

# Official Appeal

*Of the decision to disqualify candidate Nate Jo from the position of AS President*

## Key Points

- Abdul-Malik Ford, filed a grievance as a candidate for AS President, accusing Nate Jo, Nicole Ballard, and Nora Harren of violating the AS Elections Code by receiving and sharing an endorsement from the Shred the Contract Club, without the club holding an endorsement event.
- No violation of the elections code occurred. The code states that if a club hosts an event, they must invite all candidates to the event. The code **does not** indicate that a club must hold an event before endorsing a candidate. They may decide based on the candidates' statements, platforms, or performance at the candidate forums so long as every candidate receives an equal opportunity to receive an endorsement.
- Democratic institutions and established processes were violated. On multiple accounts (detailed below), the grievance should never have reached the point of the hearing on June 4, 2020. Furthermore, the final decision to disqualify candidates, **sabotaged** the democratic vote of the students of WWU in the 2020 AS General Election. At least two members of the election board were known friends and supporters of Ford. Three members were added to the Elections Board after the elections ended and Ford filed a grievance. It was clear that these individuals made up their minds long before the grievance hearing. Let us be clear: **two or three supporters of the losing candidate overturned the legitimate results of a democratic process.**

## The AS Elections Code

A grievance must reference the specific section of the code, and the Elections Board and Appeals Panel must find a candidate guilty of violating the code to prescribe a punishment (which usually involves a monetary fine or statement of apology). Read the full AS Elections Code [here](#).

### What the election code says about club endorsements:

Section IV, 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 [04/11/2019]. 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 [04/11/2019] but may not spend funds in support of measures."

The elections code states that if a club chooses to hold an event, all candidates for a position must be invited. **No place in the AS Elections Code says that a club must hold an event before making an endorsement.** The code exists to ensure that the elections are fair. It is 100% fair if a club chooses to make an endorsement based on its review of candidates' platforms or debate performances. No candidate endorsed by Shred the Contract was invited to any event or requested endorsement (or even communicated) with Shred the Contract. Shred the Contract used a fair and unbiased process to select candidates for endorsement (see appendix III).

Ina LaGrandeur, AS Elections Coordinator, made an incorrect statement about clubs needing to endorse candidates at meetings to Ford via a private message (see appendix I A). Unfortunately, this led to Ford having a different understanding of the code than the other candidates. However, it is unjust to hold the other candidates accountable for a miscommunication from the Elections Coordinator, especially when they did not have access to the private message sent to Ford.

Disqualification is a last resort and the most severe punishment which may only be deemed appropriate when the elections board can establish, beyond a shadow of a doubt that a violation of the code resulted in an invalid election. Since no violation of the code occurred, it is unethical and potentially illegal to punish the candidates in any way.

## **Democratic Institutions and Processes**

*An abbreviated collection of several violations of the AS Elections Code and democratic processes:*

**Grievance filing** – Ford filed the initial grievance on 5/11/20. Shred the Contract endorsed the candidates on 5/5/20. The election code states that a grievance must be filed within one school day after the alleged violation was discovered. In the hearing on 6/4/2020, Ford noted that he found the endorsement on 5/5/2020, which means that he would have had until 5/6/2020 to file the grievance. Ford did not file the grievance until after he had lost the election, in which case the grievance should have dismissed as the elections code states, "Grievances filed that do not meet these requirements will not be accepted" (Section VI D).

**The Initial Dismissal** – The AS Elections Board made an initial decision to dismiss the grievance. A statement on 5/22/2020 to the AS Elections Coordinator, AS Elections Board Chair Nathalie Wagler, stated, "The AS Election Board decided to dismiss the grievances filed against Nate Jo and Nicole Ballard because there wasn't sufficient information in the Elections Code about how clubs need to go about endorsing candidates" (see appendix I B). The code states that, except for decisions regarding disqualification, all decisions from the Elections Board are final (Section VI E). However, Ford complained that the process was somehow unfair, and the Elections Board was reconvened after adding additional members. This violates the elections code.

