

2023 ASI ELECTION COMPLAINT COMMITTEE DECISION

By NICKI CROLY, chair

Members Present:

NICKI CROLY, Vice President for Student Affairs designee (chair)

JESSICA MORENO, Faculty Senate designee

MAI LAM, student representative

ANTHONY PEREZ, student representative

Members Absent:

SALMA MOHEY EL-MOUSLY, student representative

May 10, 2023

Akhumov, Nikita vs Weese, Lillian

I. Statement of the complaint

Lillian Weese brought charges against Nikita Akhumov stating that he and his volunteers participated in harassment and campaign interference. Specifically, the following two policies:

Article V: Fair Campaigning and Publicity

F. Areas in Which Campaigning is Prohibited

2. "Harassment, as defined within this section, is prohibited. This includes verbal, written (printed or electronic) and/or physical abuse by any candidate or Interested Student.

H. Campaign Interference Prohibited

No independent candidate, Presidential Ticket, organization, Interested Student, or individual shall interfere with the campaign of another candidate. Interference includes, but is not limited to, unauthorized removal of campaign posters, banners, or other materials, or other disruption of campaign activity. Any violation of this Section may result in disqualification, unless it can be shown that the candidate, organization or Interested Student was not aware of the violation and did not condone the violation, in which case the Elections Complaint Committee will fashion an adequate remedy.

II. Summary of the testimonial and documentary evidence received at hearing in support of the complaint

Weese presented the Committee with testimony stating that Akhumov and his volunteers interrupted her campaign by physically moving in front of her, running to get to potential volunteers, and yelling "Vote for Nikita" while she was speaking with potential voters or asking them to walk away from Weese.

III. Summary of the testimonial and documentary evidence received at the hearing in opposition or rebuttal to complaint

Akhumov presented the Committee with his opening statement sharing that he nor his volunteers did not interrupt Weese and did not yell at anyone. He stated all candidates rush over to constituents but he did not interrupt anyone who reached them first.

Akhumov submitted testimony as evidence. The testimony was read aloud during the hearing and not needed to be submitted as evidence.

IV. Summary of witness testimony

- a. Weese did not present witnesses.
- b. Akhumov provided the Committee with three witnesses. The witnesses were Austin Busch-Estrada, Gerson Escoto, and Christian Hunter. Busch-Estrada stated given the proximity of candidate tables, folks were often talking to the same individuals and sometimes over each other. He said the environment was competitive and a “free for all”, unregulated by policy. Busch-Estrada mostly shared interactions had with Jimenez during campaigning, who is not the subject of this hearing. He shared he was not informed his behavior was viewed as interference. Escoto shared he did not witness anyone yelling or interfering with candidates. Hunter stated he was outside working on a paper during campaigning and he did not witness anyone interfering or harassment. Hunter said everyone was passionate but he believed it was not hostile and did not cross a line to harassment. His statement also was in reference to interactions with Jimenez, who is not the subject of this hearing.

Weese called a rebuttal to respond to the validity of the witness testimony of Escoto and Hunter given she did not witness them in the area when Weese was outdoors campaigning to speak to the interferences she personally experienced, which is separate from Jimenez. She reiterated her concerns were focused on the structure of the rules that permit candidates to table so closely and the sense of urgency to run to potential voters (which she was unable to do given physical limitations). Akhumov reiterated in his rebuttal that no one was rushing to voters or interrupting. Weese reiterated that she didn't experience Akhumov run but that his volunteer Busch-Estrada did and yelled over others “Vote for Nikita” while they were talking to potential voters. She shared an experience in which Busch-Estrada challenged her to race him to get to a voter. Weese expressed that Busch-Estrada would also run up to intercept potential voters she waved at and was attempting to walk up to them. Weese also clarified she witness the verbal interference of another candidate, not herself, and only experienced the Akhumov's volunteer running to intercept potential voters walking.

In closing statements, Weese shared it was difficult to be in an environment where she would have had to confront the multiple male counterparts and their behavior directly. She asked for more clarity in the rules to ensure this environment is not permitted in the future. Akhumov validated Weese's experience but said he didn't believe his volunteer interfered.

V. Statement of the remedy requested

Disqualification under Article X. Remedies for Complaints, Section D

VI. Statement of the burden of proof the complaining party or parties was required to meet

Clear and convincing proof is required for the Committee to award the remedy of disqualifying a candidate. Clear and convincing evidence is defined as that which “leaves no substantial doubt as to the veracity of the claim.”

VII. Conclusion as to whether the complaining party met the applicable burden of proof

The Committee did not find the evidence presented by Lillian Weese to meet the burden of clear and convincing because she was unable to provide a preponderance of evidence other than her own testimony.

VIII. Summary and reasoning supporting the Committee's conclusion

The Committee unanimously found that the burden of proof was not met by the complainant. Additional witnesses and/or evidence would have been needed to meet the required threshold.

IX. Statement of the relief

The Committee denies the statement of relief. However, they agreed with the recommendations provided during the hearing that the ASI Election Code campaign guidelines be reviewed for improvement around days of campaigning (including locations, proximity, etc.). We would recommend further that there be clarity around the definition of harassment, as well as, a review of the role (if any) campaign volunteers should have.