

ASMSU Judicial Council Ruling 2018-JC-005

Topic: Elections

1-Nay4-Yea

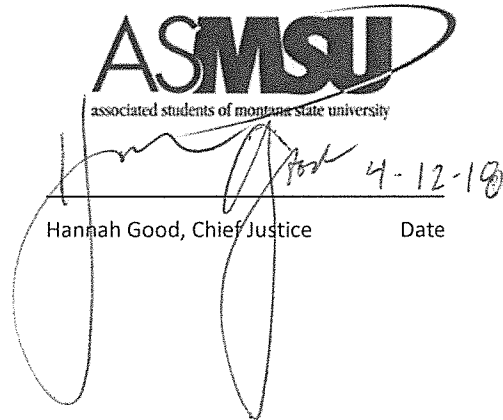
Record Number: 2018-JC-005

Ruling Date: 11 April 2018

Main Articles:

Election's Policy Article II Section 2-E and 2-E-1

Election's Policy Article IV Section 2-C-2-i



ASMSU
associated students of montana state university
Hannah Good, Chief Justice
Date 4-12-18

On April 11th, 2018, the Judicial Council ruled 4-1 in favor of submission 2018-JC-005.

Majority Opinion: On a 4-1 vote, we, the Judicial Council for the Associated Students of Montana State University, find Thomas McGrath severely violated the ASMSU Elections Policy & Procedures Manual by actively campaigning within a voting parameter. This act severely violates the spirit of the campaign and gave Mr. McGrath a considerable, unfair advantage due to the sheer amount of student traffic in that area along with the fact that it is also a polling station. When discussing this with Mr. McGrath, he confirmed that he was campaigning within the voting parameter, was handing out campaign materials, and that he had read the ASMSU Elections Policy & Procedures Manual but had forgotten that specific rule.

Policy Reference: Election's Policy Article II Section 2 – E “Candidates, and campaign associates may not campaign in official, ASMSU established polling stations during balloting times. 1. There will be a minimum of three established polling stations: Strand Union Building, the sandstone surrounding Montana Hall, and the corner of Grant Street and 12th Street.”
Election's Policy Article IV Section 2-C “Violations at this level blatantly violate the ‘spirit of the campaign’ and give the candidate a considerable, unfair advantage. Examples include: Campaigning within voting parameter.”

Dissenting Opinion

The facts of the complaint are not in question. At issue are rigid definitions of examples in the the Election's Policies and Procedures Manual (EPPM) that are used when determining sanctions. By assigning degrees of severity to particular violations, the policy inhibits the councils' ability to consider the circumstances of electioneering misconduct on a case by case basis.¹ The candidate, while representing the student organization Sustainability Now (SNow), did campaign in a prohibited voting location from 9 AM to around 10:15 AM on Tuesday, April 10th; however, he moved to a compliant distance immediately after being informed that he was in violation of the EPPM. He proceeded to deactivate his campaign's Facebook page and refrained from campaigning the following

¹ ASMSU Election's Policies and Procedures Manual Article IV Section 2 “The Three Levels of Violations”.

day on his own volition to counter the unfair advantage he gained in that period. The candidate made attempts to rectify the situation, and would have been elected as a Senator at Large with 954 votes. The policy dictates that “sanctions shall be imposed in such a way that the punishment fits the crime” while paradoxically committing the council to specific tiered consequences.² This dissenting opinion demonstrates that strictly defining what constitutes a severe violation and what does not, rather than allowing the council to use its discretion, harms the election’s integrity by enforcing a sanction which does not reflect or equate to the advantage gained from misconduct.

The Majority Opinion serves as the official opinion and ruling regarding 2018-JC-05. The candidate is disqualified from the 2018 elections.

Minutes for the meeting held 11 April 2018 can be found on the Judicial Page of the ASMSU Website.

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² ASMSU Election’s Policies and Procedures Manual Article IV Section 1-C “Purpose of Sanctions”