**Addition of election board members** – Rukhsar Sadat, LaShaiah Dickerson, and Zion Gemechu applied to, and were added to the AS Elections Board after the conclusion of the election and after Ford filed a grievance. Sadat and Dickerson are known friends of Ford and publicly supported his campaign for AS President (see appendix I C). If they genuinely just wanted to serve on the AS Elections Board as neutral members, why didn't they apply before the conclusion of the election like all the other elections board members? Furthermore, these individuals made their bias extremely obvious in the grievance hearing on 6/4/2020. Instead of showing where candidates had broken the code, they attacked the character of the candidates and used problems with the AS as a whole to justify their support of Ford. Additionally, these three individuals constituted the deciding vote and thus invalidated the results of an entire election and votes from the student body of WWU.

**Fairness of the process** – None of the candidates received any information (including the grievance form filed by Ford) before the grievance hearing on 6/4/2020. They had no chance to prepare any statement in advance. Candidate Jo was only aware of the grievance because of correspondence with Ford, and Candidates Ballard and Harren were informed by Jo (see appendix I D). Candidates Ballard and Harren were not invited to strike a member of the elections board (as specified in the AS Elections Board Charter), nor were they asked to participate in a conversation about selecting a member to strike. The grievance hearing was held more than fifteen days after the filing of the grievance. The code

states that hearings must be held within four school days of the board receiving a grievance, which further invalidates this grievance. The meeting did not allow the candidates to be present during voting. All board members, except Breaker Chittenden, deleted their votes from the Microsoft Teams chat after the meeting, and as such no official record of the action exists (in violation of the Washington State Open Public Meetings Act). No minutes were taken or released from the meeting as of 6/8/2020, even though all official actions legally must be taken in an open session according to RCW 42.30.060 and the AS Elections Board General Rules of Order. Furthermore, Daniela Tierra and Breaker Chittenden (AS Elections Board Members), raised serious ethical concerns about the conduct of the AS Elections Board meeting during the grievance hearing (see appendix II)

## **Standard of Proof**

While it is abundantly clear that no violation of the code occurred, the punishment is so severe and unwarranted, that it becomes apparent the decision was made with an agenda. Prior to disqualifying a candidate, the Elections Board must establish, without a shadow of doubt, that the alleged violation made the difference between the candidate winning or losing. **No such standard can be established.**

1. No reasonable mind could claim that Shred the Contract endorsement caused Ballard's victory, as she won by over 600 votes. Ballard was still disqualified, indicating that the will of the elections board was bent on achieving an outcome instead of upholding the code.
2. It is impossible to demonstrate that an endorsement was the sole reason for 18 votes in favor of Jo or 13 votes in favor Harren. To do so would require cross referencing the AS 2020 Election voting records with the list of Shred the Contract followers on Instagram. Even then, it is impossible and irrational to claim that the Shred the Contract endorsement was the only reason students voted for Ballard, Jo, and Harren.
3. Past elections have proven that endorsements **do not** affect election outcomes. In the 2019 special election for the ASVP for Business and Operations position, Shred the contract endorsed candidate Michael Prostka. Candidate Jo still won the ASVP for Business and Operations position. Furthermore, Shred the Contract did not hold an endorsement meeting in the 2019 special election and no grievance was filed (because this is not a violation of the elections code).

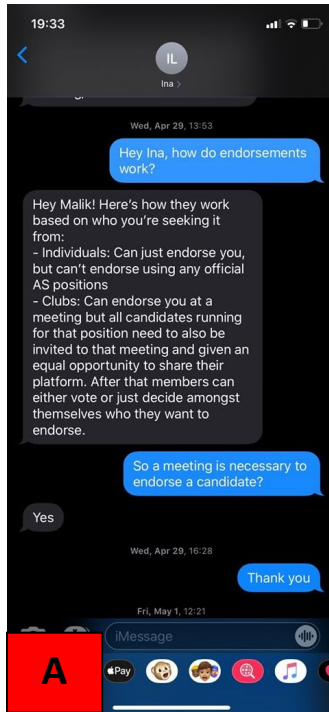
## **Conclusion**

With the overwhelming amount of presented evidence, it becomes apparent that no violations of the elections code were committed by candidates Jo, Ballard, or Harren. It is also clear that a coordinated attempt was initiated to sabotage the results of a democratic election. Following the conclusion of the grievance hearing (which is not the final step of the process), Ford texted an incoming Executive Board member that he was excited to work with them next year and has been publicly announcing that he is the AS President (see appendix I E). This demonstrates that Ford cared less about ensuring justice in the elections process and more about securing the position at any cost.

