

**SOUTHWESTERN COMMUNITY COLLEGE DISTRICT
CHULA VISTA, CALIFORNIA**

In the Matter of Allegations Raised) FINDINGS OF THE
) INDEPENDENT INVESTIGATOR
in the Spring 2019 ASO Election) REGARDING INFORMAL
) COMPLAINT(S) OF DISCRIMINATORY /
) HARASSING, BIASED, AND OTHER
) UNFAIR CONDUCT

THE SOUTHWESTERN COMMUNITY COLLEGE DISTRICT DOES HEREBY REPORT ITS FINDINGS IN THE ABOVE REFERENCED INFORMAL COMPLAINTS AS FOLLOWS.

1. OVERVIEW AND DESCRIPTION OF CIRCUMSTANCES GIVING RISE TO THE INVESTIGATION; SUMMARY OF THE ALLEGATIONS

Southwestern Community College District has experienced race-related discord among its employees and subsequent employment-related litigation over a period of years. In 2017, the District began taking concerted steps to address the issues. Specifically, in July of 2017, the District commissioned [REDACTED] of the [REDACTED], to conduct a study of the racial climate as experienced by District personnel and to report the study’s findings. The District also formed an Advisory Task Force on Inclusion & Race Relations and set it to work.

[REDACTED] “[REDACTED]” was widely disseminated on campus near the beginning of the 2018-2019 academic year. The report, which included a considerable amount of information concerning historical and more recent race-based incidents that some of the 119 participating employees said they experienced, has received much attention and given rise to much discussion. With the current climate of employee race relations, the topic of race relations and discrimination has been on the minds of students as well as staff and faculty.

This climate of employee of race relations was sufficiently significant before the spring 2019 ASO election activities began that some administrators responsible for student affairs and activities alerted their supervisors when it became apparent that the teams of student candidates were forming along racial lines, with all of the candidates who are African American / Black running on the same team – Team Elite. The apparent intent of those administrators was to ensure that College leadership was aware of these issues so that they could help guide the candidates and any other affected people through any race-related issues that might arise during the course of the elections. To that end, District leadership consulted with and brought members of the [REDACTED] to campus on numerous occasions to assist during and after the spring 2019 ASO election season.

The instant matter arises out of concerns raised by several Southwestern College (“SWC” or “College”) students and employees in relation to the spring 2019 Associated Student Organization (“ASO”) election. In that election, students advertised and campaigned in one of two groups: Team Elite or Team Green. Team Elite was comprised solely of African-American / Black students. Team Green was comprised primarily of Latinx students, but also included at least one candidate who is of Pacific Islander heritage and several members of the LGBTQ community¹.

¹ Neither team raised any allegation of harassment or discrimination related to any person’s protected classification of being of Pacific Islander heritage or a member of the LGBTQ community.

Several students and a professor raised informal concerns related to the elections, most of which were reported in the College's student newspaper, The Sun, and were raised orally to [REDACTED]. The substance of these concerns is as follows:

- a. [REDACTED] a [REDACTED] who is [REDACTED], ran with Team Green in the election. After a volatile election board meeting on May 2, 2019, [REDACTED] informally expressed concerns to [REDACTED] the [REDACTED], relating to the election. Those concerns were treated as an informal complaint and gave rise to the instant fact-finding investigation. The nature of the issues that [REDACTED] raised were: 1) a concern that [REDACTED] yelled at, accused, and verbally attacked members of Team Green during the election board meeting on May 2, 2019; and 2) that [REDACTED] was potentially biased in favor of Team Elite.
- b. [REDACTED] a [REDACTED] and [REDACTED] expressed his concern that the [REDACTED] demonstrated bias in favor of Team Elite on multiple occasions.
- c. [REDACTED] a [REDACTED] at the time, who was also designated as "campaign staff" for Team Green, informally expressed to [REDACTED] his perception that some of the [REDACTED] actions during the election impermissibly favored Team Elite. In particular, [REDACTED] expressed concern that [REDACTED] was allowing election board meetings to proceed, despite [REDACTED] objections that a meeting agenda had not been posted at least 24 hours before the meeting was scheduled to begin.
- d. [REDACTED] like [REDACTED] was a [REDACTED] and is [REDACTED]. [REDACTED] ran in the spring 2019 ASO election as [REDACTED]. [REDACTED] raised several issues during and immediately after the 2019 ASO election season. First, [REDACTED] submitted a grievance on behalf of Team Elite (hereinafter "the Team Elite Grievance") on April 26, 2019, alleging that [REDACTED] "mocked" Team Elite for billing itself as the District's [REDACTED] on an unspecified date and time.

[REDACTED] also orally stated during a protest held on May 1, 2019 that: (1) the election board should have completed its deliberations on Team Elite's Grievance against Team Green during the election board meeting of April 29, 2019, or assuming a continuance of the meeting was appropriate, then by May 1, 2019; (2) the District engaged in race-based discrimination against Black students in its award of scholarships during the 2018-2019 academic year; (3) the ASO engaged in race-based discrimination against Black students in Fall 2018 by asking more questions about the Requests for Funds filed by B2LA and UMOJA, whose members are primarily Black students, than they asked when considering travel funding requests submitted by groups that traditionally serve students in other racial groups; (4) ASO spent \$6,000 on a microwave and a coffee maker for itself but gave the Clubs that primarily serve the College's Black students a hard time about their funding requests to attend the fall 2018 UMOJA conference; and (5) Team Green members referred to Black students present in a Fall 2019 ASO Senate meeting as a "mob."

In a letter sent on or about May 9, 2019, to ██████████ the ██████████ ██████████, ██████████ further claimed that ██████████ had been secretly coaching and advising Team Green during the election, including advising them to be uncooperative with Team Elite. She also alleged that ██████████ inadequately performed her job because she did not affirmatively reach out to Team Elite students to offer them support in the wake of the spring 2019 election issues/ challenges. Finally, ██████████ generally expressed a belief that the ██████████ conduct during the election cycle favored Team Green, which was unfair to Team Elite.

- e. During the election board meeting of May 2, 2019, ██████████ and Southwestern Black Alliance member ██████████ publicly asserted that ██████████ the ██████████ ██████████, was not being impartial in ASO elections, as was required.
- f. During the election board meeting on May 2, 2019, ██████████ and ██████████ Black Alliance member ██████████ publicly accused four specific students, but primarily two who were Team Green members, of creating and posting to an Instagram Account called *swcccharterinsomaliland* (“the Instagram Account”), which contained footage of a protest held the prior day by Team Elite. ██████████ further asserted that the reason was to make it appear that Black students created the Instagram Account and Post, thereby exposing herself and SWC’s Black student population to violence, such as being “shot by a crazy person with a gun.”

After ██████████ allegations against the Team Green students, the election board meeting became so emotionally charged that ██████████ stepped into the election board meeting, suspended the student election, stated that the allegations being raised would be investigated by an independent investigator, and ended meeting.

Based upon the foregoing, it was requested that our office conduct an independent fact-finding investigation to make a factual determination as to whether any of the above-alleged conduct occurred in the course of the spring 2019 ASO election.

The following report has been compiled based upon the written materials identified throughout this record; in-person interviews of 38 witnesses; a telephonic interview of one former administrator; and video, audio, and written materials gathered in the course of the investigation.

2. APPLICABLE AUTHORITY REGARDING INVESTIGATIONS

a. SWCCD Board Policies and Procedures

The District’s Board Policy 3435 and Administrative Procedure 3435 apply to the investigation of all complaints of discrimination and harassment. (AP 3435, p. 1.) The District’s policies and procedures further distinguish between “formal” from “informal” complaints of harassment, discrimination, or retaliation, and establish a right for any person who has suffered such conduct to file a formal or informal complaint regarding their experience. (Id.) Under AP 3435, a “formal complaint” is “a written and signed statement filed with the District or the California Community College Chancellor’s Office that alleges harassment, discrimination, or retaliation in violation of the District’s Board Policies, APs or in violation of state or federal law.”

In contrast, AP 3435 defines an “informal complaint” as:

- (1) an unwritten allegation of harassment, discrimination, or retaliation;
- (2) a written allegation of harassment, discrimination, or retaliation that falls outside the timelines for a formal complaint; or
- (3) a written complaint alleging harassment, discrimination, or retaliation filed by an individual who expressly indicates that he/she does not want to file a formal complaint.

Pursuant to AP 3435, if an individual raising the issue chooses not to file a formal complaint, or if the alleged conduct falls outside the timeline to file a formal complaint, the Vice President for Human Resources (“VP/HR”) “shall consider the allegations contained in the informal complaint and determine the appropriate course of action [which] may include efforts to informally resolve the matter, or a fact-finding investigation. (Id.)

b. Other Authority Reviewed

In addition to the above-referenced Board Policies and Administrative Procedures regarding investigations, the Investigator reviewed and considered the following relevant authorities for guidance:

1. BP 2015 – Student Trustee
2. BP and AP 2105 – Election of the Student Trustee
3. BP and AP 2710 – Governing Board Conflict of Interest
4. BP and AP 2715 – Code of Ethics
5. BP and AP 2740 – Governing Board Education
6. BP 5300 – Student Equity
7. BP and AP 5400 – Associated Student Organization
8. BP and AP 5410 – Associated Student Organization Elections
9. BP and AP 5500 – Standards of Student Conduct
10. AP 5520 – Student Discipline Procedures
11. Education Code § 66270 et. seq. – Equity in Higher Education Act
12. Education Code § 72023.5 (a) – Governing Board Student Members
13. Education Code § 72670 – Establishing Auxiliary Organizations

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3. DATA AND EVIDENCE COLLECTED AND ANALYZED DURING INVESTIGATION

a. Documents Reviewed

The following documents, which are listed in chronological order, were reviewed as part of this investigation:

1. ASO Constitution;
2. Bylaws to ASO Constitution;
3. 2018-2019 SWC Academic Calendar;
4. Agenda for ASO Meeting of October 18, 2018, including draft resolution “allocating no more than \$5,000.00 for the UMOJA conference” with 1-pg. attachment and Final Senate Resolution 09 18-19 (“SR-09 18-10”) with 1-pg. attachment;
5. Agenda for ASO Meeting of October 25, 2018, including: resolutions for Item X-B (draft resolution and final SR-13 18-19 approving SHPE funding request for \$4,650.00) and for Item X-C (draft resolution with 2-pg. attachment and final SR- 19 18-19 with 1-pg. attachment, both approving request for funds to pay for (unidentified) “members of the student body” related to attending the UMOJA conference, which both end: “Let it be resolved: The ASO will allocate no more than \$3,500.00 for the cost of transportation and accommodations;”
6. Agenda for ASO Meeting of November 1, 2018, including for Item X-C Bayan’s draft resolution and Final SR-23 18-19 “allocating no more than \$3,000.00 for one charter bus for 45 students over two days, total,” including attachment;
7. Email from ██████████ to ██████████ on November 25, 2018;
8. Email from ██████████ to ██████████, dated February 16, 2019, forwarding Email from ██████████ to ██████████ dated February 13, 2019;
9. Email from ██████████ to ASO attaching ASO Election Timeline; dated February 22, 2019;
10. Email from ██████████ to ██████████ dated March 19, 2019, complaining re ██████████ ██████████ comments to Political Science Class, claiming ██████████ endorsement;
11. Agenda for Election Board Meeting of April 2, 2019;
12. Agenda for Election Board Meeting of April 9, 2019;
13. Email from ██████████ to Candidates of April 10, 2019;
14. Candidate Meeting Presentation of April 11, 2019 (outline format);
15. Official Declaration of Campaign Affiliation form – Team Green;
16. Official List of Campaign Staff – Team Green;
17. Official List of Campaign Staff (used as Declaration of Campaign) – Team Elite;
18. Text Chat between ██████████ & ██████████ dated April 11, 2019;
19. Daily Calendar for ██████████ dated April 12, 2019;
20. ██████████ Office Hours for 2018-2019;
21. “Social Media Grievance” by Team Green, dated April 17, 2019;
22. Email from ██████████ to ██████████ re Team Elite & BSU Instagram, dated April 18, 2019;
23. Email from ██████████ to ██████████ re grievance, dated April 19, 2019;
24. Email from ██████████ sending out grievance and notice of election board meeting, dated April 22, 2019;
25. Emails re ██████████ Complaint re Poster on Balcony, dated April 23, 2019;
26. Text Chat between ██████████ and ██████████ – Transcribed & Original, dated April 25, 2019;
27. Email Chain re “Very Disturbing Messages” among ██████████ ██████████ ██████████.

- ██████████ & Team Elite, dated April 25-26, 2019;
28. Email Chain among ██████████ ██████████ and ██████████ re "Follow Up", dated April 26, 2019;
 29. Undated Team Elite Grievance Form
 30. Emails between ██████████ / ██████████ ██████████ re Witness #1 Statement, dated April 27, 2019;
 31. Emails between ██████████ / ██████████ / ██████████ re Witness #2 Statement, dated April 28, 2019;
 32. Email from ██████████ to Team Elite and Team Green Members re "Election board Hearing TODAY," dated April 29, 2019;
 33. Agenda for Election Board Meeting on April 29, 2019;
 34. Minutes of Election Board Meeting on April 29, 2019;
 35. "Process on ASO Request for Funding Proposals" by ██████████ dated April 29, 2019;
 36. Summary of 2nd "Statement" of Anonymous #1 / ██████████ dated April 30, 2019;
 37. 2nd "Statement" of Anonymous #2, dated April 30, 2019;
 38. SJRB Complaint filed by ██████████ with amendments and related correspondence with ██████████ [email chain], April 30, 2019;
 39. Email from ██████████ re moving election board meeting (to May 2, 2019), dated 9:03 p.m. on April 30, 2019;
 40. Screenshot Printout Instagram BSU & B2LA re Protest, dated May 1, 2019;
 41. Email between ██████████ and ██████████ re complaint form, dated May 1, 2019, at 1:44 p.m.;
 42. Email from ██████████ to ██████████ attaching screenshots from *swccharterinsomailand* Instagram Account, dated May 1, 2019;
 43. Screenshot of Instagram Post by ██████████ (with text in caption and with taco emoji in caption), undated [approximate date May 2, 2019];
 44. Agenda for election board meeting of May 2, 2019;
 45. Packet of Instagram Materials Distributed by ██████████ during election board Meeting (██████████ dated May 2, 2019);
 46. Email from ██████████ regarding Things to Know, dated May 2, 2019, at 10:44 a.m.;
 47. Instagram Post by ██████████ – Original post & updated post, dated May 2, 2019;
 48. Email from ██████████ to ██████████ dated May 2, 2019, at 4:54 p.m.;
 49. Things to Know, dated May 2, 2019, at 6:31 p.m.;
 50. Email from ██████████ to ██████████, dated May 3, 2019, at 3:26 p.m.;
 51. Things to Know, dated May 3, 2019, at 7:30 a.m.;
 52. Email from ██████████ to ██████████ re "Upcoming Meetings," dated May 5, 2019, at 7:52 p.m.;
 53. Email from ██████████ re: 5/10/19 a.m. meeting w/ ██████████, dated May 9, 2019, at 8:18 p.m.;
 54. Team Green Statement to The Sun, dated on or about May 9, 2019;
 55. Things to Know, dated May 10, 2019, at 7:09 a.m.;
 56. Email from ██████████ to ██████████ w/ Complaint re ██████████, dated May 10, 2019, at 10:37 a.m.;
 57. Email from ██████████ to ██████████ with attached Letter of May 9, 2019, dated May 10, 2019, at 11:17 a.m.;
 58. Email from ██████████ to ██████████ re: 5/9/19 Letter to Corona, dated May 15, 2019;
 59. Email from ██████████ to ██████████, dated May 13, 2019;
 60. Email from ██████████ regarding "A Mandated Meeting," dated May 15, 2019, at 11:47 a.m.;
 61. Email from ██████████ to Investigator attaching BSU Instagram "Endorsements" of Team Elite, dated May 17, 2019;

62. SWCCD Police Investigation Report (██████████);
63. Email from ██████████ to Investigator re: not giving ██████████ contact information, dated May 29, 2019;
64. Scholarship Information received from ██████████ dated June 10, 2019;
65. Email between Investigator and ██████████, dated June 24-25, 2019;
66. Email from ██████████ to Investigator responding to requested information on (1) the 2018-2019 changes to ASO to build trust, teach inclusion and equity, and set expectations for greater accountability among ASO members” and (2) future training of ASO officers, dated June 25, 2019;
 - a. ASO Action Plan 2018-2019
 - b. ASO Recommendations SP 2019
 - c. ██████████ Expectations of Exec 2018-2019
 - d. ASO Executives’ Expectations of Each Other 2018-2019
 - e. ASO Expectations of Advisors 2018-2019
 - f. ASO Officer Agreement Spring 2019
 - g. Senator Top 10 Responsibilities
 - h. Conflict PowerPoint, Fall 2018
 - i. Equity-Minded Leadership PowerPoint
67. Job Description for Academic Director of Equity Diversity Inclusion;
68. Job Description for ██████████
69. Job Description for ██████████
70. Email chain between ██████████ and ██████████, dated August 25, 2017.

b. Audio and Video Recordings Reviewed

The following audio and video recordings were reviewed as part of this investigation:

1. Audio Recording of ASO Meeting (██████████) dated October 18, 2018;
2. Audio Recording of ASO Meeting (██████████) dated November 20, 2019;
3. Audio Recording of Election Board Meeting of April 29, 2019;
4. Video/Audio Recording of Protest of May 1, 2019 (██████████)
5. SWCCD Exterior Video Recordings, dated May 1, 2019;
6. Audio Recording of Election Board Meeting of May 2, 2019;
7. SWCCD Video Recordings dated May 9, 2019.

c. Witness Testimony

As part of the investigation into the allegations raised, the Investigator interviewed a total of 37 witnesses. The interviews conducted during the investigation were recorded, later transcribed, and reviewed in the preparation of this Report. All interviews were conducted in person on District premises, except for the telephonic interview of former administrator ██████████ and three follow-up interviews of student witnesses, as noted below.

Potential student witnesses ██████████ of Team Elite and former ██████████ were unresponsive to multiple attempts to reach them to schedule their interviews and were not interviewed for this Investigation. Witness ██████████ the ██████████, responded to the Investigator’s request, but refused to schedule an interview or to provide any substantive information.

In determining the credibility of witnesses, the Investigator relied upon Evidence Code Section 780, which identifies the following factors as affecting a witness' credibility:

- a. [The witness'] demeanor while testifying and the manner in which [the witness] testifies.
- b. The character of [the witness'] testimony.
- c. The extent of [the witness'] capacity to perceive, to recollect, or to communicate any matter about which [the witness] testifies.
- d. The extent of [the witness'] opportunity to perceive any matter about which [the witness'] testifies.
- e. [The witness'] character for honesty or veracity or their opposites.
- f. The existence or nonexistence of a bias, interest, or other motive.
- g. A statement previously made by [the witness] that is consistent with [The witness'] testimony at the hearing.
- h. A statement made by [the witness] that is inconsistent with any part of [the witness'] testimony at the hearing.
- i. The existence or nonexistence of any fact testified to by [the witness].
- j. [The witness'] attitude toward the action in which [the witness] testifies or toward the giving of testimony.
- k. [The witness'] admission of untruthfulness.

The witnesses interviewed were:

In Order of Presentation in this Report	In Alphabetical Order, by First Name
1) [REDACTED]	1) [REDACTED]
2) [REDACTED]	2) [REDACTED]
3) [REDACTED]	3) [REDACTED]
4) [REDACTED]	4) [REDACTED]
5) [REDACTED]	5) [REDACTED]
6) [REDACTED]	6) [REDACTED]
7) [REDACTED]	7) [REDACTED]
8) [REDACTED]	8) [REDACTED]
9) [REDACTED]	9) [REDACTED]
10) [REDACTED]	10) [REDACTED]
11) [REDACTED]	11) [REDACTED]
12) [REDACTED]	12) [REDACTED]
13) [REDACTED]	13) [REDACTED]
14) [REDACTED]	14) [REDACTED]
15) [REDACTED]	15) [REDACTED]
16) [REDACTED]	16) [REDACTED]
17) [REDACTED]	17) [REDACTED]
18) [REDACTED]	18) [REDACTED]
19) [REDACTED]	19) [REDACTED]
20) [REDACTED]	20) [REDACTED]
21) [REDACTED]	21) [REDACTED]
22) [REDACTED]	22) [REDACTED]
23) [REDACTED]	23) [REDACTED]
24) [REDACTED]	24) [REDACTED]
25) [REDACTED]	25) [REDACTED]
26) [REDACTED]	26) [REDACTED]

27) ██████████	27) ██████████
28) ██████████	28) ██████████
29) ██████████	29) ██████████
30) ██████████	30) ██████████
31) ██████████	31) ██████████
32) ██████████	32) ██████████
33) ██████████	33) ██████████
34) ██████████	34) ██████████
35) ██████████	35) ██████████
36) ██████████	36) ██████████
37) ██████████	37) ██████████

1) ██████████

Background

██████████ was Team Green’s candidate for ██████████ in the Spring 2019 election. His interview occurred on May 17, 2019, at District offices, and he provided a brief telephonic follow up interview on August 10, 2019.

