

**Elections Committee Meeting Minutes of May 13, 2020**

I. CALL TO ORDER at **11:06 AM**

II. ROLL CALL – INTRODUCTION OF ATTENDEES

**Present:** Antonio Orejel, Abhay Bilapatte, Kenneth Lefin, Erik Pinlac, James Carroll, Marguerite Hinrichs, Sia Saquee

III. PUBLIC COMMENT – **Public Comment is intended as a time for any member of the Public to address the committee on any issues affecting ASI and/or the California State University, East Bay**

**Todd Davis** states he appreciates this hearing. They sent a letter to administration including James Carroll and President Morishita. He is extremely interested in this issue because of the possible violations to the Election Code and or removal of votes. The organization prides itself to encourage people to vote. From the complaint that they received it seems there were some irregularities. They want to understand the situation because there might not be any irregularities. They have attempted multiple times to reach out to get more understanding. However, it seems that they have not received much of response. If possible, they would want to have a follow up to better understand how elections are run.

**11:00**

IV. HEARING – STATEMENTS & QUESTIONS

**The hearing is to review a grievance filed by Mahdi Fugfugosh regarding the 50% +1 voting procedure. Evidence provided by Mahdi Fugfugosh claims that the 50% +1 voting policy is not referenced anywhere in the Elections Code and that a Runoffs is only stated when there is a tie among the top two running candidates.**

**M. Fugfugosh** states he does not have witnesses because his claims are based of the Election Codes. He makes it clear that this was not intended to attack anyone. He wanted to show and point out all the rules and violations that occurred during this election process. He asks who has to follow the Election Code? Did Election Committee and Candidates all agree to follow the Election Code and signed off with the Candidate Acknowledgement form? In the mandatory Candidate meeting, James Carroll stated the 50% +1 rule, simple majority and went into detail. It was not included in the Candidate form that was created this year. It was also not added into the power point slides that was given to all candidates.



Even though the Election Code was thoroughly updated this year it was still not added in. With every opportunity and ability for the rule to be added in, it was not. Leaving it to be an orally stated rule. They all agreed and stated that the Election Committee and Candidates must follow the Election Code. First violation that occurred was the Election results. They were posted three days after it was agreed up in the Calendar section of the Election Code. If they look at the language in the Election Code for posting results it states that results must be posted four days after the last day of voting; yet, it was posted five days later. In the Calendar section of the Election Code which carries a three-day violation or in the simple languages in the Election Code carries a single day violation. After a simple rule was broken, he studied the Election Code entirely. After he was in the Election Committee meeting on March 27, 2020 before results were posted someone stated in that meeting and verified that 1, 542 votes casted this year. But when results came out there were only 1,377 votes counted. He then referenced back to the Election Code and saw that in Article VIII: Ballot Tabulation and Election Results, Section A it states “the Election Committee will establish a method of tabulating ballots. Tabulation of ballots shall be coordinated by the Elections Committee and may be monitored by the University President or designee member on the Elections Committee. Rules and procedures for the method tabulating ballots must be available for public inspection”. First, no designee member of the Elections Committee or University President sat in and oversaw the process in which votes were counted or removed. Second, the process or procedure was not made available to the public which was later confirmed in an email. With the violation of counting votes and its process which did not occur once but twice. Once for the first round of Elections and then again for the invalid runoff elections that should not have happened according to the Election Code. To make it even worse they do not know how many votes were originally casted for the runoff elections. They just know how many votes were deemed invalid after the unstated, unpublished verification process took place with no over site of the University President or designee. In addition, it is not stated anywhere in the Election Code on who can vote and who cannot. Also, it does not state currently enrolled students can voted either. The University set up the system for all students to authenticate with their net Id and password to log in and vote. So, the removal of anyone’s vote is a violation and against democracy. Especially if people are not being notified that their votes is being removed. Then after results were posted, votes were removed, and percentages changed a rule not written down anywhere in the Election Code that everyone agreed to follow. What makes this rule or practice not true is that in the Election Code Article VIII, Section B it clearly states “in the event of a tie, all candidates receiving the same number of votes shall be part of a runoff election which will be scheduled immediately by the Elections Committee and



