

STUDENT GOVERNMENT SUPREME COURT  
THE UNIVERSITY TEXAS AT AUSTIN

**On Order Accepting Petition for Appellate Hearing:  
IN RE: Election Supervisory Board Resolution 2023–001**

CHIEF JUSTICE MACKEY delivers the opinion of the Court. JUSTICES CANNON, MOSLEY, and TSIOUTSIAS join. JUSTICE MOLCHANOV abstains.

**Opinion of the Court**

**SUPREME COURT OF THE STUDENT  
GOVERNMENT OF THE UNIVERSITY OF  
TEXAS AT AUSTIN**

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**In Re ESB Resolution 2023 – 001**

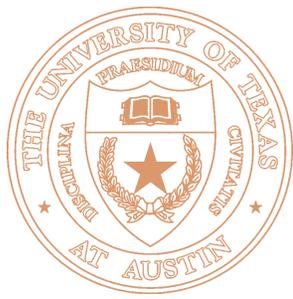
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Delivered February 15th, 2023

**Summary:** The Court upholds the 24-hour moratorium on campaigning placed on the Boghs-Fuentes Executive Alliance Campaign from 8:00 a.m. CST on Wednesday, February 15th to 8:00 a.m. CST on Thursday, February 16th.

**I. Introduction & Factual Background:**

On February 14, 2023, the Court accepted a petition for an appellate hearing made by the Boghs-Fuentes Executive Alliance Campaign (hereby referred to as Boghs & Fuentes) requesting that the Court use their appellate authority to change the scheduling of a Class B moratorium placed on their campaign in order to allow Boghs & Fuentes to participate in the “Meet the Candidate” event hosted by University Housing and Dining on February 15, 2023.



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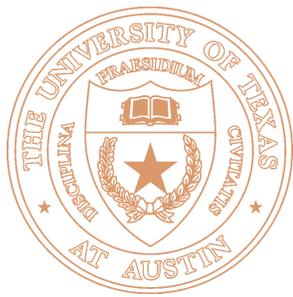
The initial moratorium was issued due to early campaigning, prohibited by § 7.4 of the Student Government Election Code: “All candidates are prohibited from campaigning, soliciting, or otherwise bringing attention to their campaign or election before the campaign period.”

Boghs and Fuentes met on February 9th with four members of the Executive Board of Students for Planned Parenthood, four days before the beginning of the official campaign period. The Election Supervisory Board (ESB) exerted their power to penalize candidates violating the Campus-Wide Election Code and issued a Class B violation for early campaigning with the penalty of a moratorium on the Boghs-Fuentes Executive Alliance Campaign from 8:00 a.m. CST on Wednesday, February 15th to 8:00 a.m. CST on Thursday, February 16th. Boghs & Fuentes appealed the decision to the Court.

### **II. Finding**

The Court finds that the ESB was correct in identifying the meeting with the Executive Board of Students for Planned Parenthood to be early campaigning and issuing a Class B violation. Counsel for Boghs & Fuentes stated in both the ESB and Supreme Court hearing that the issuance of a Class B violation was reasonable. We will not spend time, therefore, evaluating the issuance of the violation, which remains uncontested by both Boghs & Fuentes and the ESB.

What is at issue is the idea of “equitable remedy.” § 4.22 of the Campus Wide Election Code states: “The entity with appellate jurisdiction [this Court] shall have full authority to fashion an equitable remedy appropriate to the circumstances of the case.” Boghs & Fuentes contest that because the moratorium placed on their campaign will cause them to lose the opportunity afforded to other candidates to speak with voters at the “Meet the Candidate” event, changing the moratorium schedule to allow them to attend the event avoids such a loss of opportunity and



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thereby constitutes an equitable remedy. The Court does not find this to be the case.

If a campaign violation has been committed, a penalty will be imposed. These penalties are by nature inconvenient for campaigns and are designed to penalize behavior that would give candidates an unfair advantage. Early campaigning gives candidates an unfair advantage by allowing them more time to contact voters, develop alliances, and conduct other crucial campaign activities. Far from being an inequitable remedy, the imposition of a moratorium penalizes Boghs & Fuentes for gaining an unfair advantage by engaging in early campaigning. The fact that the moratorium prevents them from participating in the “Meet the Candidate” Event is part and parcel of the penalty; candidates cannot bargain to make a penalty more conveniently fit their campaign schedule.

During our hearing, the Election Supervisory Board stated that during deliberations for equitable punishment, they took into consideration the upcoming campaign debate. They felt that this University sponsored event was imperative, and removing the campaign would be inequitable. While we agree with the ESB in their judgment of a twenty-four-hour moratorium, we also feel compelled to assess whether this inclusion was justified. The Boghs-Fuentes campaign is arguing that the UHD “Meet the Candidate” event should be available to every campaign, and thus their exclusion would be inequitable. We believe that the ESB was correct in not taking into account the UHD event in their issuance of a violation and penalty. However, we also contend that the ESB should not take into account the University sponsored debate either. Both of these events are institutionalized and so in order to be fair, the ESB should not take into account any campaign events when assessing punishment—university-sponsored or not—unless the penalty of missing such an event is disproportionate to the violation committed. If it so happened that the moratorium would fall upon the date of the candidate debate or the UHD event, we find that this should not affect the issuance of a moratorium..

It is so ordered.