██████████ is a █████-year-old r ██████████ and the ██████████. He described himself as having “lived a whole other life” before resuming his formal education at Southwestern College in the fall of █████. ██████████ stated that he is “Mexican,” that he was born in █████, and that while growing up he spent most of his time with members of the Black community. ██████████ also stated that his children and their mother are Black, so he spends plenty of time in the Black community and is not in the least prejudiced against people who are Black.

██████████ recounted several instances in his life where he personally experienced race-based discriminatory conduct, such as racial profiling by the police or being held at gunpoint because someone thought he looked like someone who did something. For example, in addition to being stopped by police because of his appearance, people have called him names such as “wet-back” and told him to “go back” to where he came from, despite the fact that he was born in ██████████. ██████████ stated that he therefore knows what it feels like to be discriminated against based on his race, ethnicity, and perceived national origin.

Given his responsibilities outside of school, the age difference between him and many SWC students, and his life experience, ██████████ indicated that he does not participate in gossip or negative chit-chat regarding other students or the school. ██████████ also indicated that he is relishing this opportunity to continue his education.

Club Affiliations and ASO Involvement

██████████ indicated that he wanted to participate in ASO leadership in the fall of 2018, but he was unable to do so and that he did not attend any ASO meetings that semester. Instead, he became a member of the Puente Learning Community and club, through which he stated attended the Inter-Council retreat. ██████████ indicated that in the Spring 2019 semester, he applied and was selected to serve as an ██████████. Eventually ██████████ decided to run for ██████████ as part of Team Green. He stated that he felt that the Spring 2019 ASO election

went pretty well, until it “spun out of control” starting on April 29, 2019.

██████████ indicated that as Team Green’s ██████████, his approach to the campaign was that it had to be a “clean campaign.” He stated, “I always told my team if we are going to do something, it has to be by the Election Code because I don’t want to get stuck with grievances ... [because if] by chance we do something wrong we [can] get knocked out of the race.” Further, ██████████ indicated that if he ever learned that anything was done that warranted a grievance, he wanted to immediately fix it. He also stated that only one grievance had been filed against Team Green before ██████████ Team Elite Grievance of April 26, 2019.

██████████ Involvement with Team Green Campaign

██████████ indicated that ██████████ was SWC’s ██████████ member of the District’s Governing Board in the 2018-2019 academic year. He stated that both ██████████ and the ██████████ were signed up as official campaign staffers for Team Green. ██████████ indicated that while ██████████ was not very involved with the campaign, ██████████ was “the most involved with us, helping us and guiding us and telling us the things that from his experience helped him.” For example, he indicated that ██████████ recommended that Team Green “cover all of the walls” with campaign posters, and he would ask ██████████ how things were going and where his team was. ██████████ stated that he thought of ██████████ as Team Green’s ██████████ but he was not aware of anyone else calling him that. ██████████ indicated that ██████████ is very consistent, persistent, and “just real competitive.” ██████████ stated, however, that he would not describe ██████████ as having an “aggressive” personality or style.

Mandatory Training of April 11, 2019 / Meeting for All ASO Candidates

██████████ indicated that on April 1, 2019, there was a mandatory meeting for all candidates to discuss the Election Code and the rules applicable to the election. One of those rules was that all campaign posters had to be approved by either ██████████ (a student) or ██████████ (a District employee).

Bias of ██████████ Favoring Team GREEN

██████████ stated his opinion that ██████████ ██████████ was “extremely biased, and it showed.” He indicated that his belief was based on ██████████ actions on a number of issues that involved Team Green and Team Elite during the Spring 2019 election season. One such instance occurred on Friday April 12, 2019. ██████████ indicated that after the mandatory meeting for candidates on April 11, 2019, he and his team stayed up all night making campaign posters to begin hanging around the campuses as soon as they were reviewed and approved the next morning.

██████████ stated that he brought eight large posters to the ASO office for approval at 8:30 a.m. on Friday, April 12, 2019, and that he saw ██████████ and ██████████ in the amphitheater area in front of the Student Center. ██████████ indicated that as he was walking in with the large posters to drop them off for approval, ██████████ said to him, “It’s not even nine o’clock yet!” in reference to the posters that he was carrying. ██████████ said that he replied, “Well, you guys said 8:00, so I gave you guys 30 minutes!” However, ██████████ indicated that ██████████ did not follow him into the building to review the posters at that time. ██████████ stated that instead, he and his team sat around for hours waiting for those posters to be approved. Although ██████████ was on campus and in the vicinity of the ASO office, he did not end up approving

Team Green's eight campaign posters until 2:00 p.m. that afternoon, which was a delay of five and a half hours. ██████████ indicated that during that waiting period, someone told him that some of Team Elite's members were on vacation.

██████████ stated his belief that ██████████ purposely "was stalling" in order to give Team Elite a chance to bring in their posters for approval as well, so that the teams would be putting up their posters at the same time. He indicated that this belief was based on the fact that there was a lengthy delay, the body language that ██████████ demonstrated that day, and the fact that it only took one hour for the 30 additional campaign posters that ██████████ submitted to be approved on Monday, April 15, 2019. ██████████ indicated that he became concerned at the time about what he perceived as bias by ██████████ in favor of Team Elite, so the next time he brought posters in for approval, he copied ██████████ on his email to make sure that she was aware of ██████████ conduct.

██████████ indicated that there was a second incident that he believed also demonstrated ██████████ bias in favor of Team Elite. He stated that he emailed ██████████ on April 22 or 23, 2019, with a copy to ██████████ to report that he saw members of Team Elite take down some commencement posters from the ASO Building, move them elsewhere, and then post their own campaign posters in the newly-vacant spots. ██████████ indicated all candidates were informed at the meeting on April 11, 2019, that such conduct was prohibited. However, he never received any response to his email on this topic. ██████████ further noted that he saw ██████████ who works in the ASO office and, like ██████████ is a member of the Black Alliance, go look at Team Elite's posters on the ASO building and indicate that they were "fine." He indicated, however, that ██████████ review of the posters did not seem to address the issue of whether Team Elite had violated an applicable rule by improperly moving other posters in order to hang their own campaign materials in that particular location. ██████████ stated that he did not ask anyone why there was no response to his email because he "just figured ... there was no point" in pursuing the issue further.

Additionally, ██████████ indicated that while he, ██████████ ██████████ and ██████████ were away on a college tour with the Puente Club on April 24-26, 2019, he received an email directing him and Team Green to remove a large poster that they hung on the balcony of the MSC Building, per the request of ██████████ and direction of ██████████

██████████ indicated that he was somewhat suspicious of the request, so he consulted with ██████████ the ██████████ (who also was ██████████ for Team Green), who indicated that if the poster was really so dangerous, it would be better to ask for the proper authorities to remove it so as to avoid exposing students to the attendant dangers. ██████████ indicated that he sent an email along those lines to ██████████ which (he thought) ended the situation. Instead, ██████████ stated that on April 25, 2019, ██████████ and possibly ██████████ received pictures of Team Elite hanging their own campaign posters on the same balcony from which Team Green had just been directed to remove its posters. At this point, recalled ██████████ he became upset with what he perceived as bias in favor of Team Elite.

A fourth issue that ██████████ indicated evidenced bias in favor of Team Elite had to do with a club that endorsed Team Green on its own social media site being required to remove that endorsement, but Team Elite's endorsing club not being required to do so. According to ██████████ when the Honor Society (Phi Theta Kappa, or "PTK") posted on its own Facebook or Instagram account a statement that it was endorsing Team Green, the president of PTK was contacted almost immediately and told that it must remove the endorsement post. This information was communicated to ██████████ by ██████████, ██████████ who said he had received

direction to take down the endorsement because clubs are not allowed to endorse specific candidates or teams. [REDACTED] then provided a screenshot of PTK's endorsement of Team Green, which consisted of a photo of a student standing next to one of Team Green's campaign posters and a narrative description of why PTK was endorsing that team. (See Exhibit 26, Text Chain between [REDACTED] and [REDACTED] dated April 25, 2019, p. 1.)

On the other hand, [REDACTED] the Black Student Union posted an endorsement of Team Elite on its Instagram page, but BSU was not directed to take that endorsement down. [REDACTED] emailed the Investigator screenshots of BSU's Instagram page, which still showed a "Highlight" on BSU's page dated May 17, 2019, which, when clicked, went to what [REDACTED] indicated was BSU's endorsement of Team Elite - a repost of Team Elite's campaign poster that contained informal photos of each of their candidates and the following text content:

@SWC.TEAMELITE @SWC.TEAMELITE
[Candidates' informal photos]
HAVE YALL MET @SWC.TEAMELITE?!
THE FIRST ALL BLACK EXEC TEAM TO
RUN FOR @ SWC_ASO POSITIONS!!!
[Candidates' informal photos]
LET'S MAKE HISTORY!!!
[Candidates' informal photos]
@SWC.TEAMELITE @SWC.TEAMELITE

Thus, according to [REDACTED] Team Elite received a benefit that was denied to Team Green, in that BSU's endorsement was left up. [REDACTED] indicated that by this date, he was upset and believed that it was "obvious" that [REDACTED] was demonstrating bias in favor of Team Elite.

Election Board Meeting re Team Green Grievance, on April 23, 2019

[REDACTED] stated that as a result of its concerns, Team Green submitted a grievance (hereinafter the "Team Green Grievance") alleging that Team Elite was inappropriately using social media. The gist of the problem, as he described it, was that Team Elite members were posting campaign materials that essentially said, "Hey, I'm so-and-so, and I'm running for this position," on their personal Instagram "Stories,"² which was expressly against the rules. (See Exhibit 21, Team Green Grievance, dated April 17, 2019.)

[REDACTED] indicated that Team Elite received advance notice before the election board meeting of the Team Green Grievance. However, during the course of the election board meeting on the Team Green Grievance against Team Elite, held on April 23, 2019, it became apparent that Team Elite either already had submitted, or in the meeting was for the first time verbally asserting, an allegation that Team Green member [REDACTED] (hereinafter [REDACTED]) also violated the rules for social media use in the elections.

² On Instagram, an Instagram "page" is what one sees when s/he goes to the account-holder's Instagram account. If a post is made to an account-holder's Instagram page, it remains up until it is taken down. But when a post is made to an account-holder's Instagram "story," that story-post automatically "disappears" after 24 hours.

