

Majority Opinion By Council Chair Burford

JUDICIAL COUNCIL OF THE ASSOCIATED
STUDENTS OF OREGON STATE UNIVERSITY

SAUL BOULANGER, INQUIRER

INQUIRY TO THE ASOSU JUDICIAL COUNCIL
(No. 15006.i)

[April 7, 2016]

Saul Boulanger, hereafter referred to as Inquirer, has brought forth an issue of constitutional importance with regards to the Elections Committee's ability to make changes to the Elections Guidelines after publication. Section 24, Subsection B of the published Guidelines states that candidates in the ASOSU election may campaign in university classrooms "*at the discretion of the professor*". The Vote OR Vote campaign, which aims to mobilize student voters for participation in local, state, and federal elections and relies heavily on classroom visits as a means of connecting with the students, coincides with the ASOSU campaign season. The Elections Committee found that allowing candidates to campaign in classrooms was interfering with Vote OR Vote's classroom access, and on March 29th enacted a ban on candidate classroom visits in the interest of supporting Vote OR Vote. This decision effectively changed Section 24 of the Elections Guidelines by banning an action that was previously permissible.

Inquirer is running a campaign in the current ASOSU election and is understood to have utilized classroom visits as a campaign strategy. Inquirer has contested the Elections Committee's decision to ban classroom visits on constitutional grounds, citing Article VI, Section D, Subsection 4 of the ASOSU Constitution, which states that "*Changes shall not be made after printing without the consent of every candidate*". Inquirer holds that as the Elections Committee did not formally ask for or gain the consent of each candidate, the ban is unconstitutional and should be overturned. Thus, the Judicial Council is compelled to answer two separate questions in this case. We must first evaluate the validity of Inquirer's constitutional claim, and then decide whether to uphold or overturn the ban itself.

The Council has weighed several important considerations in reaching its decision. Given the facts of the case and relevant citations, we see a clear constitutional violation as presented by Inquirer. The ASOSU Constitution requires that the Elections Committee gain the consent of each candidate in order to make a change to a published Elections Guidelines. Section 24 of this year's guidelines allows classroom visits at the discretion of professors, and Inquirer acted in accordance with this rule. Inquirer did not give consent before the Elections Committee enacted

the ban. On these grounds we affirm Inquirer's claim that the Elections Committee's decision is unconstitutional.

While the constitutionality of the ban is a key issue here, we must give equal consideration to the context in which the Elections Committee made their decision and the impact on the student body in order to reach the ruling that is most reasonable and that most effectively balances all interests involved. At the time of publication, the Elections Committee could not have foreseen that candidate classroom visits would be found to hinder the progress of Vote OR Vote or any other initiative. With state and federal elections scheduled later this month, Vote OR Vote is working with a strict deadline to meet its goal of registering at least 8,000 OSU students to vote. This created an urgent need for the Elections Committee to remove what had been identified as a major barrier in achieving this goal. We find that in making their decision the Elections Committee acted in the best interest of the student body at large.

We find that the potential negative impact on the student body resulting from denying ASOSU candidates access to classrooms is marginal. Candidates are able to utilize a wide variety of other platforms to campaign and gain exposure, many of which are more commonly used and accepted than classroom visits. Thus, the ban does not inhibit candidates or undermine the ASOSU electoral process in any significant way. This is far outweighed by the substantial positive impact of facilitating the Vote OR Vote campaign, which more fully serves the ASOSU's greater purpose of helping students to become politically engaged. We find that the ASOSU and its subsidiary bodies have an obligation to further this purpose and support other similar initiatives or organizations. Any decision that serves to hinder the effectiveness of such a campaign as Vote OR Vote would also harm the student body by limiting their exposure to elections and policy decisions that affect them as citizens. In view of these considerations we find that the constitutional violation alone is not sufficient to overturn the ban, as doing so would negatively impact students. We uphold the Election's Committee's ban on these grounds.

We acknowledge that, given the timing of the dispute, our ruling in this case will have little to no bearing on the current election. Instead, our intent is to help guide future policy decisions. The Judicial Council strongly suggests that the Elections Committee reevaluate and revise its current policy on classroom visits in order to avoid such disputes in the future. This may include banning classroom visits explicitly, or adding a separate clause reserving the right to make changes to the published Guidelines in light of unforeseen circumstances. In terms judicial policy, we suggest that the Council should continue to consider the interests of the student body and potential impacts of their decisions in evaluating constitutional inquiries, but recognize that these factors will not always outweigh the constitutional issue as they do in this case. While we uphold the Elections Committee's ban, we urge that Inquirer's campaign or any other not be held liable retroactively for any possible offenses of that decision.

