

# 2016 Election Supervisory Board

In Res. Kevin Helgren and Binna Kim

ESB Resolution: 2016-002

Election Supervisory Board Alternate Member Erin Larson delivered the majority opinion of the board:

*“In the matter of Kevin Helgren, Binna Kim, candidates for Student Government Executive Alliance during the 2016 campaign season, the Election Supervisory Board heard one complaint regarding four counts of unauthorized campaigning.”*

- Whereas, Title II, Chapter VIII, Section 8.2 states: *“UNAUTHORIZED CAMPAIGNING. All candidates are prohibited from campaigning, soliciting, or otherwise bringing attention to their campaign or election before the sanctioned campaign period.”* and
- Whereas, Pursuant to Title II, Chapter IV, Section 4.11, the Election Supervisory Board conducted a hearing on February 15, 2016, to ascertain the facts of the complaint brought forward by D’Wahn Kelley, a student of the University; and
- Whereas, The complainant, D’Wahn Kelley, submitted four pieces of evidence, including three emails that were sent to an anonymous student, hereafter referred to as “XXXX”; and
- Whereas, The complainant, D’Wahn Kelley, has failed to meet the burden of proof for three counts of unauthorized campaigning, which is stated in Title II, Chapter IV, Section 4.11 (v); and
- Whereas, The following pieces of evidence have been dismissed: the alleged Tinder profile of Kevin Helgren, the email dated January 21, 2016, and the email dated February 12, 2016; and
- Whereas, Title II, Chapter I, Section 1.8 states: *“IGNORANCE. Ignorance of this code shall not be an acceptable defense response to any offense committed in any election under this code; either by the candidates themselves, their agents or workers, or the election regulatory bodies, as defined by this code.”* and
- Whereas, Clerical mistakes, including but not limited to as listserv mismanagement, made by candidates themselves, their agents, or workers do not amount to an acceptable defense response to an offense; and
- Whereas, Title III, Chapter IV, Section 4.5 states: *“EARLY CAMPAIGNING OR ENDORSING. No campaigning or endorsing will be allowed until the official campaign period has begun as determined by the Election Supervisory Board.”* and
- Whereas, Title III, Chapter IV, Section 4.5 (a) states: *“Please refer to TITLE II, Sec 2.3 and TITLE III Sec 2.3 of this Code for a definition of campaigning and endorsing, respectively.”* and

Whereas, Title II, Chapter II, Section 2.3 states: “*CAMPAIGN’ AND ‘CAMPAIGNING’ refer to statements, literature, activities, or deliberate uses or distribution of materials of any kind that have or are intended to have the effect of soliciting votes, support or interest for a candidate or elective office. Campaigning should only occur during the official campaign period as defined in this code.*” and

Whereas, Title II, Chapter II, Section 2.4 states: “*CAMPAIGN MATERIALS’ refers to all materials and literature of any kind concerning any candidate that have or are intended to have the effect of soliciting votes, support, or interest for a candidate or elective office but excludes and individual endorsement not approved by the candidate.*” and

Whereas, Title II, Chapter VIII, Section 8.2 (b) states: “*However, this prohibition does not include the personal individual recruitment by a candidate of individual team members.*” And

Whereas, Title II, Chapter II, Section 2.20 states: “*‘WORKER’ refers to any person that contributes time, effort, or services, for the purpose of supporting or furthering a candidacy, where the candidate or agent has knowledge of said contributions.*” and

Whereas, In the February 6, 2016, email submitted for evidence by the complainant, “XXXX” contacted the Helgren-Kim campaign requesting removal from their worker listserv; and

Whereas, In the February 7, 2016, email submitted for evidence by the complainant, the Helgren-Kim campaign responded to “XXXX” in recognition of the request for removal from the worker listserv, writing “*As sad as we are to see you go, we completely respect your decision*”; and

Whereas, The request for removal by “XXXX” indicates that the individual did not wish to be a worker qualifying for the exemption in Title II, Chapter VIII, Section 8.2 (b); and

Whereas, The Helgren-Kim campaign’s recognition of the request for removal indicates that the candidates understood that “XXXX” did not wish to be a worker qualifying for the exemption in Title II, Chapter VIII, Section 8.2 (b); and

Whereas, The reply sent by the Helgren-Kim campaign on February 7, 2016, included the phrase “*If you’d like to hear more about our campaign and why we’re the best candidates to fill the roles of Student Body President and Vice President, we’d be happy to sit down and chat*” after the campaign had already acknowledged that “XXXX” was no longer a worker; and

Whereas, Title II, Chapter IV, Section 4.12 (c) states: “*Written opinions shall set a precedent for a time period of three election cycles for Election Supervisory Board rulings and shall guide the Election Supervisory Board in its proceedings.*” and

Whereas, Title II, Chapter VI, Section 4.18 states, in part: “*If an order is issued covering only part of the remaining campaign period, it shall take effect within twenty-four (24) hours so that after its termination, the candidate will have an opportunity to resume campaigning during the days immediately prior to and including the election days.*” and

Whereas, The language used in Title II, Chapter VI, Section 4.18 states: “*the remaining campaign period*” which implies the campaigning period has previously begun; and

Whereas, The 2016 campaigning period currently has not begun, but begins 12:01AM on Wednesday, February 17, 2016; and

Whereas, The Election Supervisory Board finds that this case is not substantially similar to the case that resulted in ESB Res. 2016-001 in that it does not involve a request for “support”; and, therefore, let it be

Resolved, That the Election Supervisory Board finds the Helgren-Kim campaign in violation of Title II, Chapter VIII, Section 8.2 of the Election Code by attempting to solicit the interest of “XXXX”; and therefore, be it further

Resolved, That this failure to comply with the Election Code shall result in a Class B violation of a forty-eight (48) hour moratorium of the Helgren-Kim campaign that shall go into effect on **February 17, 2016 at 12:01 am**; and therefore, be it further

Resolved, That the respondents, Kevin Helgren and Binna Kim, have the right to appeal this decision pursuant to Title II, Chapter V, Section 5.1 of the Election Code, which states: “*APPEAL OF ESB DECISION. Any party adversely affected by a decision of the Election Supervisory Board may file an appeal with the entity with appellate jurisdiction within twenty-four (24) after the adverse decision is announced, unless the Election Supervisory Board’s decision takes place during a voting period.*”

In conclusion, the Election Supervisory Board submits its resolution on Tuesday, February 16, 2016 with the majority of board members who were present at the hearing.

Zachary Long, Vice Chair

Sofia Aranha, Secretary

Matt Gmitro, Member

Erin Larson, Alternate Member

Kyle Mason, Member

Courtney May, Member

David McDonald, Member

Elizabeth Roach, Member

Elizabeth Vigants, Member