The events following the conclusion of the 2020 election must be taken seriously. Those responsible for making a final decision on the grievance must consider the precedent that the decision will set. If the Elections Appeal Panel chooses to uphold the biased decision of the AS Elections Board, a clear message will be sent to the future of AS elections. It will be noted going forward that established processes don't matter – only the whims of the current people controlling the process. It will be the case that three students are capable of overturning the votes of a 16,000-person student body because they disagreed with the election outcome.

Therefore, I urge the AS Elections Appeal Panel to uphold the WWU student body's votes, recognize that processes were violated in a way that ignored the rights of the accused candidates, and dismiss the grievance in a recognition that no violation of the election code occurred in the first place.

# Appendix I



**Nathalie** Wagler

Fri 5/22/2020 9:59 PM

To: AS Elections Coordinator

Hey Ina,

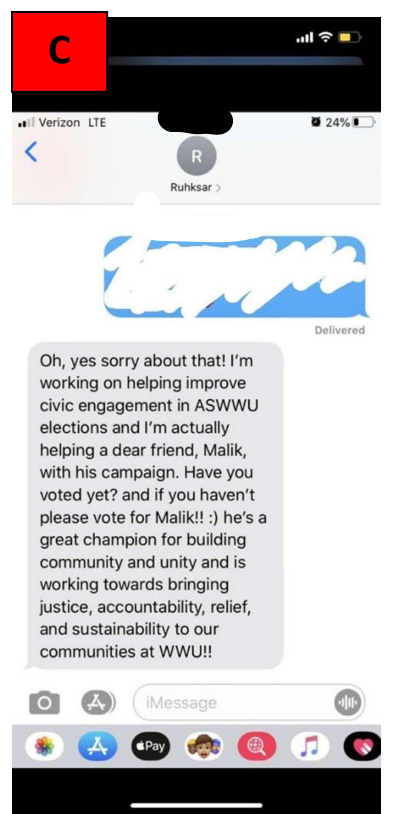
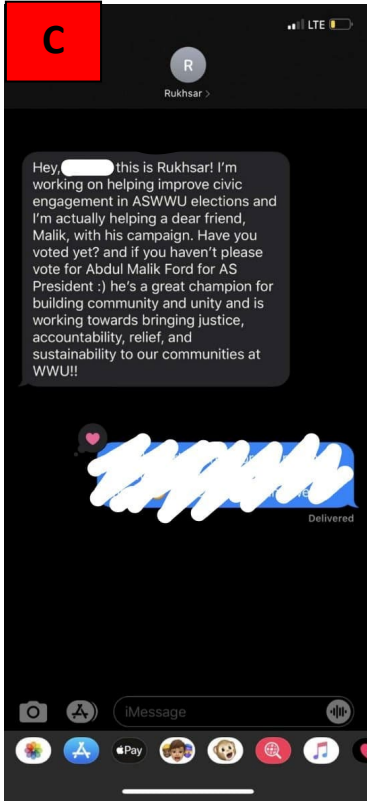
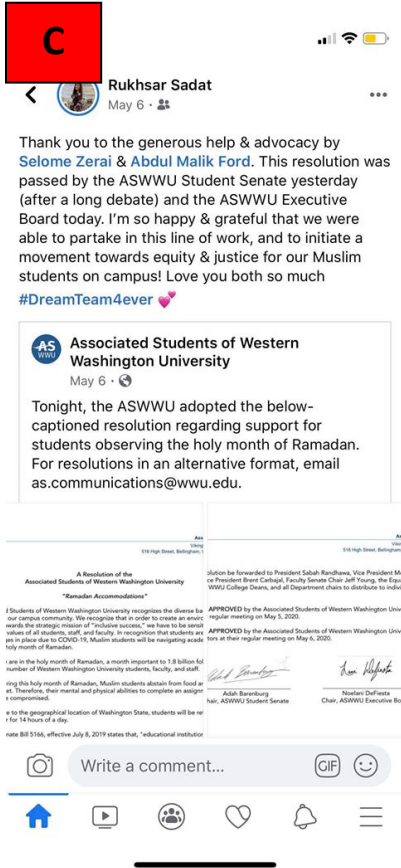
The AS Elections Board decided to dismiss the grievances filed against Nate Jo and Nicole Ballard because there wasn't sufficient information in the Elections Code about how clubs need to go about endorsing candidates. I informed Abdul earlier today, and he just responded saying that he believes he had misinformation given to him. I'm not entirely sure where to go from here, do you have any advice? I can forward you his email back to me if that makes it easier.