held for strictly two days”. Not only was a rule or practice of the runoff elections or 50% +1 enforced that was not written down anywhere, it directly contradicts what was written and agreed upon. This past practice should have been ruled invalid and stopped immediately. The Election Committee should have followed the Election Code and not follow past practices or oral modifications. With all the violations made after the posting of results, no candidate running for any position tied. Runoff elections should not have happened at all. With only one violation or rule broken in any election cycle or process is a threat to democracy and should be taken seriously. With great emphasis, they cannot have a democracy if any votes are tampered with or removed without any oversight. All candidates were held responsible to follow the Election Code. Past practices and oral modifications are not rules. Rules are rules and they should be followed. What is left for the Election Committee to vote on and decide is to uphold and follow the Election Code. Which then the first round of election results will be sent to the University President for sign off. Or the committee can decide not to uphold and follow the Election Code and send the invalid runoff election results. It was said that the Election Code will be updated thoroughly after this election cycle and comparing to other Universities. He did that and found that 10 CSU campus do not have run off elections. It sated one round of elections with no mention at all of runoff elections. They have set dates that the election cycle cannot pass. They also clearly state that runoff elections only occur if there is a tie between candidates. Four campus do follow but it clearly states a runoff elections and simple majority is clearly stated and defined. It also included the instances of needing a simple majority vote and for which positions. On top of that it included which positions and which candidates needing three or more need 50% +1 vote to win that set position. However, East Bay’s Election Code did not state simple majority or runoff elections, unless tied. Yet, Election Code states that runoff elections only occur when there is a tie this rule was still followed. **A. Orejel** asks what is your experience being involved in three cycles of elections with runoffs? **M. Fugfugosh** states that in the three cycles that he has ran in he did not once participate in runoff elections. Last year the 50% +1 rule was stated, and it was not in the Election Code either. At the end of it they are held up to the Election Code and they must follow it. **A. Bilapatte** asks if he has gone to ASI Elections F.A.Q page and it states the reason why runoff elections are completed. **M. Fugfugosh** states that frequently asked questions are not rules. That is not the Election Code. **A. Bilapatte** asks if he has thoroughly gone through the F.A.Q. and power point presentation? **M. Fugfugosh** states he is not denying that this is past practices and that they spoke about these rules. It was stated and mentioned in the Election Committee meeting. The Election Code was not given out before and the rules are past practices. If they look at the presentation it is based on the



Election Code. They cannot modify and state items if they are not in the rules. If the rules are not written anywhere, they as candidates and the Election Committee must follow the rules that are set by the Election Code. **A. Orejel** states they understand it was not written in the Election Code. With the three years that you have participated, why state it now? **M. Fugfugosh** states last year he did state it and tried to get into runoff elections, but he was removed for not upholding the spirit of the Election Code. After rules were thoroughly updated this year, it still was not added in. He should have looked at the Election Code before because he would have brought it up. He did bring it up at the start and emailed every single administrator, Elections Committee as well as James Carroll, Martin Castillo, and Suzanne Espinoza. Yet, it was completely ignored, and everything just moved forward. Looking at the Election Committee minutes it stated if candidates did not like the stating of the Election Codes, they can file a grievance. **A. Orejel** asks if this happened when he was the VP of Finance? **M. Fugfugosh** states he was not able to run because of mishaps and he was appointed into the position. There were not runoffs that year. Last year, there was runoffs, but he was not able to take part of because he was removed. This year, he was forced to participate in the runoff elections. **A. Orejel** asks when he was VP of Finance, did that first incident occur the year before or did it all happen after you were the VP of Finance? **M. Fugfugosh** states there were no runoffs when he was appointed for VP of Finance. There was a runoff last election cycle that he did not participate in. **A. Orejel** asks if the first occurrence of hearing about runoffs was before you were VP of Finance? **M. Fugfugosh** states no, it was while he was the VP of Finance and was running for President. **A. Bilpatte** asks if he recalls anything being discussed in the Candidates Election information session about runoffs? **M. Fugfugosh** states yes, they all James Carroll stated 50% +1 and simple majority. Then again that is an oral modification. **A. Bilpatte** states he know about this and it is not something that was brought up after the Candidate result. He knew about this before he was part of the Election this year. **M. Fugfugosh** states yes, but again they are enforcing rules that are not written. They are all held to the Election Code and it should be followed. Not traditions, oral modifications, or past practices. **E. Pinlac** states according to the Bylaws active members of ASI are granted upon payment of Associated Students Inc., membership fee. With this membership students can vote in the ASI elections for adoption of Bylaws, election of Directors and advisor votes. The platform they use is BaySync. Students are not removed from it when they graduate so with the ballot being on that platform, they would still be able to vote. The reason why votes are removed is because they are not members of ASI, and they do not pay the fee. Transparency is something that they need to work on and have taken note. Votes were removed because students were either alumni or they are part of a program on campus in which they are not



