

## The ASWWU Ethics Board

### *What is the Ethics Board?*

The Ethics Board is chartered by the AS Executive Board and its role and powers are outlined in both the Charge and Charter and the Elections Code. They include:

#### **Charter:**

Make decisions concerning the fairness of the Associated Students Election proceedings through hearings regarding candidate grievances. Judgments shall be made according to the Ethics Board's interpretation of the rules and regulations outlined in the Associated Students Election Code.

#### **Code:**

*"The Ethics Board may take any action deemed appropriate and necessary (disqualification, public apology, no action, suspension from campaigning, etc.) to ensure fair elections. All actions by the Ethics Board are final and may not be appealed, with the exception of disqualification."*

Consistent with the above items, the Ethics Board makes an initial interpretation or judgment of how complaints or grievances comply with the rules and regulations of the Code. Their charge is to maintain a "proper, fair, and impartial" election. Upon the "finding" of a violation, any required actions are aimed at "rebalancing" the election process to maintain a proper, fair, and impartial election. The broad authority granted by the Ethics Board is recognition of the unique and often subjective nature of the decisions it must make.

The Ethics Board is not authorized and does not take actions to "punish" candidates. Unlike other agencies, such as the Public Disclosure Commission who do punish and penalize individuals after the fact, the Ethics Board has an active charge related to conduct of the election process. Even disqualification of candidates is a rebalancing effort rather than punishment.

The Ethics Board makes interpretations on Code violations using the objective standards provided within the Code. If there are no specific standards available in the Code, they may apply the "common student" approach by asking the question, "*What would the common student understand from this action? Or how would the common student evaluate this information?*" In reaching a decision, they use general administrative board standards of "**more likely than not**" or "**supported by the preponderance of evidence**", NOT the "moral certainty beyond a reasonable doubt" standard that we are familiar with from courtroom situations.

#### **Process:**

1. The Ethic Board Student Coordinator is to be hired in Winter.

2. 12 At-Large students are selected through a random jury selection process and lottery system (further defined in the AS Ethics Board Charge and Charter) before the filing period of the election starts. They all must sign the candidate conflict of interest declaration provided below.
3. During the election process, anyone can file a grievance through the documents that are posted on the AS elections website. You can file a grievance via win.wvu.edu.
4. Once a grievance is filed, the Ethics Board Student Coordinator and an Chair meet within 48 hours to determine if the grievance is a legitimate grievance and is to move on to the next phase.
5. The Ethics Board Student Coordinator and the Chair will release a statement to all parties involved in the grievance stating 1. What the determination of the grievance is and 2. If the grievance will be heard by 3 students, the student coordinator, and the Chair.
6. If the grievance is determined to not be legitimate, the filer of the original grievance is able to appeal that decision. In this case, the Ethics Board Student Coordinator will call together an Ethics Board Panel to establish if the grievance is legitimate. An Ethics Board Panel will include 3 At-Large students of the larger pool of 12 At-Large students, the student coordinator, and the Chair.
7. When the Ethics Board Panel is called, they first meet to determine the legitimacy of the filed grievance. If they decide that the grievance is not legitimate, the panel will send a statement of their findings to all parties. If the panel finds that the grievance is legitimate, they will move on to scheduling a hearing. Grievance hearings will not be scheduled until after voting for the election has closed.
8. The Ethics Board Panel will be run according to the “Hearing Agenda” that is stated below.
9. During the Executive Session, the 3 At-Large students and the chair will deliberate in private and determine an outcome for the final grievance. The group will meet for one (1) hour or less to announce an outcome. If the group is unable to make a decision within an hour, they must reconvene after an hour to announce a new timeframe.
10. The Ethics Board Panel will publish a written decision within 48 hours of the ending of the meeting to all parties involved, the AS Review, and the Western Front.
11. The Ethics Board Panels decision can only be appealed in the result of a candidates disqualification by informing the Ethics Board Student Coordinator and the Chair in the original hearing within 24 hours of the conclusion of the Ethics Board Panels decision.

### **Appeals Process:**

1. If the appeals process is invoked, an appeals panel that includes 5 At-Large students who did not hear the original grievance, a Chair who did not hear the original grievance, Ethics Board Student Coordinator, and a will be called to hear the appeal.
2. The Ethics Board Appeal Panel will be run according to the “Hearing Agenda” that is stated below.

3. During the Executive Session, the At-Large students will deliberate in private and determine an outcome for the final grievance. The group will meet for one hour or less to announce an outcome. If the group is unable to make a decision within an hour, they must reconvene after an hour to announce a new timeframe.
4. The Ethics Board Appeal Panel will publish a written decision within 48 hours of the ending of the meeting to all parties involved, the AS Review, and the Western Front.
5. The Ethics Board Appeal Panel's decision is final.

### **What is a valid grievance?**

1. Is the complaint legitimate?
  - a. Was the complaint filed according to the time requirements?
  - b. Is the complainant authorized in the Code to file a complaint?
  - c. Does the complaint address a specific area in the Code?
  - d. Is the form complete?
2. Based upon the information presented, was there a violation of the Election Code?

### **General Rules of Order**

1. Individuals should be recognized by the Chairperson prior to asking questions or making comments.
2. The parties to the complaint are restricted from questioning each other and will address all questions and comments to the Chairperson. The parties will also refrain from any personal attacks and keep comments focused to the issues under consideration.
3. The presentation of oral arguments shall be restricted to matters already in the record.
4. Members of the Board may question either party to the complaint and others as necessary.
5. The Board is authorized to make decisions in closed session by may choose to meet for discussion/decision in open session. Any official actions must be announced, along with the vote, in open session.