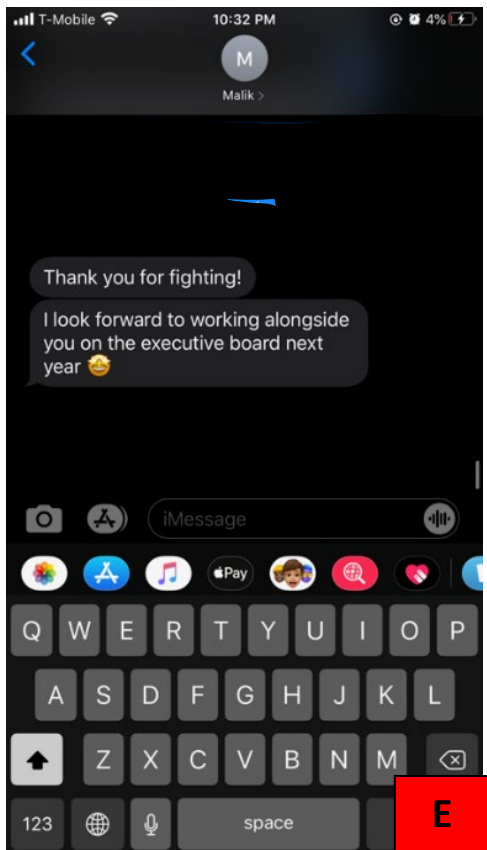
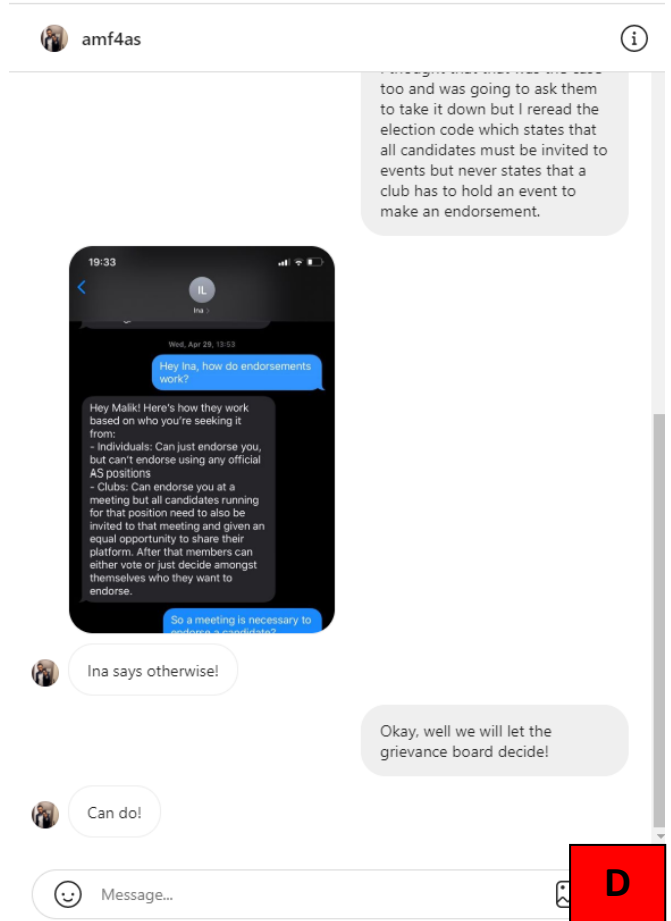
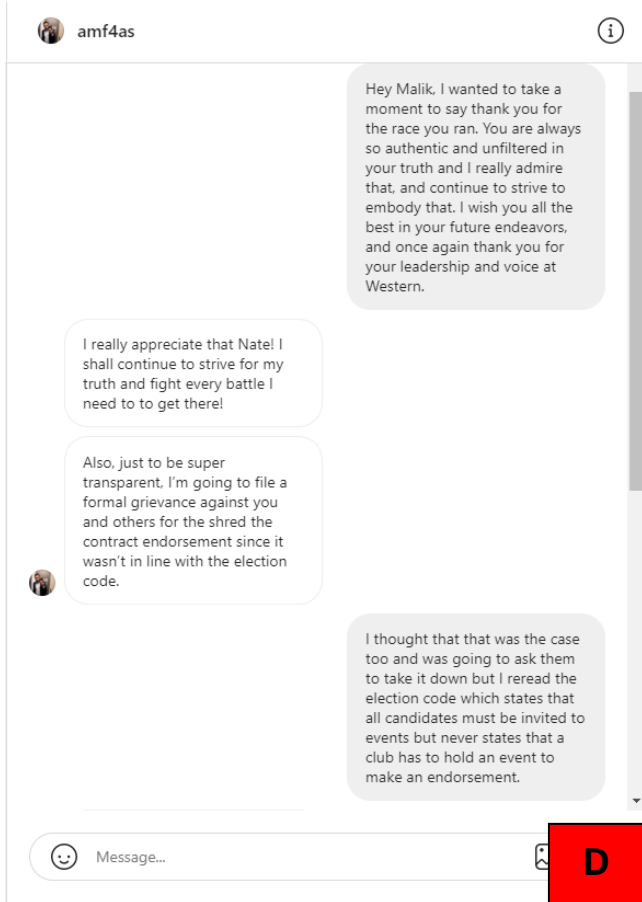
Thank you!

