



## **Decision Rationale**

Jenna Cripe v. ASB Department of Justice

September 18, 2022

### **Overview**

On September 18, 2022 the ASB Judicial Council convened to hear an election violation appeal brought forth by Miss Ole Miss candidate Jenna Cripe (hereafter referred to as the “Appellant”) against the ASB Department of Justice. The Appellant’s appeal was on the grounds that the Appellant’s initial disqualification for a campaign incentivization violation had been erroneous. The Appellant believed that she did not commit any violation due to the fact that no one at the event was incentivized or forced to campaign on her behalf. Furthermore, the Appellant also believed that she was given an unfair hearing at the initial Elections Review Board trial, due to the fact that she was not given adequate notice of 24 hours to prepare, resulting in her failure to bring forth relevant evidence.

The ASB Judicial Council serves as the supreme judicial body of the Associated Student Body, to include lower courts established in the executive and legislative branches of government, according to Article V, Section 1 of the AB Code and Constitution. Furthermore, the Council serves as the primary hearing body for all appeals pertaining to ASB elections, according to Title II, Section 107, Subsection A; Title V, Section 120, Subsection A; and Title V, Section 120, Subsection C of the ASB Code and Constitution. Such authorities were utilized to hear and

decide this case. The Council operates in the interest of fairness and impartiality.

ASB Judicial Council reviewed the following evidence provided to arrive at its unanimous decision: 1) testimony of the Appellant; 2) testimony of the ASB Attorney General; 3) evidence provided by the Appellant; 3) evidence provided by the ASB Attorney General; 4) the precedent established in *Taran Carrasco v. ASB Attorney General's Office*; and 5) the ASB Code and Constitution during the September 18, 2022 appeals hearing.

### **Rulings**

The ASB Judicial Council ruled unanimously with definite and firm conviction that the Appellant was not responsible for the charge of “incentivizing persons to campaign”. As a result, the ASB Judicial Council overturned the decision of the Elections Review Board and Attorney General to disqualify the Appellant. The ruling was made in line with how the campaign rules and definitions are laid out in the ASB Code and Constitution.

### **Findings**

*Relevant Sections of ASB Code and Constitution:*

Title V, Section 124, Subsection A:

“All parties concerned in the alleged violation being heard shall have the right to twenty-four (24) hours notice prior to the date and time of the hearing.

a) Notice shall consist of:

- (1) The time, date, and location of the hearing
- (2) The nature of the alleged violation(s) and the violation's specific grounds
- (3) A copy of the complaint filed”

Title V, Section 121, Subsection C:

“Any attempt by a candidate, campaign representative, or organization to coerce, bribe, incentivize, intimidate, or force a person to vote or campaign in any form, shall result in the candidate's immediate disqualification.

1) Candidates benefitting in any way from an organization or campaign representative penalizing members for not voting or campaigning in any form shall be immediately Disqualified.

2) Neither candidates, nor representatives, from the campaign shall utilize organizations to penalize members for failing to participate in voting or campaigning.”

Title V, Section 120, Subsection A:

“ "Campaigning" shall be defined as any act by a candidate or their representatives intended to present that person to the general public as a candidate.”

*Facts and Judicial Council Opinion:*

The Appellant appealed the decision of the Elections Review Board on the grounds that the Appellant did not violate campaign rules. The Appellant also believed that she received an unfair hearing due to the fact that she was not given 24 hours notice to prepare, resulting in her failure to bring evidence on her behalf.

During the hearing, the primary claim brought forth by the ASB Attorney General's office was that the Appellant violated Title V, Section 121, Subsection C. Based on the ASB Code and Constitution, “campaigning” is defined as “any act by a candidate or their representatives intended to present that person to the general public as a candidate”. The Council found that although the Appellant did incentivize persons to go to a campaign event, she did not incentivize them to campaign for her, as per the definition in the ASB Code and Constitution. After hearing the testimony of the Appellant

and the testimony of the ASB Attorney General, the Council found that merely being present at this campaign event was not sufficient to prove that the persons present there committed actions which were “intended to present that person to the general public as a candidate.”

The Council also wishes to draw a distinction between this ruling and the precedent established in *Taran Carrasco v. ASB Attorney General's Office*. In the aforementioned case, those involved were clearly “campaigning” by the definition provided in the ASB Code and Constitution, whereas in this case those involved were not. The Council acknowledges this due to the fact that it does not wish to erode the safeguards presented in Title V, Section 121, Subsection C. The Council also encourages the ASB Senate to add clarity to the definition of “campaigning” as defined in the ASB Code and Constitution.

The Council found, given the facts and arguments presented in the case, that the Appellant did not violate Title V, Section 121, Subsection C as asserted in the ERB ruling. Consequently, the ASB Judicial Council overturned the decision made by the Elections Review Board to disqualify the Appellant.

Drafted By: Acting ASB Judicial Chair Varad Mahajan on behalf of the ASB Judicial Council