³ The Instagram post by [REDACTED] to his Instagram story that included a screenshot of his "Web Advisor" announcement of the upcoming elections, captioned by the words, "I can't fucking wait!" (Instagram post by [REDACTED])

According to ██████████ when he asked ██████████ why his team had not been informed of the Team Elite Grievance regarding ██████████ before the meeting, and why the Team Elite Grievance was not being handled in a separate meeting, ██████████ said words to the effect of, "There's a grievance filed against you guys, and this is what the grievance is. Okay, we're going to make a decision now." ██████████ indicated that ██████████ had the Election Board deliberate on both of these social media grievances, even though Team Green had not been provided a copy of the purported Team Elite Grievance or any opportunity to defend against it before the deliberations occurred. ██████████ indicated that he tried to raise his hand to be recognized to speak when the teams were called back into the room after deliberations, but his efforts were ignored.

██████████ stated that he knew the alleged grievance that had been orally made by Team Elite during the meeting on April 23, 2019, had been raised to counter Team Green's Grievance against Team Elite. He indicated that the "grievance" against Team Green was a "deciding factor" in the final outcome on the Team Green Grievance against Team Elite because when the candidates re-entered the meeting room after the deliberations recess on April 23, 2019, they were told that the Election Board "took both into account" in deciding the Team Green's Grievance. (See Exhibit 21, Team Green Grievance, notation on last page.) ██████████ indicated that he perceived this as another instance wherein Team Elite was not required to follow the rules, and he saw that the Election Board did not follow the rules by not allowing Team Green to respond to Team Elite's social media allegations, which he thought was patently unfair.

Team Elite Grievance Alleging "Mocking" Comment

██████████ indicated that the first day of the 4-day voting period for the ASO elections was on April 29, 2019. ██████████ stated that he was at school by 8:00 a.m. that day, in order to "get the votes." ██████████ recalled that as he was working to get more votes, his teammate and fellow Puente student, ██████████ approached him after 9:20 a.m. and said, ██████████ we have a problem." She then told him to check his email. ██████████ indicated that in checking his email, he saw an email delivered at 9:20 a.m. that morning, which contained a grievance filed by ██████████ on behalf of Team Elite and notice of an "emergency election board meeting" that would begin at 11:45 that same morning. The Grievance stated in pertinent part:

On April 25, 2019, I received messages from two different witnesses claiming that they heard Green Team members mock Team Elite for being a (sic) all black team[.] More specifically[,] they said they heard ██████████ mock us and other Green Team members just listened and did not defend us. I do not know the exact day or time....

The first witness statement submitted with the Grievance alleged:

On multiple occasions I overheard the Team Green boasting about ... their advantages over Team Elite, openly in the ASO cubicles. I am not sure of the exact date, but it must have been at around 4:30 pm as I was getting ready to leave. On my way out of the ASO Building, I heard ██████████ in his cubicle openly mocking Team Elite for being the first all-Black campaign team. I also heard a few people laugh at this comment but only heard ██████████ voice.

The second witness statement submitted in support of the Grievance provided:

⁴ No witness indicated that Team Elite filed a written grievance regarding ██████████ Instagram story post that showed his "web advisor" page.

Multiple times I would sit in the cubicles behind where Green Team would convene and I would hear them talk about the elections. While I would listen to them talk, I would hear members talk about them campaigning as an all-Black team. Since I was in the cubicle behind them, I didn't see faces, I would just hear voices, but [I] know for sure - know for a fact ■ said the most about Team Elite. His comments were very derogatory. He would mock them and make very sarcastic jokes. When he said those comments, I never heard anyone defend Team Elite. I would hear laughter. I know I heard ■ being in the cubicle and ■”

■ indicated that he understood the grievance to be alleging that his teammate, ■ made some kind of inappropriate comment of a racist nature, in front of himself and someone named ■ who both laughed but did not correct ■ ■ stated that since he does not know anyone named ■ at SWC, this allegation was confusing to him. He further indicated that he was assuming that the author had mistakenly typed ■ when s/he probably meant to name his teammate, ■.

■ further indicated that the lack of details in the grievance was even more confusing to him than the incorrect name issue. According to ■ there never was a specific allegation of “what [allegedly] was said. It’s just known that something was said.”

■ indicated that he gathered his team in front of the ASO Building / Student Center before the “emergency meeting” of April 29, 2019, and carefully read everything provided to them in the grievance email. However, the allegations were so vague that it still did not make sense to him or his teammates. ■ stated that he and his team were “stressing out” because they did not know what ■ was talking about in her grievance. He also indicated that Team Green students were worried about what may happen to them if the claims would go public. ■ further stated that at one point in this process, Team Elite walked past Team Green, looking “really happy” and “making comments that were obviously directed toward us,” such as, “It’s end game for you.” [The movie End Game was playing in theatres at the time.]

■ indicated that he then saw ■ walking toward ■ office, so he decided to also go in order to find out what was going on. According to ■ he got to speak with ■ for a few minutes, during which time he told her that (1) he did not know where the allegations were coming from; (2) he did not understand what was happening because he and his teammates would not say the kinds of things alleged; (3) he would never say things like this because his children are part Black and he has a “big” connection with the Black community in San Diego; and (4) he would not work with people who talk negatively as alleged in the Grievance.

Before going to the “emergency meeting” of April 29, 2019, ■ indicated that he went to his work and gathered evidence of his whereabouts during the days and times during which the grievance alleged that the mocking comment occurred. Because he knew that he had not been present for anything alleged in the grievance, he suspected that its allegations and supporting witness statements were not valid or credible as to his teammates either.

Election Board Meeting re Team Elite Grievance, on April 29, 2019

Upon arriving at the “emergency meeting,” ■ saw the current Student Trustee (■ and ■ (■ – both of whom were registered as campaign staff for Team Green – already in the room and seated at the conference table. ■ stated that ■ spoke near the outset of the meeting to say that the

meeting was unconstitutional because no agenda had been posted 24 hours in advance, as required by the Election Code. When asked, ██████████ denied that anyone on Team Green had asked ██████████ to raise the agenda issue.

██████████ indicated that at the meeting, he presented information demonstrating where he had been during the identified times of the alleged mocking / racist comment, to show that he had not been present and thereby challenge the Grievance as to himself. ██████████ indicated that as soon as he finished, ██████████ immediately stated that the witnesses had the information from about two weeks ago and that they were scared and did not know what to do, thus indicating that the timing could be different than what was alleged in the Grievance.

██████████ indicated that he also called the credibility of the witness statements into question during the meeting of April 29, 2019, because they were offered anonymously and because there were no witnesses present to testify about the matters alleged in their written statements, which also violated the Election Code. ██████████ indicated that ██████████ response to his raising issues of the constitutionality of not having witnesses and the credibility of the statements, however, was to say that the matter would move forward.

According to ██████████ ██████████ also spoke during the election board meeting of April 29, 2019, and told the Board and the candidates that he was not in the ASO building at the time of the alleged events because he had class during the time periods alleged in the Grievance and supporting statements. ██████████ indicated that ██████████ replied to ██████████ “Oh, you can’t use that as an alibi because we don’t know if you were in class.” ██████████ indicated that he thought it was ridiculous for ██████████ and the election board to give credence to the vague and unsubstantiated witness statements supporting the Grievance and then to totally ignore the verifiable alibi information that ██████████ had offered.

██████████ also indicated that the witness statements are “just hearsay,” and that he believes they “were made up by ... somebody who dislikes me, ██████████ or somebody.” He also indicated that if there was a statement and it was racist, then the matter should be addressed immediately under the student Code of Conduct, which, if done, might have resulted in a disqualification from the elections.

██████████ indicated that the hearing did not provide any clarity regarding what exactly ██████████ was accused of saying regarding Team Elite, which the others allegedly tolerated without comment or correction. ██████████ indicated that after this meeting, he disbelieved the grievance’s allegations even more firmly due to the delay in raising the allegations and because Team Elite did not bring any witnesses to the meeting despite the fact that witnesses were required under the Constitution or Bylaws.

██████████ stated that at some point along the way, he formed a theory as to why Team Elite filed their grievance. He indicated that he believed Team Elite thought they were not going to win the election, so they tried to get Team Green disqualified in order to win the election unopposed. While ██████████ stated that this was just a theory, he indicated that it was based on several things, including the fact that Team Green had the “whole school covered” with campaign posters, his perception that Team Elite was not very visible on campus, and the appearance (to him) that Team Elite had not yet put a lot of effort into running a campaign.

In summary, ██████████ indicated that during this meeting Team Elite members were accused of something vague, the Election Board said that it needed more time to decide the matter, and Team Elite was upset that the Election Board needed more time. Initially the meeting was

scheduled to resume on April 30, 2019, but ██████████ indicated that date turned out to be a poor choice because the Candidates' Forum was scheduled to occur at the time when the meeting would occur, and it would not have been possible to post an Agenda at least 24 hours in advance of that meeting. Ultimately, this election board meeting was continued to and properly noticed for May 2, 2019.

Candidates' Forum on April 30, 2019

██████████ indicated that the next day there was a Candidate Forum, at which members of both teams were asked questions on a variety of topics, such as LGBTQ issues, what their team can do to help the various interest groups, communication with students, etc., ██████████ indicated that except for one additional question, Team Elite did not provide much of a substantive response except to mirror what Team Green had provided in its answer on that topic. Essentially, he felt, Team Elite was not offering solutions.

██████████ indicated that Team Elite did substantively respond to the final question, which asked what that team would do to improve race relations on campus. ██████████ indicated that Team Elite's response was to say that they are being racially profiled, that the college caters to Latinos, that the college didn't want them here because they are Black, and that Latinos have more advantages at this school than any other race, but especially African-Americans.

██████████ stated that he was taken aback by those comments, as it felt like Team Elite was down-talking Latinos and literally making "racist" comments against them, with "racist" referring to making a lot of assumptions based on race, as opposed to saying something like "I hate Latinos." ██████████ indicated that he was aware of the USC report regarding the racial climate for SWC employees that had been completed in the fall of 2018. He indicated, however, that the topic seemed to be something the faculty and staff have been addressing, and that there really was no "black versus brown" issue among students.

██████████ also pointed out that SWC is designated as a Hispanic Serving Institution, and he said that if he went to a Historically Black College or University, he would not feel comfortable walking in there and saying, "You know what, I don't feel included here. You need to change it."

██████████ also indicated that he did not understand why Team Elite was so focused on race and taking things in a negative way. For example, one student at the Forum (██████████) said that he had been racially profiled in the form of frequently being asked if he was an athlete. ██████████ indicated he would take such a question as a compliment, not as a put-down.

██████████ indicated that he understood that members of Team Elite decided to hold a protest because they were upset that the meeting regarding their Grievance was not being continued to April 30, 2019. He stated that he did not understand that displeasure, given that continuing the election board meeting to April 30, 2019 would have created a conflict with the Candidates' Forum that was already scheduled for the time slot at issue.

Team Elite's Protest on May 1, 2019

██████████ indicated that he attended part of the May 1st protest, during which time he recalled the speaker, ██████████ said a number of things, including indicating that Latinx students were treated better than, and receive privileges over, Black students at the school. He also said he remembered ██████████ making "a very, very, very controversial statement about scholarships." More specifically, ██████████ indicated that ██████████ had requested a show of hands from

the audience to see which people sought, and another to see which people received, scholarships that academic year. He recalled that [REDACTED] then said, "See, this school doesn't want African-Americans getting scholarships. They don't want to tell us about these things ..." or words to that effect.

Those comments were upsetting to [REDACTED] who explained:

I applied for several scholarships [for 2018-2019], and I got zero. I have a pretty good GPA. I have a pretty good track record. I'm pretty involved in the school. Not a single [scholarship]. So, tell me again how Latinos are catered to?

... I take offense to it because they're telling me that I am being afforded all these things, when I haven't. The only way that I've received anything from this school is because I went looking for it. And I had to dig for it. They didn't just say, "Oh, oh [REDACTED] you have [REDACTED], you're having financial trouble, here – take that [indicating money]."

No. ... I had to go through the process. I had to jump through the hoops. I had to go through the waiting times. ... When I got to school and ... my financial aid was delayed because I ...was on academic probation, I had nothing. Classes were starting. I needed books; a few hundred dollars' worth of books. I was like, "What's going to happen? Am I going to be able even [to] do school?" So, I started where I knew where to start. ... And ... even then, I had to wait. ... everybody [else] ... got their books, everybody's happy. And I'm still worrying about my water bill. I'm still worried about my light bill. I'm still worried about getting my books.

So that's why I take offense to that. ... That's why I get so upset that they say that [Latino] students are catered to at this school, because nobody's catered to. ... You get what you work for. And if you're not willing to work for it, you can't sit around and complain why you're not getting it. ... That's the way I see things."

[REDACTED] indicated that after things were said during the protest that he knew to be untrue (like the scholarships comment), he approached [REDACTED] and said something to the effect that the comments were another instance of bias. [REDACTED] response was, "It's freedom of speech. They're allowed to do it."

[REDACTED] also recalled that when he asked [REDACTED] about something else that occurred during the protest that he thought violated the Election Code, [REDACTED] asked him, "Why are you guys always trying to find loopholes in the rules?" [REDACTED] indicated that he responded that they weren't loopholes, they were rules." [REDACTED] responded by saying, "They're not campaigning, they're not campaigning. They're allowed to do it."

According to [REDACTED] immediately after [REDACTED] finished that sentence, [REDACTED] stated over the bullhorn: "Make sure you vote Team Elite! Team Elite will have your voice heard!" [REDACTED] indicated he then said to [REDACTED] [REDACTED] they're campaigning." [REDACTED] responded by repeating, "Well, why are you guys trying to find loopholes in the rules?" [REDACTED] indicated he viewed this as yet another instance where [REDACTED] approached things in a way that benefitted Team Elite and disadvantaged Team Green due to his bias.

In addition, [REDACTED] indicated that a number of faculty and staff members had come out to the protest and that they were verbally encouraging [REDACTED] and her particular words by

saying things like, “That’s right!” and, “Tell them. Tell them like it is!” According to [REDACTED] he thought at that point:

How do first-year students have any understanding of what you guys [long-time faculty and staff involved in race relations issues] are going through? And why is that trickling down through them? ... A lot of the statements that [REDACTED] makes, like ‘This has been going on for years at this school’,” is information that those first-year students must have been told by someone else.

[REDACTED] stated that by the end of the protest on May 1, 2019, Team Green felt “discouraged because we felt like we were fighting an uphill battle at that point. We just felt like there was nobody who was going to help us.”

Election Board Meeting on May 2, 2019

[REDACTED] stated that when he arrived at the election board meeting location on May 2, 2019, The Sun newspaper was present and the room was very full. He indicated that he thought that someone on Team Elite must have asked the newspaper to attend that meeting, “because throughout this entire process Team Elite has utilized The Sun newspaper as their medium to speak.”

According to [REDACTED] the election board meeting on May 2, 2019, “felt like [being in] a movie.” He indicated that the room seemed to be past its occupancy capacity, and the people present included a number of people whom he believed should not have been there because [REDACTED] had emailed the faculty and staff that morning and told them that they were not allowed to interfere with student-led processes. [REDACTED] stated that most of the same faculty who attended the previous day’s protest and encouraged the students were also in attendance at the election board meeting. He indicated that many of those same employees made encouraging comments like, “Mmm-hmm!,” “I know!” “That’s right!” “Tell ‘em, tell ‘em!,” as Team Elite was talking, which echoed the employees’ conduct at the protest.

[REDACTED] explained that the behavior that some faculty and staff members demonstrated during the meeting was disheartening, including describing it as “demonizing,” “perpetuating the negativity,” and “egging on” the students. He also stated that it was particularly discouraging for the staff and faculty, who they were supposed to look to when they were in trouble, to generalize or accuse them of being racists.

[REDACTED] indicated that eventually, the Election Board announced its decision on the Team Elite Grievance, which was that [REDACTED] would be required to offer an apology, to receive some kind of training, and to do one other thing. At that point, [REDACTED] indicated that Team Elite and the faculty and staff who were present to support Team Elite’s cause “got mad, ... upset ... yelling, crying, screaming... about how this is unacceptable, that you know racist things are happening with this [and] it should be dealt with appropriately.” [REDACTED] continued:

I understand and I agree that racist comments and things like that is (sic) unacceptable and that stuff should not be allowed. But when you’re speaking in the sense of not knowing what’s happening and ... you don’t even know the full story, and you’re in here making these comments to students, and students saying it to other students, it’s – it’s a little damaging. It’s a little discouraging. It’s ... making me feel that my face is going to be associated with anything racist or negative here.

██████████ indicated that as the fallout was happening in connection with the Election Board pronouncing its decision on Team Elite's grievance, ██████████ brought out a packet of materials and created "a mic-drop moment" by throwing the packets down on a table. He indicated that students flanking ██████████ (i.e., ██████████ and one unidentified student) also distributed the packets by throwing them at members of Team Green.

██████████ indicated that he was "shocked" by what he observed during the meeting. He further indicated that other than ██████████ he did not know any of the individuals shown on the packet's page showing "the Suspect's" followers, but he noticed that Team Elite and B2LA were followers of the Instagram Account. According to ██████████ neither ██████████ nor ██████████ knew who ██████████ was before that point in time.

██████████ indicated that for the remainder of that week and the entire next week, he did not want to walk around campus because he was concerned that someone might walk up to him and somehow confront him as the result of what occurred during the meeting on May 2, 2019. He indicated that as a result, ██████████.

Events Subsequent to Election Board Meeting of May 2, 2019

██████████ indicated that after ██████████ ended the election board meeting of May 2, 2019, people were waiting around to see what would happen with releasing the election results. ██████████ stated that ██████████ approached ██████████ as he was waiting with ██████████ and some others for the election results, and said to ██████████ "I'm a scientist, and I know for 98% sure that you're the one who did it." She further indicated, "I use science. I'm a scientist. I know. I can tell. I can look at the videos and just know."

██████████ stated that later on May 2, 2019, Team Green attended some meetings with facilitators, but those meetings were unpleasant, as well. He indicated that the reason was because the facilitators required them to acknowledge the pain that Team Elite was feeling. He indicated that they did acknowledge the pain that they're feeling, but their feeling pain was misplaced because there's nothing that Team Green did to them. ██████████ indicated that the only discussion in these facilitated meetings about the pain that Team Green was feeling appeared to be perfunctory, as if it was a question the facilitator had to ask and quickly get past in order to then get Team Green to consider and discuss the other team's perspective and how the Team Elite was feeling. ██████████ indicated that the Team Green members who attended the facilitated meetings May 2, 2019, made statements in the meetings to the effect that they felt the meetings should not be happening at that point, and that they felt the meetings were "going nowhere."

██████████ indicated that, nevertheless, Team Green was instructed the following week that they must attend some "mandatory" facilitated meetings, and that that the ██████████ ██████████ emailed Team Green member ██████████) to say that the team should consider talking to their professors about missing class to join in on those meetings. (See Exhibit 52, Email from ██████████ to ██████████ dated May 5, 2019.) ██████████ stated, however, that they didn't want to go to the meetings because they felt like they were going to be attacked again, they felt like they were going to try to make them apologize, and they just weren't ready to talk.

██████████ indicated that Team Green met with ██████████ on Monday, May 6, 2019, at which point she "helped" them to "understand our thoughts and feelings, and get our thoughts together

and ... to present them in a way that's ... a more logical approach than just being upset and trying to talk" ██████████ stated that this was the first time Team Green met with ██████████ and that Team Green had not consulted her on any issues during the election. ██████████ stated that Team Green also attend a meeting in the Field House that was led by ██████████ and ██████████ to address why the elections were cancelled, but they did not attend any of the other meetings facilitated by the ██████████ during that time period, for the three reasons noted above.

██████████ stated that on Wednesday, May 8, 2019, ██████████ told him that ██████████ would be speaking during public comment at the next day's Senate meeting. The next day ██████████ did speak in that portion of the Senate meeting, but in a manner that ██████████ perceived as ██████████ "still attacking us." His recollection of ██████████ comments of May 9, 2019, was that they were something to the effect of, "There's people in this room that ... are under the advisement of ██████████ and they don't have anything to say because she's not here telling them what to say."

██████████ indicated that on Sunday, May 11, 2019, there was a post on the web site of The Sun newspaper that was Team Elite's response to a statement that Team Green previously issued. ██████████ described his own Team's statement as having been "[p]retty much stating that we were upset that the elections got cancelled, that it's a shame that faculty involved themselves in – in student processes and ... we want to fight that with Team Elite – like, join us." ██████████ described Team Elite's published response as saying that Team Green disrespected Team Elite's time and accused ██████████ of advising Team Green from "day one" of the election cycle, neither of which was accurate.

██████████ also indicated that on May 9, 2019, ██████████ met with some members of Team Green to inform them that he was "pretty confident" in the fact that ██████████ ██████████ and ██████████ were not the ones who took the video that was posted on the Instagram Account. He indicated that ██████████ further indicated that he wanted to talk with ██████████ to see the video that ██████████ took on his phone and to make a record of that review and of ██████████ denial of involvement in the Instagram post. ██████████ indicated that despite this, on the day of Puente's dinner event several days later, someone told him that Team Elite was "still going around telling people that we edited the video, the one that we showed to the ██████████, [and] that's why we got cleared."

