



THE STUDENT GOVERNMENT JUDICIAL COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

ESB Advisory Opinion (ESB/AO 2011-004)

Issued September 10, 2011

The UT Student Government Judicial Court, acting as Election Supervisory Board, issues the following advisory opinions under the authority of Section 4.02 of the Election Code. Some of these rulings may substantially modify the rules as contained in the Election Code—these rulings override the text of the Code.

It is each candidate's responsibility to read and follow these rulings as well as the Election Code, University Rules, and all applicable Laws.

- 1. The Student Government Judicial Court is acting as the Election Supervisory Board (ESB) for the purposes of the Fall election.** All references in the election code to the ESB refer to the Judicial Court.
- 2. Judicial Court rulings are final and not subject to appeal.** The SG Constitution, as it's currently structured, does not allow for an appeals process during the Fall elections. Even though the current Election Code talks about appeals, there will be no appeals process this election.
- 3. The campaigning period will run from 12:01am on Wednesday, September 14th until 11:59pm on Wednesday, September 21st.**
- 4. The election will be held from 12:01am until 11:59pm on Wednesday, September 21st. The results will be announced approximately one hour after the close of the polls.** This is also to bring us into compliance with the Constitution. Other election timetables in the Election Code are not applicable to this election.
- 5. The maximum budget for first-year campaigns is \$550.** It is your responsibility to stay within this budget. Items that are gifted to you, borrowed, previously owned by you, etc., must still be expensed at their fair market value. If you have questions about whether something should be expensed, ask.
- 6. Financial disclosures are due by 4:30pm on Wed. 9/14, Fri. 9/16, and Wed. 9/21.**



THE STUDENT GOVERNMENT JUDICIAL COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

7. We reaffirm the three previous advisory opinions issued by the Election Supervisory Board in the Spring of this year. They are attached to this opinion as appendices A–C.

8. Candidates and their Campaigners cannot set up polling locations. This comes directly from Election Code sections 2.16 and 6.09. This applies both on and off campus.

9. The official ESB-maintained polling stations shall all be located in the Student Government suite, SAC 2.102. Students may vote from any computer or other internet-enabled device. These official polling stations are available for students who do not otherwise have easy access to such devices, or who require special assistance.

10. Per Election Code Section 4.17, the following ranges of moratoriums are associated with each violation classification:

Class A Violation — Punishable by a fine ranging from \$1 to \$550.

Class B Violation — Punishable by a campaigning moratorium ranging from one hour to one week.

Class C Violation — Punishable by a fine ranging from \$1 to \$550 and a campaigning moratorium ranging from one hour to one week.

Class D Violation — Punishable by disqualification.

The following examples illustrate the types of actions that may result in each violation. The Judicial Court may modify or deviate from the following list when justice and equity require. This list is not comprehensive and does not address many possible violations:

Class A & B Violations — Accidental and/or minor violations of the election code or student rules. Actions which, though against the rules, do not have a major impact on the election, and do not significantly harm other candidates. (e.g. Submission of financial disclosure forms a few hours late, accidentally posting one or two flyers in a location where they are not permitted, etc.)



THE STUDENT GOVERNMENT JUDICIAL COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

Class C Violations — Reckless violation of the rules which results in some slight to moderate harm. This can include repeated minor or accidental violations.

Class D Violations — Intentional, repeated, or severe rules violations. These generally have an impact on the election and/or other candidates. (e.g. exceeding the budget, failing to report expenditures, damaging other candidates' campaign materials, election fraud, major violation of student rules, breaking the law, lying to the ESB, etc.)

Alden Harris — Chief Justice
Eric Nimmer — Associate Chief Justice
A.J. Smullen — Justice
Jessica LaBerge — Justice
Pedro Villalobos — Justice
H. Joel Simmons — Clerk



THE STUDENT GOVERNMENT JUDICIAL COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

Appendix A

ESB Advisory Opinion ESB-AO-2011-001

ESB Advisory Opinion (ESB/AO 2011-001)

It is the official opinion of the Election Supervisory Board (ESB) that endorsements and endorsement solicitation will not be permitted until the beginning of the official sanctioned campaigning period, at that time the stated actions can be applied for, sought after and/or accepted.

This opinion comes under the authority of section 6.03 of the Election Code which states, "No campaigning or endorsing will be allowed until the official campaign period has begun as determined by the Election Supervisory Board."

Whereas, endorsing is defined by the Election Code as "expressing support for a candidate by a party other than the candidate" therefore any action taken by (a) candidate(s), agent(s) and/or their worker(s) for the purpose of securing the endorsement of an organization or individual would meet the definition of campaigning.

