



Jimmy Villarreal,
AS President 2015-2016
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Update from Jimmy Villarreal, Chair, Villarreal Commission

August 2, 2016

Dear Student Body,

Since I last sent out an update, I've been engaged in finalizing the recruitment, training, orienting and installment of the Villarreal Election Commission. This commission was charged by the 2015-2016 Senate to receive the report from the Audit and Advisory Services Department and to approve the business of the association until the Senate is sworn in to their duties. I accepted this responsibility in order to ensure that there was a student entity that was at once not personally involved in the election process but invested in the well being of the association.

It has taken multiple meetings to get the commissioners (folks uninvolved personally in the election processes) up to speed with everything from AS Legal Code, Elections by-laws, Robert's Rules of Order and all of the relevant documents to the election decision. Due to the unusual nature of the Senate's action the commission or its work was not codified in AS Legal Code. So, before addressing any business, we had to establish by-laws for the commission. This has taken quite a bit of time. All this to say, that I have been hard at work in following the Senate's charge and these commissioners should be commended for their dedication.

I believe that I have achieved this charge, though given the challenges of finding individual students that were willing to serve and able to dedicate the time needed was challenging. I have been able to seat 5 members to this commission and continue to recruit (if you know of anyone who is interested in

serving please have them write to us at villarrealcommission@gmail.com).

By way of a concrete update: the commission is in receipt of the final report from Audit and Advisory Services.

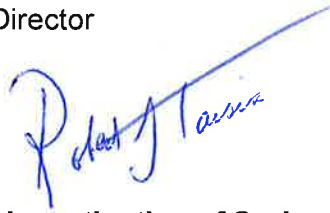
This is the link to the report:

UCSB AUDIT AND ADVISORY SERVICES

Date: June 24, 2016

To: Marisela Marquez, Executive Director
Associated Students

From: Robert Tarsia, Director
Audit and Advisory Services



Re: **Final Report on Independent Investigation of Spring 2016 Student Elections**

Background

On May 5, 2016, Audit and Advisory Services was contacted by the Executive Director of Associated Students, on behalf of the Associated Students (AS), requesting an independent investigation regarding a complaint that had been filed with the Associated Students Elections Board regarding alleged election irregularities in the spring 2016 student elections. The Elections Board had requested that the Associated Students President and Executive Director request Audit and Advisory Services to conduct an independent investigation regarding the alleged potential election irregularities.

In particular, the concerns raised centered on an offer of philanthropic grants by the UCSB Inter-Fraternity Council (IFC), using IFC funds, to be paid to those IFC fraternities achieving a certain voter turnout percentage in the 2016 student elections.

The specific Associated Students Elections Board concerns were that the:

- IFC may have “bribed” its members to vote with the promise of philanthropic grants to chapters with higher voter turnout in the Associated Students spring elections.
- IFC monetary incentive skewed the results of the spring elections.
- Associated Students “Elections Code does not state what to do in this situation,” and that “only a re-vote would treat every vote equally.”

Audit and Advisory Services clarified the issues and defined the scope of the investigation to include:

- The issue of alleged bribery, i.e. whether the offering of the grants was unlawfully motivated.
- Whether the grants program resulted in violations of the current Associated Students Elections Code, Campus Elections Commission Guidelines, or Campus Regulations.
- Whether the IFC grants program resulted in serious voting irregularity, which unduly influenced students to vote for a particular person or measure.

Scope of Investigation

We interviewed:

- The Assistant Dean and Director, Office of Student Life, who is the advisor to the IFC.
- The Associated Students Elections Board, which oversee AS elections.
- AS staff as a group, including the Executive Director; Assistant Director for Community Affairs, Student Engagement and Advocacy; Community Volunteer Coordinator and Elections Advisor; and Assistant Director for Technology. We also met separately with the Assistant Director for Technology to review voting data.
- 12 students, including the current AS President; AS President-Elect; IFC President; IFC Vice President of Finance; an IFC Chapter President; members and/or candidates of The Response, Campus United, and Independent parties; and the student who filed a complaint with the Elections Board, among others.

