective and ill-prepared bureaucratic process, and club ethics. Because these ineptitudes were beyond the control of the candidates who the grievance was filed against, and no official code violation was broken, we do not believe these candidates should be disqualified from their elected positions as was voted upon. Rather, we believe a statement should be released regarding the grievance with specific details around how the AS Elections Code must be changed, and the shortcomings of the AS Elections Coordinator.

**Additional Dissenting Opinion:** It should be noted, a member of the Elections Board Committee voted to both recognize the grievance as legitimate and voted against the decision of the Board for disqualification. Ultimately, the decision of the member of the Election Board came down to acknowledging that the three candidates had accepted an endorsement that resulted in potential unfairness of the election and for competing candidates. While the Elections Board member in question is still unsure if there is a need for a meeting to occur in order for an

endorsement to be made, the spirit of the code asks for both candidates to receive an equal opportunity and platform in order to be both properly and fairly represented in order to receive a club endorsement. The Elections Board member believes the complainant was unable to be adequately represented due to the lack of clarity around the endorsement process and miscommunication with the Elections Coordinator. The decision of the three elected candidates to accept an endorsement that did not allow for an equal opportunity for the complainant to receive a platform and potential endorsement is not in the spirit of a fair endorsement process.

It is for these reasons, the dissenting AS Elections Board member acknowledges that the complainant was misled through an act of miscommunication with the Elections Coordinator, as well as acknowledging that this act resulted in a much delayed judgement in hearing this grievance, and had the potential to negatively affect the complainant's campaign. Ultimately, the decision was made in the broader context of the AS Elections Code and it would be a reasonable assumption to assume that both candidates must be heard by an AS club in order to make an endorsement, and that the inability to receive such an endorsement could result in unfairness for competing candidates.

For these reasons, the Elections Board member in question chose to vote in favor of the grievance being declared legitimate. However, in terms of the response of the AS Elections Board, the Elections Board member does not believe a disqualification is an appropriate or proportionate response to this action. It is speculative and ambiguous to attempt to establish what the clear intentions were when the three candidates who the grievance was filed against



accepted an endorsement (that was made without Shred The Contract holding a meeting). It is of the belief of the Elections Board member that there is not sufficient evidence to imply the actions committed by the three who the grievances were filed against were committed with malice or intention to harm.

It should be noted the 18 votes between the complainant and the elected candidate is an exceptionally nominal number, and significant of a very close election. However, it is the belief of the Elections Board member is not sufficient evidence presented to speculate as to the mindsets of voters in the 2020 AS election. While the evidence presented could have certainly had a potential impact on the complainant's candidacy, it is speculative for the Elections Board members to make the assumption those 18 votes (or more) were a discrepancy directly derived from the endorsement of Shred the Contract. The Elections Board member believes there to be many other factors worthy of consideration that would make it nearly impossible to come to a solid conclusion as the intent behind each vote without contacting and receiving a response from every individual who voted in the election. Furthermore, Nicole Ballard received a disproportionate amount of votes to her opponents regardless of the grievance, and should not have been included in the disqualification.

The Elections Board member acknowledges the process of the grievance was long and arduous to be put before the committee, and finds that it is difficult to create an appropriately weighted response as the elections have already commenced. The act of disqualification is a strong response and should be reserved for only the strongest of offenses brought before the Board.

The Elections Board member is concerned it does not follow some of the goals of the Elections Board around restorative justice and for this reason chooses to dissent.

**Further Steps:** The decision of the AS Elections Board is final, with the exception of appealing to the AS Elections Appeal Panel. In the elections which candidates have been disqualified, the candidate who received the second most votes is declared the winner of the election regardless of satisfaction of requirements (section XI. § a.). If chosen to do so, the disqualified candidates may file an appeal with the AS Elections Appeal Panel as per the AS Elections Board Charter and the AS Elections Code.