

Yell Leader vs. Election Commission

April 4, 2000

The majority opinion of the Judicial Board is to dismiss the appeal of the Yell Leaders.

Elections Regulations Article II, Section III states:

"All organizations complying to the above organizational requirements must abide by the Elections Regulations."

Since the Yell Leaders chose to have their elections conducted by the Election Commission they are under the rules of the Elections Regulations. If there is any conflict or ambiguity between the Election Commission's Regulations and the Student Organization's Constitution, the Election Commission's Regulations are given priority.

Although the March 17, 1997 memorandum set a precedent concerning Yell Leaders Elections, the memorandum has no binding authority on the Elections Regulations.

Election Regulations Article I, Section II states:

"No member of the Election Commission may amend, limit, or negate any part of these Election Regulations without the approval the quorum senate."

We find that the Election Commission did not violate this article because no rule change was made; an existing rule was implemented using a different mathematical calculation for defining majority of the vote.

In our opinion, the Election Commission's actions regarding the timing and communication of the definition of majority decision were inappropriate and created a negative overtone. Nevertheless, we conclude that the Commission did not violate any written rule.

In regards to Yell Leader Elections, it is our recommendation that the Student Senate include the definition of majority of vote and clearly communicate the mathematical computations into the Election Regulations. It is also our recommendation that the Election Commission verbally communicates the mathematical formula and the definition of majority at the Candidacy filing meeting.

Kelly Copitt
Jeff Casey
Shul Zifun
Ben Reed

Trin Owens acting Chair

The dissenting opinion is as follows:

We would like to conclude in part with the majority by expressing agreement with the idea of a new mathematical formula to decide the majority in the Yell Leader elections. However, given the reasons listed below, we respectfully dissent and believe that the Yell Leader Appeal should be upheld.

The first compelling element is that there is no express power granted to the Election Commissioner in the Constitution that allows him/her to change the way the majority has been decided in previous years, nor is there anything that can be interpreted as such. Supreme Court Justices in our U.S. judicial branch tend to the rule that what is expressly included in a specified list of powers implies that what is excluded is unconstitutional. Article I, Section III of the Election Regulations provides a list of the powers and duties of the commissioner, and the argued power is not included.

Secondly, a memo by Student Body President, Carl Baggett in March 1997 outlined the 16 2/3% majority to be used to select Yell Leader candidates. It was believed at the time that the memo could have been appealed, and thus it can be said that the memo was considered law. Nothing until now has disputed this fact. The Election Commissioner claims that a rule was not changed, simply the interpretation. This is inaccurate. The memo was treated as rule when applied as an action in deciding the candidates. Therefore, when the previous process was discarded at 5:30 p.m. on the second day of elections, the rule regarding the majority was essentially changed. In addition, there is nothing in the Constitution that states an Election Commissioner may usurp the decisions made by a Student Body President.

Furthermore, the Election Commissioner knew of the alleged mathematical problem before January, but failed to render a decision until last Thursday when polling sites had been closed. Leaving the decision to the very last moment creates a question of the manipulation of the decision to effectuate the outcome based on the number of ballots that had been turned in. Also, giving the power to change something at the seemingly whim and caprice of an individual or a select few of individuals allows for a distinct abuse of power. Neither the SBP, the Student Senate, the student body, nor the candidates were informed of the change that would ultimately affect some negatively.

The Yell Leaders, as a representative organization and a contracted entity to the Election Commission entrust them to communicate change and uphold the integrity of the election process. The foundation of all laws is principally ethics and integrity ultimately follows from this. Election Commission did not adhere to either of these crucial elements and unprofessionally disregarded the foundation of all elections.

Amanda Downing

Amia Ingwin