We also contacted an additional four IFC chapter presidents prior to the week of, during, and the week after final exams. Of the four IFC chapter presidents contacted, one cancelled the scheduled interview but contacted us with an explanation and an apology for not being able to make the interview; one declined to participate in the interview process; and two did not respond to our request for an interview.

We reviewed and researched:

- *Associated Students Elections Code* and other sections of the *Constitution of the Associated Students of the University of California, Santa Barbara*.
- *Campus Elections Commission Guidelines*.
- *Campus Regulations*, which address policies on campus activities, organizations, student conduct, student elections, and student government.
- The 2016 Associated Students and Campus Wide Spring General Election ballot.
- Financial statements filed by candidates, as required by the Elections Code.
- The IFC President's Letter to "Whom It May Concern," which addressed questions raised regarding the IFC grant program.
- An Elections Board notice to the student body, which communicated the board's concerns regarding potential voting irregularities in the spring 2016 elections.
- May 4, 2016, *Report to the Senate*, which summarized a meeting with Chief Campus Counsel, Vice Chancellor of Student Affairs, Executive Director of Associated Students, and the AS President regarding the Elections Board's concerns related to the spring elections.

- Reports of voting data, provided by the AS Assistant Director for Technology.
- Documentation provided by the individuals interviewed.
- Campus student newspaper articles related to the spring 2016 elections.
- Social media postings related to the spring 2016 elections.

Discussion

Was there bribery?¹

Bribery is generally described as, “[t]he corrupt payment, receipt, or solicitation of a private favor for official action.” (Black’s Law Dictionary) “Corrupt” is defined in Black’s Law Dictionary as “having an unlawful or depraved motive.”

Accordingly, a key underlying question is whether the motivation for offering financial incentives for voter turnout could be considered corrupt. This could be the case, for example, if the financial consideration was offered to encourage voting for a particular person or measure.

The motivation for the grants in question is described in a letter from the IFC President, which states that IFC strives “to promote the highest level of student involvement and civic engagement from our members as possible. This includes participating in the important process of choosing our students leaders by voting in the Associated Students elections. For this reason, IFC decided to award philanthropy grants to chapters that achieved high voter turnout in AS elections. These philanthropy grants will be coming from IFC’s bank account that is administered through the Office of Student Life (OSL).”

The Office of Student Life adviser to IFC stated that he participated in the original grant program discussions and approved the program, based on his understanding that the grants were only to support chapter philanthropic activities; that the program was consistent with existing election policies, code, and guidelines; and that IFC would not give direction to fraternities about which candidates or other ballot items to vote for. All proceeds of the grants would be used for charitable activities.

The results of our interviews indicate that the grants program was intended as more of a contest among IFC member fraternities, with the potential winners of the contest to use their own membership money for charity. The grants were to be awarded to entire groups (fraternity chapters), not to individuals. The grants did not encourage voting for a particular person or measure. Participation was also voluntary, as the program had participation thresholds in order to determine the amount of the grant to be awarded, either \$200 or \$400. We further found that the IFC sought advice from its staff adviser, who did not see any issues in the way that the program was discussed, and who approved proceeding with the program. Accordingly, we found no evidence of bribery.

We further found that the AS Elections Board was acting in an unprecedented situation for them, and that the decision to request an investigation was a prudent one.

¹ This allegation was addressed in our May 26, 2016, report, *Independent Investigation Requested by Associated Students Elections Board - Preliminary Findings*.

Did the grant program result in violations of the current Associated Students Elections Code, Campus Elections Commission Guidelines, or Campus Regulations?

Our review of the current Associated Students Elections Code, Campus Elections Commission Guidelines, and Campus Regulations did not identify that any of these regulations or guidelines would prohibit the IFC grants program, or that there were other violations associated with the grants program or the way it was administered.

Did the IFC grant program result in serious voting irregularity which unduly influenced students to vote for a particular person or measure?

The stated intent of the IFC grants program was to increase voter participation. No one we interviewed had first-hand knowledge or evidence that students were directed how to vote, including which parties, candidates, or measures they should vote for. Further, no one we interviewed had first-hand knowledge or evidence that students were told that they were *required* to vote at all. The IFC-affiliated individuals we interviewed all stated that members were specifically told during the grants program announcement to vote for which candidates they wanted, although some did indicate that there was some encouragement to vote in a certain way, e.g. for Campus United candidates. While this could be considered *influence*, we did not find evidence that this influence could reasonably be considered *undue*, nor did we find evidence that there were violations of regulations or guidelines.

Some individuals we interviewed raised concerns regarding the administration of the requirement for reporting voter participation rates. The Assistant Dean and Director, Office of Student Life (adviser to the IFC), as well as the IFC President, indicated that there were late discussions (on the last day of elections) about possible ways to substantiate that IFC members voted. The thought behind this was that substantiation was necessary to validate the voter participation rates of IFC chapters, and therefore each chapter's eligibility for a grant. There was a tentative decision that chapters could require voters to electronically submit a screenshot of the "Thank you for voting" message that appeared after an individual had completed online voting. However, this process proved difficult to administer and enforce, and, in the end, was done only partially and haphazardly. Instead, we were informed that the reporting, from IFC chapter presidents to the IFC President, was mainly on the honor system.

We noted that the screenshots did not identify the names of voters or who they voted for, nor did they include any unique numbering. Because of the lack of identifying information, the screenshots would have been an ineffective way to validate voting *unless voters submitted them electronically with identifying information, e.g. via email or text*. Depending on how this was administered, the effect could have been to require individual students who opted to participate to identify themselves and prove that they voted. It is not unreasonable to conclude that some students could have felt uncomfortable having to prove that they voted. Although our interviews did not identify any concerns in this regard by individual IFC voters, any future incentive program or contest should be designed to ensure the protection of the privacy of voters (and nonvoters) who choose to participate, e.g. designed as completely voluntary and on the honor system.

Another concern raised in our interviews was the influence that may have resulted because the IFC had access to funds beyond that of other campus organizations. In this regard, it is important to note that the funding for the IFC grants program came entirely from IFC membership fees, with no Associated Students or University funds involved. Further, IFC chapter members do represent multiple student parties. Because of these factors and the absence of violations of regulations or guidelines, we concluded that the availability of funding for the grant program did not result in influence that could reasonably be considered *undue*.

Finally, our review of voting data with the Associated Students Assistant Director of Technology did not identify anything that appeared to represent voting irregularities.

For reference purposes only, Black's Law Dictionary describes undue influence as the "persuasion, pressure, or influence short of actual force, but stronger than mere advice, that so overpowers the dominated party's free will or judgment that he or she cannot act intelligently and voluntarily, but acts, instead, subject to the will or purposes of the dominating party." Although we understand that this is a legal definition that may not fully encompass the range of campus concerns regarding the IFC grant program or the election, we do find it relevant to point out that the voluntary IFC grant program could not reasonably be construed as resulting in undue influence under this definition.

We therefore found no evidence of serious voting irregularity or undue influence resulting from the IFC grants program in the spring 2016 student elections.

Findings and Conclusions

We found:

- No evidence of bribery related to the IFC grants program.
- No violations of the current Associated Students Elections Code, Campus Elections Commission Guidelines, or Campus Regulations.
- No evidence of serious voting irregularity or undue influence.

We understand that potential changes to the Associated Students Election Code are under consideration. We believe that it would be appropriate to review the issues addressed in this report when considering those changes.

cc:

Vice Chancellor for Student Affairs Margaret Klawunn
Villarreal Election Commission
Jessie Masek, Associate Director
Laurie Liao, Staff Auditor

At present the commission is in the process of asking questions of the investigators themselves, and have not issued a decision regarding the 2016 election.

We hereby offer notice to you that the commission meets each Monday at 5PM-7PM and they have asked that I update you all of their work. They are open to receiving email from you at villarrealcommision@gmail.com

If you would like to address the commission in person please send a request to meet with your purpose, and a time that you would like to join them. Additionally, all business of the association (if you are an AS entity) needs to be ratified by the commission so please send in your minutes by Fridays before the commission meeting. The minutes of the commission's meetings will also be posted on the homepage of Associated Students, as they are finalized.

My next update will be posted when the commission makes the decision regarding the 2016 AS Election.

Thank you for your patience in this process, and I hope that you're having a great summer!

Jimmy Villarreal
ASUCSB President 2015-2016
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