**Nathalie**



**B**





# Appendix II

## **Statements of Concern from present AS Elections Board Members:**

### **Daniella Tierra, AS Elections Board Member:**

Hi Annie,

Sorry for sending you another email so soon! I sent you an email the other day and I was wondering if there's anyway for me to file a grievance against how the most recent hearing was handled by the AS Elections Board, as one of the members on the Elections Board?

I'm concerned about our own violations of our charge and charter (Section VII), which did not provide candidates Nicole Ballard or Nora Harren with the opportunity to strike a member of the Elections Board. This is a huge oversight which could have drastically impacted the results of the hearing, and is not just or equitable. As well as violations with Section 3/VI/ d and e, where it's stated that a hearing must take place within 4 days of the initial grievance being filed, as well as the disparity between when the grievance occurred and when the candidate filed the grievance.

I will even file the grievance against myself as the committee agreed with/quickly bypassed the section asking if the grievance had been filed in a timely manner. I care about making sure the AS has a fair, equitable, and just elections and I feel deeply uneasy about the Elections Committee making such serious decisions while also violating Elections Code ourselves.

Best,  
Daniela

### **Breaker Chidden, AS Elections Board Member:**

To: The ASWWU Elections Appeals Panel

From: Breaker Chittenden, Member of the ASWWU Elections Board 2019-20

Subject: Recommendation that the charges against Nate Jo, Nicole Ballard, and Nora Harren be dismissed on the grounds that no explicit violation of the election code was found by the Elections Board and that deliberation on the grievance was rushed by members who voted for disqualification.

Full transparency, I with one other member of the Board wrote most of the dissenting opinion.

During the deliberation period of the hearing the Board spent over an hour discussing the question "was there a direct violation of the election code?". In the end of that discussion four members voted in agreement that there had been a direct violation, with two voting against, myself being one of them, and one member abstaining. After this vote was done the advisor, the chair, and myself asked the majority to clearly cite which sentence of the code had been violated, this question was asked multiple times using different words. The majority was not able to provide a straight answer, they would cite one part of the code or another, but when that was refuted, they would respond by saying it is more of the intentions behind the actions of the candidates that constituted a violation of the code, not an actual explicit violation of the code. When I heard this argument, I immediately questioned it because to the best of my understanding, the Board can only find a violation if the code explicitly states that that action is against the rules. The majority then responded with the opinion that the job of the board

is to ensure the fairness and justness of the election even if what happened was not an explicit violation of the code.

After the hearing and debate I did not feel that the majority had given proper explanation to how the candidates had violated the code, it is for this reason that I decided to specifically bring the point up in the dissenting opinion. In my own words

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." (from the majority's opinion)

After both sides finished writing their opinions, the Board came back together to give our final approval. I had imagined that the point of this final meeting would be for members of the majority and the dissenting to come back together read their respective opinions and to give approval or more revisions. I was surprised when a member of the majority asked us to amend our opinion because it misrepresented their opinion. When I asked what was wrong with the dissent, they once again explained that they had found an implicit violation and not an explicit violation and that the section (I have provided above in red) in the dissent did not acknowledge that. I responded by explaining the dissent feels that the board can not take action unless it was an explicit violation, also that the dissenting opinion is the opinion of the dissent and the majority has no control over it. Nonetheless, the member still insisted that we amend our opinion to properly acknowledge their opinion. The dissent did finally agree by adding this sentence

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.

The majority agreed to this interpretation of their opinion, which I feel makes clear that their decision was not based off an actual violation of some portion of the election code, but simply on the fact that the code was ambiguous and because the code was ambiguous they felt they could decide it was a violation if they wanted to.

My second ground for dismissal is simply the fact that deliberation was rushed by some of the members that voted for disqualification. On at least two accounts, members of the majority claimed that we needed to finish and vote because we were way over time. Deliberation started, if my memory does not fail me, at about 6:10 pm and ended around 8:30pm. Before the candidates were dismissed the chair or the advisor (I cannot remember which) told the candidates that we would probably call them back at around 6:30pm to release our decision, twenty minutes from when deliberation started. Why the chair or advisor gave such an unrealistic time window for deliberation? I do not know, but I do know that members of the majority held onto that appointed time and wanted us to rush because we had surpassed the time we had provided to the candidates. To me that seems like a mishandling of the grievance, we were debating disqualifying three candidates from a campus wide election, to me two and a half hours seems like nothing to debate such a huge decision. Debate was rushed and I am concerned that that made some members feel like they were forced into a decision.

Respectfully submitted,

Breaker Chittenden



# Appendix III

## **Statement from Shred the Contract:**

We, as Shred the Contract, are making an appeal regarding the removal of Nicole Ballard, Nate Jo, and Nora Harrington from the Associated Student Board. First, we wanted to say that removal of these three students from the board is an unprecedented action that has never happened before in Western's history. We can say with full confidence that all three of these individuals have nothing but the highest level of integrity, and their removal from the board sets a dangerous precedent at WWU. Second, we would like to clarify the process Shred the Contract used to endorse the candidates that we did. After discussion as a group, we decided to use a google form for members of the club to vote on who to endorse. We chose not to hold a meeting for candidates to speak simply because we had been very busy that week preparing for an upcoming action. At no point did any of these candidates reach out to us for an endorsement. The first time any of the candidates heard of the endorsement is when we posted it to the Shred the Contract Instagram.

Third, we are concerned with the appeal process. Our understanding of it is that a grievance must be filed within one day of the election, which this grievance was not. We are also concerned because at no point has anyone informed Shred the Contract or any of these candidates what specific elections code was broken. Shred the Contract held no official event for any candidate and did not reach out to any candidate, which means that section IV, e, (1) was not broken.

Shred the Contract read the elections code thoroughly before making our endorsements. In addition to this, two of our club members served on the AS elections committee in 2019, meaning that we are well-versed in the AS elections code. We do not see anywhere in the elections code any section that we, or any of these candidates, broke.

To remove candidates from the board without any democratic accountability of the students is a dangerous action that undermines the institution of the Associated Students. This process has not been transparent, and we are concerned that those who voted for these candidates are having their voices silenced during this process. We would also like to point out that we, as well as multiple other clubs, did this exact same endorsement process last year, and no grievances were filed against any clubs.

We urge you to consider the consequences of removing these individuals from the board. We have the highest confidence that the appeals committee will see that no elections code has been broken, and that it is the duty of the Associated Students to see that our democratic institutions are held accountable and transparent.

In solidarity,  
Shred the Contract