### **Conflict of Interest Declaration**

*All members of the AS Ethics Boards must sign this conflict of interest declaration and announce it in the meeting in order to serve on the panel. A **conflict of interest** occurs when an entity or individual becomes unreliable because of a clash between personal (or self-serving) interests and professional duties or responsibilities. Conflicts of interests may include but are not limited to being friends/roommates, working on a candidate's campaign, publicly endorsing a candidate, have prior history that may cause bias, or having relational ties to any individual involved in the grievance hearing.*

I, \_\_\_\_\_ (full name) swear that I do not have any conflicts of interest that may impact my ethical and unbiased decision making during the ASWWU Ethics Board processes. The conflicts of interests that I have are stated below:

If I have conflicts of interests that I do not disclose, I understand that the results of the panel hearing will be rejected and a new panel will convene to determine a just outcome.

Signature:

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This must be sent to the panel Chair and Ethics Board Student Coordinator before the start of the Panel Hearings.

### **Hearing Agenda**

- I. Call to order (*Chairperson*)
- II. Introduction/Conflict of Interest Declaration/Process Decisions
- III. Presentation of Complaint (5 minutes)
- IV. Response (5 minutes)
- V. Elections Coordinators Interpretation (written statement)
- VI. Questions from the Board
- VI. Final comments by Complainant (5 minutes)
- VII. Final comments by the person filed against (5 minutes)
- VIII. Adjournment of public hearing (*Chairperson*)
- IX. Executive Session for Discussion/Decision (Less than an hour or announce a new timeframe at an hour)

X. Public Meeting re-convened for formal announcement of the vote on actions.

### **Annotated Hearing Agenda**

- *It is important the hearing be conducted in a formal manner: to retain control, ensure a fair process for all parties, and make it a reasonable process for the Board members.*
- *The parties shall get a copy of the order of business and rules of order*
- *At times, other people request the ability to speak or ask questions... the Chair should be careful in granting that privilege. Two questions should be considered*
  - *What will they add to the information before the Board?*
  - *How will their participation affect the fairness of either party?*

1. Call to order by chairperson

*Begins the formal meeting, all parties should be present if coming.*

2. Introduction/Conflict of Interest Declaration/Process Decisions

*An opportunity to clarify the processes or make any rulings from the Chair... for example, if one of the people requested having a witness testify, this would be the place for the Chair to rule on this question.*

*No member of the ethics board should have a conflict of interest, as addressed in the training. Every committee member must answer the question, “[insert name of committee member] do you have any conflicts of interests to disclose before proceeding in the ethics hearing for [insert the name of the party who had the grievance filed against them]?”*

3. Presentation of Complaint

4. Response

*If multiple people, there may be the need for the Chair to extend the time.*

5. Election Coordinator Interpretation

*The Elections Coordinator will pre-submit a written statement of their interpretation of the section of the AS Election Code said to be in violation that will be read to the entire committee for context.*

6. Questions from the Board

*The Board can Question either party, Election Coordinator, or others they feel appropriate.*

6. Final Comments by Complainant

7. Final Comments by the person filed against

8. Adjournment of the Public Hearing by Chairperson

*The Ethics Board will meet in a closed session to examine the evidence, evaluate the complaint, and determine a course of action. Because of the nature of many grievances, there may be a discussion about the person, which is generally better*

*in closed session. People may raise a concern about the Open Meetings Act, but the Board would be covered under the quasi-judicial authorization for a closed session. The Chair should give people a timeline about when the meeting will be called back into open session.*

9. Executive Session for Discussion/Decision

*The group will deliberate for no longer than 60 minutes and determine an outcome. The vote will take place during the Executive Session but an announcement of the votes must take place in public.*

10. Public meeting reconvened for a formal announcement of the vote on actions

*After the Executive Session, the committee will announce the actions or no actions being taken and announce the votes roll call style.*

### **Decision Elements**

The listed structure is helpful in reaching a formal decision regarding a complaint. The questions should be answered in order. Generally, if the answer is “no”, the complaint does not continue to the next level.

Decision-making standard: The Board acts as a hearing panel rather than a court of law. It generally uses the standard that “**a prudent person would find it more likely than not that the grievance occurred.**”

In the case of disqualification the standard might rise to “**the decision is supported by the preponderance of the evidence**”.

### **Guiding questions:**

1. Is the complaint legitimate?
  - b. Was the complaint filed according to the time requirements?
  - c. Is the complainant authorized in the Code to file a complaint?
  - d. Does the complaint address a specific area in the Code?
  - e. Is the form complete?
3. Based upon the information presented, was there a violation of the Election Code?
3. What was the impact of the violation upon the election process?
4. What action(s) if any should the Election Board take or require as a result of the violation?

### **Decision Outline:**

The ASWWU Ethics Panel votes to \_\_\_\_\_ (state the actions taken or that no actions were taken) because of these findings:

1. (finding)
2. (finding)

### 3. (finding)

The votes are stated below:

(Panelists name)- (Yes, No, or Abstention)

(Panelists name)- (Yes, No, or Abstention)

(Panelists name)- (Yes, No, or Abstention)

The decision by the ASWWU Ethics Board is final and may only be appealed in the case of a candidate's disqualification from the election. If a disqualified candidate decides to appeal, they need to email the AS Ethics Board Student Coordinator within 24 hours of the conclusion of the panel hearing.

#### **Edits to Guiding Documents**

This document may only be edited or changed by a simple majority vote of all 12 At-Large on the Ethics Board students and the Ethics Board Student Coordinator and can not be edited after the start of the filing period to the end of the grievance process. Any changes to the ASWWU Ethics Board Guiding Documents must be presented to the AS Executive Board and Student Senate.