



AUDITORIAL MEMORANDUM

Date: 3/31/2018

Re: IgniteTU v. Elections Committee

ISSUES

- Whether the Elections Committee has the authority to allocate penalty points to campaigns when penalty points were not predetermined

I. STATEMENT OF FACTS

On Wednesday, March 28, IgniteTU, an executive campaign for Temple Student Government, was given a one-point penalty for violating the endorsement regulations of the Elections Code. The violation involved the campaign's publication of a false posting on their social media accounts, claiming to have received an endorsement from a student organization. Without denying the facts that the penalty was born out of, IgniteTU appealed the decision of the Elections Committee to myself, the Auditor General, on March 30. Instead of introducing alternative facts, the petitioners assert that the penalty of subject was too severe, as it is a response to an "honest mistake," and further, they claim that the only direct victims of the violation, Grassroots Soccer, do not feel that they were affected too adversely. Grassroots Soccer also submitted a mitigating letter on behalf of IgniteTU. The Elections Committee's main defense of their decision lies in the fact that IgniteTU was already given a warning in response to another violation which the campaign claimed to be the result of a mistake.

II. CONSTITUTIONAL ANALYSIS

A.

According to the Temple Student Government Constitution, "The duties of the Auditor

General shall include, but shall not be limited to: Acting as the internal monitor of the organization” and “maintaining, enforcing and interpreting the Temple Student Government Constitution and Bylaws” TSG III, ii. Supplementing that rule, the Ethics Board By-laws state, “The power of judicial review rests in the Ethics Board, as denotatively granted by the Temple Student Government Constitution,” and that “The Auditor General must give deference to the reasoning of the... Elections Commissioner when considering the potential unconstitutionality of their decisions” J I, i, J I, ii. It is pursuant to these governing rules that, in order to limit conflict surrounding this case and that may arise in future cases, this precedential evaluation, which is Constitutionally and statutorily authorized, must occur.

B.

It is clear that the Constitution of Temple Student Government grants the Elections Commissioner vast authority in overseeing elections related matters. Specifically, it states that the Elections Commissioner shall “[m]aintain[...], interpret[...], and enforc[e] the Elections Code...,” as well as “[a]dminister[...] and oversee[...] all elections related matters...” TSG IV, ii. It ought to be stated though, that this does not give the Elections Commissioner dictatorial authority over elections, as the power of the office is checked by the Ethics Board By-Laws in Article I Section 2. The implication of the third clause of the section is that the Auditor General has appellate jurisdiction in matters adjudged by either the Parliamentarian or the Elections Commissioner, since it directs the Auditor General to practice restraint in reviewing the decisions of both offices. There, the by-laws state, “The Auditor General must give deference to the reasoning of the Parliamentarian and Elections Commissioner when considering the potential unconstitutionality of their decisions” J I, ii. The character of that deference involves a strong

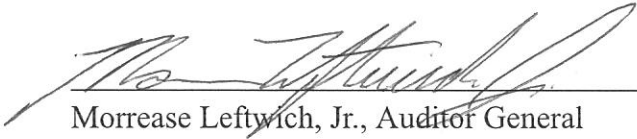
consideration of the text in light of the reasoning posed by the officer whose decision is being reviewed J III, i.

In the present case, the governing portion of text is within the Elections Code Section 501: “In the event that an Executive Campaign violates the code, a predetermined numerical value assigned to that violation will be given to the Campaign” EC 501.03. In the midst of reviewing a decision of potentially exceeding severity, the question of whether a governing document includes a recipe for allocating penalties must come to mind. In Section 501.03, I found it. Not surprisingly, penalty per violation values are at the discretion of the Elections Commissioner; the limit to that discretion is the fact that it is not on a case-by-case basis. Instead, these values must be predetermined, at a time prior to the violation being committed. Thus, as the constitution lists reasons why members of Temple Student Government may be terminated or impeached, the Elections Commissioner must draft a document that lists numerical values per violation TSG III, iv. Just as the Constitution of Temple Student Government limits the rights of the Ethics Board to impeach by listing the potential reasons for impeachment, the Elections Code limits the rights of the Elections Commissioner to allocate penalties by directing the officer to predetermine the numerical values of potential violations.

III. CONCLUSION

For the foregoing reasons, the Elections Commissioner’s decision to give IgniteTU’s executive campaign a one-point violation, in addition to the Elections Commissioner’s decisions to give numerical penalties to any campaigns during this elections season thus far, is overturned. The reason for this binding decision is the fact that Section 501.02 stipulates that the punishments for violating the Elections Code be predetermined. At this point, there are no

predetermined numerical values assigned for violations, thus no numerical values may be given to any campaign yet. Once the Elections Committee drafts a document including the numerical values for universal use, then it may begin giving numerical values for each preassigned violation, for violations committed after the document has been drafted.



Morrease Leftwich, Jr., Auditor General