██████████ indicated that on the day before his interview, May 16, 2019, he received an email from ██████████ which was copied to ██████████ wherein ██████████ asserted that Team Green and Team Elite must immediately address the issues raised in the course of the election. ██████████ further stated in her email that there should be "mandated meetings" in order to make that happen. Immediately thereafter, ██████████ called both ██████████ and ██████████ to a meeting between the three of them. ██████████ indicated that he told ██████████ that he felt hesitant to meet with ██████████ at that time because he did not want a confrontation. ██████████ indicated that in the meeting that followed, ██████████ provided them with an update on the status of the investigation and informed them that after the results are received, she would review the results with them and with the Governing Board, and then make a decision on whether the election should stand or not. ██████████ informed the Investigator that if there is another election, he plans to run again.

██████████ indicated that ██████████ also sent a letter to ██████████ on May 16, 2019, which "pretty much sa[id] that ██████████ was anti-Black, that she's not suitable to do her job, and other negative things." He said that he knew about that letter because ██████████ called him and

read the letter to him.

██████████ stated that after being on the receiving end of the unfounded accusations made first by ██████████ in the grievance and then by ██████████ during the meeting of May 2, 2019, he was not emotionally ready to address the situation further – especially given the possibility that someone from Team Elite may make yet another baseless (and painful) attack on him or another member of his team. ██████████ indicated, "... honestly, whether there's an investigation or not, I'm just not quite ready [to address these issues further with Team Elite] ... yet. ██████████. So, I'm just trying to focus on school, and getting through the school year." ██████████ further stated that ██████████ actions since May 2, 2019, were "perpetuating the problem" not helping to resolve it. When asked what he believes needs to be done to resolve the issues, ██████████ stated:

There needs to be more education ... of everyone ... about cultures [and] social issues ... because ... Mexican-Americans need to be cognizant of what's going on with African-Americans. But African-Americans also need to be cognizant of what Mexican-Americans, and Mexicans in general, what we deal with as well. ... [I]t needs to be known that there are commonalities.

He also stated, "Everybody wants to be heard, and I understand that. But sometimes ... it's more necessary to listen."

Witness Demeanor and Credibility

██████████ was a credible witness. ██████████ was cooperative throughout his interview and when follow up information was sought. ██████████ was plain-spoken but thoughtful, and he appeared to be genuine and considerate of others in his manner of speech, concepts communicated, and word choice.

██████████ did not attempt to avoid any questions or demonstrate guile. He was forthcoming, talkative, and calm while providing information to this Investigator. When he realized that he lacked information on a topic, he admitted that. ██████████ had the opportunity to observe most of what he discussed first-hand. He was willing to and did address things that troubled him, but when doing so he did not find it necessary to demonstrate high emotion. ██████████ also generally acknowledged the existence of opposing viewpoints and the fact that others may experience certain things differently than himself.

Given that, in the end, there were no allegations against himself, ██████████ has minimal motive to be dishonest in his statements. Of all of the witnesses involved, ██████████ appeared to be one of the most hesitant to jump to conclusions and the least emotionally invested in getting his own way.

2) ██████████

Background

██████████ was interviewed at the District's Human Resources office on May 30, 2019. ██████████ indicated that he was a student who attended the SWC for ██████████. He indicated that he would be transferring to the ██████████, studying ██████████, and that he hopes to ██████████.

ASO Involvement

[REDACTED] described himself as being [REDACTED]
[REDACTED]
[REDACTED]. He indicated that his friends at SWC are [REDACTED] [REDACTED] [REDACTED]
[REDACTED] and [REDACTED]. [REDACTED] stated that he was an [REDACTED]
[REDACTED] for [REDACTED], starting in [REDACTED] and ending when he stepped
down from his position in [REDACTED]. He stated that from [REDACTED]
[REDACTED], he was the vice-chair of the Student Center Planning Committee. [REDACTED] indicated
that in [REDACTED], he became the chairman of that committee, where he continued until his
resignation. [REDACTED] stated that although he is no longer an [REDACTED] he still has access
to the ASO agendas and minutes and reads them from time to time, just to know what's going on
in the ASO.

[REDACTED] indicated that he did not know anyone on Team Elite. [REDACTED] indicated that
the only thing he could remember about anyone on Team Elite was that [REDACTED] was in
his [REDACTED] class, that she was running for [REDACTED] and that he remembered there
was some sort of incident once during a Senate meeting. When asked whether [REDACTED] “got
under his nerves,” [REDACTED] replied, “... um, her behaviors got ... on my nerves, but, um, her
presence does not, no....”

ASO Events in the Fall of 2018

Senate Meeting of October 18, 2018

[REDACTED] indicated that he remembered a meeting at which student [REDACTED] gave a long
speech about why his club needed the funds it was requesting, what the club was doing, and how
he felt that some of the ASO officers could benefit by attending the same conference. He indicated
that this was either the request by B2LA or by UMOJA for funds, but that he is not sure and that
he tends to get those two mixed up.

[REDACTED] stated that he did not participate in the discussion of this club's request for funding.
He further indicated that he was initially undecided at one point, but then in favor of funding that
club's request because the ASO had a large financial reserve at the time. He also indicated that
some of the ASO officers “were kind of reluctant,” others, like [REDACTED] and [REDACTED]
seemed to disfavor providing the requested funds, and that he thought [REDACTED]
voted against providing the requested funds.

[REDACTED] indicated that [REDACTED] called [REDACTED] out of the meeting to ask her why she
voted against the funding request.

Senate Meeting of October 25, 2018

[REDACTED] stated that he remembered that a funding request from the other of the two groups
(UMOJA or B2LA) came up at another Senate meeting and that the Senate voted on it. However,
he indicated that he could not remember the outcome of that vote, how he voted (though he
thought he voted in favor and offered to check the meeting Minutes online), or the tone of the
meeting.

Senate Meeting of November 20, 2018

The one thing that ██████ remembered about ██████ in ASO was that there was an incident where “she stood up, slammed [something down], and stormed right out of a meeting and slammed a door shut.”

When asked to describe that meeting, ██████ stated, “It was a Senate meeting regarding a Bylaws amendment that was to limit the amount of funding that the ASO can hand out to clubs. We passed a limit of \$6,000 per club, per term.”⁵ As ██████ described it, ██████ ... spoke out ... highly in favor of the amendment,” during which time ██████ “continually tried to interrupt him,” and then ██████ “got mad” due to something that ██████ said and “she stormed right out of that meeting.”

When asked why the bylaws were being amended at that time, ██████ offered the following explanation:

█████ Umm the main reason that somebody was trying to get the bylaws amended in that point in time was because we had just handed out \$3,000 to a department ... running a program called a SWC Careswhere basically they hand out to – \$500 at a time to ... people who ... are in need. However, a lot of us disagreed with it because ... from the statics they provide us, it seemed that the program was not uh doing very well in terms of helping students academically.

... And then there was also another ... time in the previous administration, under ██████ where we also handed out another \$30,000 to purchase benches for the campus that did not have the ASO logo on them.

... So it was those two it was those two incidents that uh mainly it was those two incidents that uh that caused us to amend our bylaws but then there were but then there were also some other things with uh with uh... it was some other complaints with how much uh funding certain clubs are getting.

█████ What do you remember about those complaints?

█████ Umm I remember ... during the ASO retreat that the ██████ said that he was going to uh crack down on ... how much funding B2LA, UMOJA and those kind of clubs they get because he said that they continually ask for ...money every uh school year, without doing any fundraising. Which is actually not true because I've actually seen __ doing fundraising.

█████ And so, this was ██████

█████ Yes. And keep in mind that he is ... was also president of ██████ and his own club last administration and this current administration summited a request for \$6,000 dollars to fly to ... some convention for his club.

█████ indicated that the ASO retreat was held in a resort near the Palomar Mountain Observatory in September or October 2018, and that ██████ made the statement in the dorm room at night. He indicated that ██████ might have heard it but that he does not remember

⁵ This likely was the ASO Senate meeting on November 20, 2018.

who else was nearby at the time.

When asked why he left the ASO, [REDACTED] stated that he resigned because [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED] Ultimately, [REDACTED] said, "it was an issue of procedure."

Complaint of Improper Campaigning by [REDACTED]

[REDACTED] indicated that on March 19, 2019, [REDACTED] improperly addressed his [REDACTED] class by: (1) introducing herself as a "candidate" for [REDACTED] rather than as a "potential candidate," as she solicited signatures for her petition to have her name placed on the ballot; (2) by claiming during that the [REDACTED], [REDACTED] endorsed or supported her candidacy as the next [REDACTED] and (3) by stating that she did not approve of the then-current ASO Administration because they had "taken many actions that were anti-student." [REDACTED] stated that he tried to bring these issues up with [REDACTED] and [REDACTED] by emailing them. (See Exhibit 10, Email dated March 19, 2019, from [REDACTED] to [REDACTED] and [REDACTED])

[REDACTED] then corrected himself regarding his third point by noting that ASO Bylaw Article 7, Section 6, Class 5, Paragraph 9, prohibits libel or slander on social media only, and relevant it would be because it's limited to social media. In addition, [REDACTED] indicated that under his interpretation, Article 7, Section 7, Class 2, of the ASO Constitution allowed the election board to allow or prohibit behavior "by decree," as they were not formally established in the bylaws. Finally, [REDACTED] indicated that Article 7, Section 5, Class 1 of the ASO Bylaws also required candidates to comply with school policy.

[REDACTED] indicated that he believed that the statement made by [REDACTED] that she was being endorsed or supported by [REDACTED] to be problematic, as there is an expectation that the school administration or any faculty or staff will not interfere in the ASO student election process and because ASO elections are intended for students to select who they want to representing them. He further indicated this was supported by Education Code section 76060, as well.

[REDACTED] also stated that he found [REDACTED] statements undermining the current ASO administration problematic and could be considered slanderous because she was making false statements or provoke an altercation and/or provide her an unfair advantage by damaging the reputation of another presidential candidate.

[REDACTED] stated that he further found it generally problematic that [REDACTED] even spoke in front of the classroom because she was indirectly telling everyone in the class to vote for her when nobody else in the student body knew who else was running. [REDACTED] further indicated that he kept a copy of his notes on his computer when [REDACTED]

████████ spoke in front of his classmates.

████████ indicated that ██████████ verbally responded the next day to his email of March 19, 2019, by saying that he would “talk to” ██████████. However, ██████████ indicated ██████████ that response was not acceptable to him and that he had asked ██████████ in the email to forward his concern to either the ██████████ or to the ██████████, ██████████. ██████████ stated that he does not believe that ██████████ ever forwarded his emailed concern to the ██████████ (or anyone) as requested because, “a month later, ██████████ ██████████ gave me the email address to the ██████████ and asked me to forward the email to her.” He also indicated that he checked with Student Trustee, who indicated that he would bring up the issue during a future ASO meeting.

