IN THE
UNIVERSITY ELECTIONS COMMISSION

No. UEC-2016-W-005

JACOB PEARLMAN, in his official capacity as Student
General Counsel, Complainant

v.

CHRISTIAN BAYLEY, Respondent

[March 11, 2016]

Appearances: JACOB PEARLMAN and NICK LOUKIDES appeared before the Commission on behalf of the Complainant. The Respondent rested on a brief submitted before, and did not appear at, the hearing.

Heard Before: REESE, Election Director, PODRYGULA, Backup Election Director, ANDREWS, BENNETT, BROWN, CELENTINO, COLELLA, REAVES and ROSENTHAL Commissioners

Opinion of the Commission

COMMISSIONER COLELLA delivers the opinion of the Commission, which ELECTION DIRECTOR REESE, BACKUP ELECTION DIRECTOR PODRYGULA, and COMMISSIONERS ANDREWS, BENNETT, BROWN, REAVES and ROSENTHAL join.

The University Election Commission finds Respondent Christian Bayley guilty of violating § B(7)(e)(iv) of
Election Code, failing to attend the Mandatory Candidates' Meeting. The Commission has previously ruled in *In re Petition of Joseph Ambrose*, that “[W]e hold that the Election Code unambiguously provides that any failure to attend the Mandatory Candidates’ Meeting results in a violation of § B(7)(e)(iv).” UEC-2016-W-001, *1 (February 11, 2016)

I.

The facts in this case are not contested. Accordingly, we FIND the following facts proved beyond a reasonable doubt:

1. A Mandatory Candidates’ Meeting within the meaning of the Election Code was held on March 7, 2016.

2. Notice of said meeting was circulated via email at least one week prior to the meeting. All applications for candidacy distributed to potential candidates listed the date, time and place of the meeting. Those materials also indicated that sanctions could be imposed upon any candidate for failing to appear.

3. A sign-in sheet was positioned at the entrance to the meeting, and attendees were warned multiple times that failure to sign in would likely result in the filing of a complaint against them. Respondent’s name does not appear on the sign-in sheet.
4. Respondent did not physically attend the Mandatory Candidates’ Meeting.

5. Respondent filed an application for candidacy and will appear on the ballot in the upcoming election.

6. Respondent Bayley was in class during the Mandatory Candidates’ Meeting.

7. During this election cycle, Respondent has not previously been found in violation of § B(7)(e)(iv) of the Election Code.

II.

However, the Code makes it clear in § B(8)(c)(iii) that “The UEC may find a candidate or party in violation of the campaign rules but nonetheless assess no demerits against the candidate or party.” The Commission issues a warning rather than demerits to Respondent Bayley. As per § B(8)(c)(iii), the following is the written explanation required of the decision to issue no demerits.

According to § B(8)(c)(ii), “the UEC may assess demerits below the guidelines specified in this article if it finds sufficient cause to do so given by mitigating factors.” We believe a confirmed class conflict is a sufficient mitigating factor to issue a warning rather than demerits for this violation of the Election Code. This finding is supported by the complaint filed against Bayley, in which Student General Counsel Jacob Pearlman, writes:
I ask that the UEC consider issuing a warning, or at most one demerit (equaling a 3% vote deduction) to the candidate if the candidate (or their counsel) can prove the following at the hearing:

- The candidate had an attendance-mandatory class during the meeting and was physically present in class during the entire duration of the candidate meeting.1

In Lin v. Campbell, UEC-W-15-001 (March 17, 2015), the UEC issued multiple candidates warnings in lieu of demerits for what they call “compelling academic reasons.” But, most of all students are here primarily for academic pursuits including taking classes; thus, we hold we are students first and foremost and candidates for or members of CSG second.

Respondent is therefore WARNED that the conduct addressed in this Opinion did violate the Election Code and that further violations may result in the assessment of demerits. Accordingly, neither demerits nor vote reductions are assessed against Respondent.

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1 UEC Election Complaint: Not Attending a Mandatory Candidates’ Meeting, Page 2.
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COMMISSIONER CELENTINO declines to join the opinion of the Commission.