considered matriculated students that pay the ASI membership fee. **A. Bilapatte** asks the advisors if they can shed more light on the practices that were followed previous years. **S. Saquee** states runoff last year was the same. If they did not have 50% +1 votes, then they would go into run offs. **M. Hinrichs** states this has been consistently the way they have facilitate the Election process. This is the first is the first time they have had a grievance regarding runoffs. **A. Orejel** states there are such things are written and oral contracts. This might not have been an oral contract. It must have a statement, must be accepted by the person but it can be hard to determine. This is to let everyone know that there are two types of contracts. This might not apply to this situation, but this is why they are having this hearing. **M. Fugfugosh** states oral contracts can take place but it can be annulled because of the Candidate Acknowledgement form that was used this year. In which it states that all candidates will be held to the Election Codes and Student Conduct. The oral contract does not hold any more when they signed, and it was written down and things are being added in that are not written down. **A. Orejel** states that he wanted to bring this up to everybody's attention and to make it clear. **M. Fugfugosh** states it comes down to upholding the Election Code, what was written and what was agreed on. It would entail sending the first round or results to the University President or not upholding the Election Code and sending the invalid second round of results to the University President. **A. Orejel** states the committee will recess into a closed session.

**39:50**

V. HEARING – DELIBERATION

**The Committee will recess into a closed session to consider complaint.**

VI. HEARING – COMMITTEE DECISIONS

**The Committee will gather the complainant and respondent(s) back to Zoom to state committee decision(s).**

**A.Orejel** states it is 12:38PM and they are returning from the closed session. He thanks everyone for their patience and participation in today's hearing. The committee has deliberated came to an agreement. First, they did state on their March 27, 2020 meeting that it would take some time around Monday for the election results to be posted. Everyone was notified about it meaning it would not be a violation and it can be found in the meeting minutes. The votes that were not removed were any valid matriculated students currently attending East Bay. They have made the determination that the evidence present was reasonable, but the committee believes that the runoff documented has been practiced for more than 10+ years. An explanation about runoffs was given to all candidate including



Mahdi at the mandatory candidates meeting and Mahdi's direct experience with elections. The 50% +1 has been reasonable and a transparent operating standard. It shall remain in place for this election cycle for consistency and fairness to all candidates and previous elections. Should the complainant want to appeal the committee decision of keeping the 50% +1 vote they will have to email the Associated Vice President, Martin Castillo no later than two academic days from today's hearing. Martin will directly work with the Board of Directors for review. He thanks everyone for their participation.

VII. ADJOURNMENT at **12:41 PM**

Minutes Reviewed By:  
**Committee Chair**  
Name: Antonio Orejel

Minutes Approved On:  
Date:

