

Complaint# 21-SE-02

Petitioner(s): Director Brenden Bennett

Respondent(s): President Arsalan Darbin and unnamed party that provided the flyer.

The following allegations were filed 10/26/2021 at 12:50PM):

Collins Dictionary defines campaigning as, “a planned set of activities that people carry out over a period in order to achieve something such as social or political change,”

I was handed a campaign flyer to “vote no” on the recall election, while eating at Moody Towers dining hall with a group of friends. I have a picture (sent on the SGA GroupMe) documenting this. It’s an obvious violation of the “no campaigning” clause. If this is not considered campaigning, then frankly nothing is. This not only shows an organized effort on behalf of the President to undermine the election code, it also falls verbatim into the definition of campaigning, which is expressly prohibited during the recall election period, and, in my opinion, now calls into question the reliability of the results, as campaigning is now happening.

Who knows how many students are now being misled by these Flyers, as well as the newly created “uhsgarecall” website that can be found via a simple google search? It’s a clear violation of the Election Code, agreed upon by all members of SGA, and shows corruption of the highest order in this election.

Article 4, Section 1, Clause 1: *Campaigning is defined as the intentional direct or indirect solicitation of votes, the purposeful bolstering of one’s personal brand and/or name, and/or any form of personal, group, or mass advertising initiated by the candidate or involved parties with the purpose of effecting the Recall Election outcome.*

Article 4, Section 1, Clause 2: *“Direct Solicitation of votes” is defined as an intentional attempt to obtain votes through personal communication.*

Article 4, Section 1, Clause 3: *“Indirect solicitations of votes” is defined as an intentional attempt to obtain votes through materials that can be seen or heard by potential voters.*

Article 4, Section 1, Clause 4: *In the case of ambiguity related to whether an activity constitutes “campaigning” the decision is at the discretion of the Attorney General.*

Article 4, Section 2, Clause 1: *A member of the Student Government Association may not participate in or assist an organization in campaigning on behalf of their cause. If the Attorney General has evidence of an involved party or candidate campaigning or working with an organization to campaign, an investigation will take place and be presented to the Supreme Court.*

Article 4, Section 2, Clause 2: *In lieu of campaigning, the candidate and involved party will each prepare a statement, no more than 500 words, detailing their side of the matter (pro vs. against).*

Article 4, Section 2, Clause 3: *The Attorney General, as the chief Recall Election official, will publish these statements broadly in and around the University to inform the students about positions of candidates and involved party, as well as the market the Recall Election.*

The following evidence was provided by the petitioner:



I reached out to President Darbin for a statement of defense to these allegations. He was given 5 hours to complete this, with a deadline of 7pm on 10/26/21.

The following defense statement was provided by the respondent:

During the introduction of the resolution for my recall on October 6, many asked why the unfounded allegations against me weren't reported to the Justice Department or the Judicial Branch for an impartial investigation. In response, some participants argued it's better to vote in favor of the recall and "let the students decide." From my understanding, a ban on campaigning for SGA members was established for this reason: to remove biased parties with a vested interest in this recall to make unverified accusations and instead empower student participation. Therefore, the advocacy of students in this election should not be contrary to the campaigning statutes of the Special Election Code. Claiming otherwise would only prove the hypocrisy of the petitioner.

I deny any participation or knowledge of the creation, distribution, and/or promotion of ANY type of campaigning materials, flyers included. I also vehemently deny the allegation that I have previously or currently am performing ANY act of campaigning in this election. The actions of independent students who are participating in this recall should not be affiliated with me.

Moreover, the lack of evidence while making this allegation shows the petitioner's poor understanding of the election codes and disregard for any moral standards when making accusations. I urge the petitioner to examine the validity of their claims and prove their connection to me before filing complaints.

Course of Investigation: I examined the Petitioner’s evidence and reached out to the Respondent for a defense. I went through the Special Election Code and identified if a violation was present.

The petitioner themselves has stated that it was not Darbin who handed them the flyer. I as well was given a flyer by a non-SGA. I found additional post and messaging related to the website on the flyers that led me to believe this is an outside organization with due to the previous election season. I have a post on the Instagram page of the same name, that is related to my Daily Cougar Article. I would hope that no one in this organization is using a personal and vulnerable moment of transparency to further an agenda.

I contacted the owner of the website mentioned in the complaint, along with doing a DNS lookup of the domain.

To prevent the possibility of doxing, I will not share the IP address of the domain owner, but the name associated with the website that the QR code leads to is not listed on this complaint.

Decision October 26, 2021 at 9:49pm: Petitioner’s complaint **LACKS** merit, and this **IS NOT** a violation of the Special Election Code.

Conclusion:

The petitioner is correct in stating that this is an act of campaigning under the definition provided by the Special Election Code, but there is no evidence provided to show that President Darbin provided, created, or even is distributing these materials. The definition of campaigning in any sense other than the Special Election Code, which mirrors the definition approved through a vote by the Student Government Association through its regular Election Code¹, is not relevant, but even under the one provided by the petitioner – I still do not have any evidence. If the “entire organization” suddenly disagrees with that definition, I urge they speak to the Chief Election Commissioner to recommend edits through legislation.

I share concerns with the petitioner regarding this matter, as this is a very invested act of campaigning. However, I do not have the authority to say that any act of students to participate in this election is a violation. While this complaint is an example against the recall, Complaint 21-SE-03 was a complaint regarding a student who was campaigning in favor.

It is not within my jurisdiction to prohibit non-SGA members. Until evidence is provided to show a concrete connection to President Darbin, I cannot classify this as a violation.

Respectfully,



Nadiia Hutcherson

Attorney General

This complaint will be shared and made public on SGA website for transparency and archival purposes.

¹ Campaigning is defined as the intentional direct or indirect solicitation of votes, the purposeful bolstering of one’s personal brand and/or name, and/or any form of personal, group, or mass advertising initiated by a known and/or prospective candidate or campaign staff member with the purpose of effecting the election outcome.