IN THE
UNIVERSITY ELECTIONS COMMISSION

No. UEC-2015-F-003

AN OPINION CONCERNING SECTION G(1)(b) OF THE ELECTION CODE

Advisory Opinion

[November 30, 2015]

Heard Before: REESE, Election Director, LAWTON, Backup Election Director, CELENTINO, BENNETT, ANDREWS, CONNELLY, and REAVES, Commissioners

Opinion of the Commission

PER CURIAM

The Election Code provides: “Only write-in candidates who receive at least 3 votes will be deemed eligible for their elected seat.” § G(1)(b). Since CSG Elections must be run using a weighted vote—or Borda count—method of candidate selection, All Campus Constitution, art. II, § 2, this provision could be interpreted two ways.

It could mean that a write-in candidate must receive three un-weighted votes in order to be seated on the Assembly. In other words, it could require that at
least three separate voters cast their ballots for a write-in candidate. But it could also mean that a candidate must receive three weighted votes, in which case a victorious write-in candidate would be seated if a single voter indicated a strong enough preference for that candidate.

We conclude that § G(1)(b) requires a candidate to have received at least three un-weighted votes in order to be validly elected.

When the Election Code intends to refer to weighted votes, it does so. E.g., § B(6)(c) (“Each demerit assessed includes a penalty revoking of 3% of the guilty candidate or Presidential ticket’s total weighted votes.”). “[W]here [a statute] has used one term in one place, and a materially different term in another, the presumption is that the different term denotes a different idea.” ANTONIN SCALIA & BRYAN A. GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS 170 (2012). Cf. Atlantic Cleaners & Dyers, Inc. v. United States, 286 U.S. 427, 433 (1932) (“[T]here is a natural presumption that identical words used in different parts of the same act are intended to have the same meaning.”). The Assembly’s reference simply to “votes” rather than “weighted votes” in § G(1)(b) therefore suggests that it was referring to un-weighted votes. This is also consistent with the apparent purpose of the provision, which is to ensure that a write-in candidate have some minimum number of supporters among the voters before being seated.