Violation of the above will be viewed as campaigning before the authorized campaign start date of February 16th, 2011 and will be treated as a punishable offense by the ESB.

Eric Nimmer – Chair, Election Supervisory Board

Cameron Miculka – Secretary, Election Supervisory Board

Mary Martha Bauman – Member, Election Supervisory Board

Truc Nguyen – Member, Election Supervisory Board

James Brower – Member, Election Supervisory Board

Abdul Pasha – Member, Election Supervisory Board

Carl Thorne-Thomsen – Member, Election Supervisory Board

Robert Reeb – Member, Election Supervisory Board

Eugene Wood – Member, Election Supervisory Board



THE STUDENT GOVERNMENT JUDICIAL COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

Appendix B

ESB Advisory Opinion ESB-AO-2011-002

“Anonymous Complaints”

In order to better utilize the time and resources of the Election Supervisory Board (ESB), no anonymous complaints will be heard as a prelude to a disciplinary hearing. As such, anonymous complaints will be immediately dismissed by this and any future ESBs that this Advisory Opinion shall hereafter govern.

Anonymous complaints will be classified and defined as any informal complaints communicated to the Chair of the ESB or any other member of the ESB, or any other faculty member, administrator, staff member, and/or agent of the University of Texas, or any other student or agent that deals with the ESB via email, cell phone, mail, or any other manner or any formal complaint via the UT SG website whereby the identity of the complainer is not revealed.

The factuality of these complaints cannot be verified, since the identity of the complainer cannot be verified. As such, the veracity of the complaint is questionable at best, and therefore the ESB would not be able to accurately pursue it. Also, as the Election Code, passed by the Student Government Assembly 2009-2010, states that for a complaint to warrant a hearing, the complaining party or parties must, in good faith, attempt to resolve their differences (§4.06). Anonymity does not guarantee that such an attempt can be verified.

Further, the burden is on the complainer to prove his or her case before the ESB. Anonymity, by its very nature, prohibits the complainer from appearing before the ESB to prove such a case. In addition, all disciplinary meetings of the ESB are open to the public, and the testimony and/or arguments would and must therefore be open (§4.11). Thus, the person seeking to remain anonymous would have to reveal his or her identity, or not have his or her testimony and/or arguments heard before the ESB.

If, however, a complainer who wishes to remain anonymous is able to identify his or herself for the purpose of filing a complaint and is able to negotiate with the ESB to the ESB’s satisfaction to remain anonymous until the complainer’s identity is safe to be revealed prior to a disciplinary hearing, then such a complaint may be heard.

Charles E. Maddox – Chair, Election Supervisory Board
Shara Ticku – Vice-Chair, Election Supervisory Board
Jimmy Cardenas – Member, Election Supervisory Board
Matthew Hite – Member, Election Supervisory Board
Eric Nimmer – Member, Election Supervisory Board
Alyssa Flores – Member, Election Supervisory Board
Ryan Murphy – Member, Election Supervisory Board
Eugene Wood – Member, Election Supervisory Board



THE STUDENT GOVERNMENT JUDICIAL COURT
THE UNIVERSITY OF TEXAS AT AUSTIN

Appendix C

ESB Advisory Opinion ESB-AO-2011-003

ESB Advisory Opinion (ESB/AO 2010-003)

It is the official opinion of the Election Supervisory Board (ESB) that rules pertaining to campaigns for all representatives of the 2011 University of Texas Student Government Assembly (UTSGA) shall remain in effect.

Outgoing members of the UTSGA who are either retiring or were defeated for reelection or defeated for a new office he or she was running for may not, as members of the UTSGA who were reelected to his or her positions or were elected to a different position within the UTSGA, personally endorse any remaining candidates.

We believe that the election is still ongoing, and as such, the rules are still in effect. Further, we believe that should representatives choose to endorse viable candidates, unofficial tickets may be formed.

This advisory opinion shall apply to all bodies that recognize the UT SG Election Code as a governing document and abides by the UT SG's rules governing endorsements.

Eric Nimmer – Chair, Election Supervisory Board
Cameron Miculka – Secretary, Election Supervisory Board
Mary Martha Bauman – Member, Election Supervisory Board
Truc Nguyen – Member, Election Supervisory Board
James Brower – Member, Election Supervisory Board
Abdul Pasha – Member, Election Supervisory Board
Carl Thorne-Thomsen – Member, Election Supervisory Board
Robert Reeb – Member, Election Supervisory Board
Eugene Wood – Member, Election Supervisory Board