████████ stated that he was officially declared as campaign staff for Team Green, but that he did not provide much assistance to them. More specifically, ██████████ stated that the only things he did for Team Green was (1) to fix a few posters that were hung incorrectly, and (2) to arrange for ██████████ Team Green’s ██████████, to address his ██████████ class on April 18, 2019. ██████████ indicated that he arranged for ██████████ to address his class because the professor previously allowed ██████████ to speak and promised to give equal time to anyone else who was running for the same position.

Complaints Submitted by ██████████

████████ indicated that he filed “a couple of complaints with the ██████████” one of which addressed Team Elite’s social media use; another that addressed a SWC student club [i.e., BSU] that posted Team Elite’s campaign materials on its own social media; and a third that addressed ██████████ addressing his class on March 19, 2019. ██████████ indicated that he also filed a complaint against the ██████████ with the Student Judicial Review Board (“SJRB”), the ASO’s judicial branch, during the week of voting “from April 29 to May 2, 2019, saying that a grievance hearing that was held that Monday [April 29, 2019] violated the provisions of the Brown Act.” Ultimately, ██████████ indicated that he withdrew his complaint because the SJRB would not have been able to meet because there were vacancies on the board – which, he pointed out, the ██████████ had been negligent in not filling. According to ██████████ there were vacancies on the SJRB as far back as January of 2019, and that the ASO Constitution required ██████████ to fill as quickly as possible, but that ██████████ waited until March and May to try to fill them, which was too late.

████████ indicated that although they were not complaints, he also spoke privately to a couple of people about his concern that “a lot of the candidates ... on Team Green” were inexperienced and about Team Elite’s use of identity politics and promoting themselves as the election team on their Instagram page, which he said was still up on Instagram. ██████████ stated specifically that Team Elite made a claim that they were “the first all-black ASO campaign team....” He indicated that his problem with that was that just because they were the first all-Black campaign team didn’t add anything to their actual experience. He stated he thought they should have advertised themselves based on actual qualifications rather than identity politics.

Attending Election Board Meetings

████████ stated that he was unable to attend the election board’s meetings [that he had been informed of], except that he did attend approximately the first and the last ten minutes of the meeting of April 29, 2019, and he attended part of the election board meeting on May 2, 2019.

Election Board Meeting on April 29, 2019

Regarding the April 29th meeting, ██████████ stated that he spoke at the beginning of the meeting and told the ██████████ that as a member of the public, he felt that he was entitled to at least 24-hour notice to a special meeting. He indicated that he made these statements because he wanted to see what meetings were going on and what the ASO was going to be doing that week, and if one of the candidates for the election had not told him that the meeting was going to occur, he would have never known that the meeting was going to occur. He further indicated that as a member of the public and a student of Southwestern College, he was entitled to know when the election board meetings are going to be held.

Election Board Meeting on May 2, 2019

██████████ indicated that he could not attend the entire meeting on May 2, 2019, but that he arrived before the Election Board read out the sanctions against ██████████ ██████████ indicated that once the sanctions were announced, “a lot of people seemed extremely pissed off” and that that ██████████ “dropped the f-bomb.” ██████████ also recalled that a female club advisor, who was in favor of Team Elite “was quoting some ... Instagram post.” When asked why he thought she favored Team Elite, ██████████ stated, “because she told the Student Trustee that he should step down for ... siding with Team Green” and because of what she said about ██████████ not being disqualified from running in the election.

██████████ indicated that he tried to speak during this meeting but that he was not called on and thus did not speak. When asked what he wanted to speak about, ██████████ indicated that he wanted to respond to a statement that ██████████ made, alleging that the only reason it took so long to deal with Team Elite’s complaint was that it was an all-Black team, and that if the complaint had been about something other than racism, like maybe sexual assault, then it would have been addressed faster. ██████████ indicated that he had wanted to respond with something to the effect that even if the Team Elite Grievance had been about sexual assault, “... it still would have taken that long to get it addressed because we actually have laws here in California that regulate how meetings are to be held and we also have established procedures in the ASO as to how things are to be done.” According to ██████████ although he “was begging for the microphone,” nobody gave it to him so he was unable to make that statement.

One other thing that ██████████ stated he remembered about the meeting of May 2, 2019, was talking with ██████████ not long after the meeting ended. According to ██████████ when he asked ██████████ what was his opinion was on what had just happened, ██████████ told him that it was probably the best outcome it and that it really couldn’t have been handled any other way.

Witness Demeanor and Credibility

██████████ is a credible witness. Although he was allied with Team Green (as campaign staff), he appears to be something of an outsider and appears to lack guile. He had opportunity to observe and had a great capacity to recount his observations. ██████████ was extremely detail oriented in his thinking, his perception, his memory, and his speech. Relatively minor issues of “rule breaking” caught his attention and seemed to disturb him to the point of feeling that he needs to correct them for the sake of correcting something that is against a rule. During his interview, the need for himself and others to comply with what he perceived as being the correct rule was so important to ██████████ that he quit ASO over a difference in opinion concerning procedure rather than to let there be deviations from the rule.

3) [REDACTED]

Background

[REDACTED] was interviewed on at District offices on May 17, 2019. [REDACTED] also provided many documents and recordings to the Investigator without objection. [REDACTED] indicated that he had been a SWC student for a number of years. [REDACTED] indicated that he also served as SWC's Student Trustee member on the District's Board of Trustees in both the [REDACTED] academic years. Although [REDACTED] did not run for office in the Spring 2019 election, he was registered as official "campaign staff" for Team Green.

Campaign Issues

[REDACTED] indicated that he viewed himself as the Campaign Manager for Team Green, which he admitted was an interesting choice given his position as Student Trustee. [REDACTED] indicated that he preferred giving advice to doing manual labor, so he felt this was a good position for him.

[REDACTED] further indicated that he believed that some of the [REDACTED] actions during election season impermissibly favored Team Elite. For example, [REDACTED] indicated that on the first day of campaign season, [REDACTED] left Team Elite's posters sitting for six hours before taking the few minutes needed to review and approve them. Likewise, when Team Green was directed to remove its large banner hanging over the balcony for safety reasons, nobody made Team Elite remove posters placed in the same place until Team Green complained.

[REDACTED] further indicated that [REDACTED] was basically the decision-maker in the grievance hearing on the Team Green Grievance against Team Elite on April 23, 2019, and Team Elite violated the rules on social media use many times and in different ways, but [REDACTED] would not hold them accountable for it. He indicated that [REDACTED] guided the election board to believe that all of Team Elite's many grievable acts concerning social media use were equivalent to [REDACTED] one post stating that he was so excited for elections.

[REDACTED] indicated that he had attended all of the election board's meetings. [REDACTED] further indicated that on April 29, 2019, SWC's election board notified election candidates of an "emergency meeting" that was to begin in a little more than two hours in order to hear the Team Elite Grievance on April 26, 2019. [REDACTED] indicated that the grievance alleged that one or more members of Team Green verbally "mocked" Team Elite in relation to it being an all-Black ASO team of candidates. Near the outset of the meeting on April 29, 2019, [REDACTED] indicated that he asserted that the meeting could not proceed at the planned date and time because the Election Board had not posted an agenda for the meeting at least 24 hours in advance of the meeting, as required by the ASO Constitution. [REDACTED] decided that the meeting would proceed despite the Constitutional violation.

[REDACTED] indicated that during the election board meetings of April 29 and May 2, 2019, the Board accepted evidence in the form of written statements without identifying who the statements were written by or providing the witness for questioning, in violation of the Constitution. He indicated this was pointed out, but [REDACTED] pressed on with the meeting anyway.

He indicated that [REDACTED] also tried to again schedule an election board meeting on less than 24 hours posted notice on April 30 and May 1, 2019.

Witness Demeanor and Credibility

██████████ was a helpful witness with a significant amount of reliable, detailed information. He had an excellent opportunity to observe things and a good knowledge base. On the other hand, this witness tended to appear somewhat arrogant and condescending in his manner when dealing with various people as observed in person, via recordings, and in writing. Moreover, this witness was also generally, but not perfectly, knowledgeable about rules applicable to the situations discussed, something of a “stickler” for those rules, and smart. Given his knowledge base, this witness should have known better than to accept a position as a “campaign manager” when he was at the same time a Student Member of the governing board, due to, at minimum, the appearance of impropriety that such a move would give off. In light of this witness’ knowledge base and intelligence, it is likely that he knew about the problem raised by has publicly taking sides in the ASO Election but chose to do it anyway.

4) ██████████ VALDIVIA

██████████ was interviewed on May 8 and 15, 2019, at the District offices. ██████████ is a student and a member of the honors society, PTK, and she works in the Dreamers’ Center. She indicated that her boss is ██████████ and is a member of the Chicana Activists, of which ██████████ is a co-advisor.

██████████ indicated that she was approached by ██████████ to join his team to run for ASO. ██████████ stated that she was one of the first people to bring the ASO election issues to the attention of administration by informally telling an administrator about her concerns regarding ██████████ behavior in election board meeting of May 2, 2019. Specifically, she sent an email that to ██████████ that stated:

Things have heavily escalated to the point where I feel uncomfortable to be on campus. During this meeting, a lot of my team members were essentially attacked by staff. They were yelled at and accused in front of everyone. It was my understanding that faculty were not allowed to attend. They went to shut everyone down and verbally attack us. They made outrageous allegations and racially charged comments. One woman [i.e., ██████████] said that she was afraid that a privileged person would get a hold of a gun and shoot her Black students. This was in essence was demonizing the Mexican students on campus.

(Exhibit 48, Email from ██████████ dated May 2, 2019.)

Much of the information that ██████████ provided during her interview echoed the information provided by other students, including similar fact statements concerning hanging and approval of campaign posters, perceived bias by ██████████ and grievances concerning social media posting, and the allegations against ██████████ contained in the Team Elite Grievance of April 26, 2019.

Regarding perceived bias by ██████████ ██████████ stated that in the campaign it felt like ██████████ was “acknowledging certain rules and ignoring the rest, but that didn’t make sense ... [because] the constitution is what the constitution is.” Additionally, she indicated that during the hearing on the Team Elite Grievance of April 29, 2019, ██████████ had an alibi because he had class, but ██████████ laughed at him and said, “Oh that doesn’t necessarily mean you were in class.” Likewise, ██████████ refused to look at the alibi documentation that ██████████ brought with him to show that he was at work on the dates and times in question. ██████████

viewed this conduct as [REDACTED] demonstrating his bias against Team Elite.

Regarding the election board meeting of May 2, 2019, [REDACTED] indicated that when [REDACTED] brought out her packets of papers concerning copies of some Instagram Account posts, she “threw” some of them at the members of Team Green. [REDACTED] described that, when doing so, [REDACTED] used a motion similar to that used to throw a Frisbee. She also indicated that Team Elite member [REDACTED] emulated [REDACTED] by then tossing the packets around the table.

[REDACTED] indicated that when [REDACTED] accused [REDACTED] and [REDACTED] of making the Instagram Account and posting racist things on it, she also stated that she knew, as a scientist, that they were the guilty parties due to the angle of the video that they posted on the Instagram Account compared to where they had been standing during the preceding day’s protest. [REDACTED] indicated that [REDACTED] practically forced a reluctant [REDACTED] the [REDACTED] [REDACTED], to publicly name [REDACTED] and [REDACTED] as the students whom [REDACTED] and [REDACTED] believed created the Instagram Account and its posts. According to [REDACTED] [REDACTED] also accused [REDACTED] and [REDACTED] of somehow altering things on the Instagram Account in order to make the Black Student Union look racist, since the BSU was a follower of the subject Instagram Account and “liked” all of its posts.

[REDACTED] further recalled [REDACTED] stating, “What upsets me is that they thought we were stupid,” or words to that effect, before saying that some academics in years past believed and taught that Black people literally are not as smart as people of other races because their skulls are smaller in size. [REDACTED] indicated that these allegations and comments left her feeling astonished and thinking to herself, “What does that have to do with anything? We didn’t say that. We’re not saying these things.”

[REDACTED] stated that at some point after the meeting on May 2, 2019, [REDACTED] went up to [REDACTED] in or near the ASO building and said, “I’m 98% sure that -- that you created this! I want to talk.”

Finally, [REDACTED] indicated that she believed that Team Elite, or the adults who she perceived to be guiding them ([REDACTED] and [REDACTED] “made up” the Instagram Account in order to use the students somehow in the “racist issues” that the faculty and staff have going on. [REDACTED] indicated that [REDACTED] behavior in calling her a racist by association with her teammates, as well as the content of the “ridiculous” Instagram account that [REDACTED] passed around, made her concerned for her physical safety and not comfortable to be on campus.

Team Green Statement for The Sun

[REDACTED] indicated that Team Green jointly wrote the following statement for publication in the College’s student newspaper, The Sun:

As members of Team Green, we are shocked in the recent actions taken by the administration of the Southwestern College to invalidate the ASO general elections of the spring 2019 semester. We’re deeply saddened that the enduring institution of the student body government has been interfered with by employees of the

⁶ [REDACTED]
[REDACTED]
[REDACTED]

college and heavily influenced by external interests with (inaudible). The invalidation goes against the very principles of our student democracy...

She indicated that the statement also contained a brief explanation that Team Green was not ready to meet yet and needed to focus on school.

Team Elite Statement for The Sun

██████████ indicated that within a few days of Team Green’s statement being published in The Sun, the paper also published the following statement by Team Elite, on or about May 13 2019:

To those willing to hear and not just listen: We are disappointed that our peers, Team Green, released a statement that has been nothing but a distraction from racism. Team Green calls upon us to join them yet we have had multiple meetings set up to meet with Team Green, to communicate and put things to rest. They have refused to meet with us and have disrespected our time -- our time multiple times. So, allow us to refocus to the systemic racism that has been occurring in ASO.

Witness Demeanor and Credibility

██████████ had a good opportunity to observe and did not seem to have difficulty in recounting the things that she reported. She seemed to be one of the more emotionally sensitive members of Team Green. As a result, the Investigator has placed less weight on the descriptive language that this witness used to describe things, such as the way in which ██████████ and ██████████ “threw” packets of papers across the table, and other descriptive words that tend toward the dramatic.

5) ██████████

Background

██████████ was interviewed at the District offices on May 13, 2019. She was responsive and timely in responding to follow up requests for information. ██████████ indicated that she is ██████████
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However, ██████████ indicated that living in San Diego, she is having her first experience with living in what she called a “majority Hispanic community,” which is “definitely a different experience for me, on how to handle it.”

██████████ indicated that when she experiences racism coming at her from the Hispanic community, it feels different than when she experienced it coming from White people, perhaps partly because she had been taught that Hispanic people and Black people are “supposed to be best friends” and “have each other’s back.” ██████████ indicated that she is confused by this new racial terrain and by some of the experiences she has been having, and she stated, “I don’t know how to feel.”

Regarding the UMOJA Learning Community, ██████ stated that this was the first time that all, or a majority, of her teachers / professors were Black, and that it is “so cool” to be taught about Black literature and “just – Blackness,” because the school system she grew up in “doesn’t teach you about yourself if you’re a minority,” so she never got to experience any of that in school before. She expressed that she also thinks that the Puente and Bayan Learning Communities are “cool,” since they cater to the race/ethnic communities that they are designed to serve, and because these are such enriching experiences for the students who participate in them. ██████ stated that she thinks that having the separate Learning Communities is “uplifting,” that having them does not promote division, and that her own Learning Community has felt like “a safe bubble” in her first year of college.

Club Affiliations and ASO Involvement

██████ indicated that she is a busy honors student majoring in ██████. She stated that during the ██████ academic year, she participated in five college-based clubs or activities, including the UMOJA Learning Community and club, which is described on the District’s web site (<https://www.swccd.edu/student-life/learning-communities/index.aspx>) as being “a year-long learning community that focuses on university transfer and the African-American experience.” She also served in the ASO as a ██████ during the ██████ semester.

She indicated that her four other clubs or activities were being an ASO senator and being a participating member of the Black Student Union (BSU), the Social Justice Club, and Soul Sisters, which ██████ described as “another African American club,” but only for women. ██████ indicated that although she is eligible for membership in the ██████ (██████), ██████ has not yet joined that club.

██████ identified her friends at school as being ██████ ██████ and ██████. Other people at school whom she talked to, confided in, and considered her friends are the other members of Team Elite: ██████ ██████ ██████ ██████ ██████ and ██████. She indicated that all of these people are individuals who she texted and did things with outside of school, even before the election.

When asked if she was friends with anyone on Team Green before the election, ██████ replied, “I wouldn’t say I was friends, but me and ██████ ██████ were friendly to each other – same for me and ██████ ██████ – but I wouldn’t say we were buddy-buddy.” She stated that she has not ever done anything with either ██████ or ██████ outside of or away from school.

██████ indicated she ran in the Spring 2019 ASO election as Team Elite’s candidate for President. When asked how that election went, she replied, “Bad,” then laughed.

Pre-Election ASO Issues

Fall 2018 ASO Issues

During Team Elite’s protest held on May 1, 2019, ██████ said that there had been racism in the ASO in several ways during the academic year, including the ASO’s handling of B2LA’s and UMOJA’s requests for funds to attend the Fall 2018 UMOJA conference and a Senator referring to the Black people present in the meetings concerning those funding requests as “mobs.” At some point in her interview, ██████ indicated that she did not like former ██████ ██████ because in the Fall 2018 semester there were “a lot of ... racial disputes going on in

terms of UMOJA asking for money for a conference,” and that student ██████████ was “one of the people [who] aggravated the situation in terms of ... what questions he ... asked.” ██████████ described ██████████ as “a stickler for the rules” and said that, due to his personality and how he carried himself, he was not a person with whom she would be close friends.

October 2018 Funding Requests by B2LA and UMOJA; Mobs or Bullies Comment

██████████ also indicated that during the fall of 2018 B2LA and UMOJA each sought funding from the ASO to fund their club attending the UMOJA conference. She indicated that during the related ASO meetings, she believed UMOJA and B2LA were asked more questions than any other group seeking funds. ██████████ stated that at one point during one of those two meetings, “we⁷,” then corrected herself to say, “I,” asked Senator ██████████ how she voted on the Hispanic Engineering Club’s request for funds during the Ways and Means Committee meeting. She also indicated that ██████████ ended up crying due to the pressure of the situation.

██████████ further indicated that during a senate meeting two weeks later, ██████████ friend Senator ██████████ spoke and said “... this whole thing like ‘We the people’ feel,” and then he said, “We shouldn’t let mobs and bullies come into our meeting and pressure us to make decisions.” ██████████ continued, regarding ██████████ use of the word “mob,” “I guess [it] wasn’t a racial slur,” but she indicated that she felt upset that he had used the term in reference to the entire Black community and that apparently “nobody was going to check him” for having done so, so she left the Senate meeting and cried.

██████████ also indicated that ██████████ and ██████████ talked to her about ██████████ comment, indicating that they heard it, that they understood why she would be upset about him saying it, and that they offered to have a mediated conversation between her and ██████████ – but that mediated conversation never happened.

“Nigga” Comment by ██████████

██████████ reported that one day in approximately October 2018, she walked into the ASO cubicles area and heard ██████████ say, “... something something, ‘nigga,’” while he was talking to some of his friends. ██████████ indicated that ██████████ used the word casually in conversation with his friends, similar to how a Black person may use the word when talking to their own friends, meaning that he was using it in place of saying, “my man,” or “my buddy.”

██████████ indicated that she didn’t say anything to ██████████ about his comment because “you know, you kind of become desensitized to a bunch of people saying ‘nigger’ around you, and you tell them -- you tell them that they can’t say it because they’re not Black but people still say it.” She further indicated that when he said the word, he was talking “to a group of Mex--” before again stopping herself and changing the subject. She did not identify any other individuals who may have heard ██████████ comment.

██████████ further indicated that, upon seeing her, ██████████ immediately apologized to her for using the word and said something to the effect that, being from Mexico, he was not used to being around Black people and that he would never use the word again.

⁷ When interviewed, Instructor ██████████ stated that she was the one who questioned ██████████ about her vote.

██████████ also indicated that the word “nigga” is used within the Black community “if we agree with it or not, they do use it.” ██████████ also indicated that the word “nigga” has a different meaning than the word “nigger,” which is always an offensive term and should not be used. ██████████ did not indicate that she heard ██████████ or any other student use either of these terms on any other occasion.

Initial Decision to Run and Receipt of Support from ASO

██████████ stated that she felt that she is a natural-born leader and that she tended to seek out leadership positions. Thus, during the Fall 2018 semester ██████████ indicated that she formed an intention to run for ██████████

██████████ indicated that by late November of 2018, she openly talked about her intention to run for ASO president and stated that when she first began discussing it around that time, “a lot of people supported me.” She indicated, for example, that at some point before Winter break, the ██████████ ██████████ ██████████ told her, “I want to personally coach you because I want to make sure that the next [ASO] President that’s coming in is going to be great.” She stated that ██████████ gave her his copy of the ASO Constitution because it was the one that he received when he became ██████████. ██████████ further stated that shortly thereafter, ██████████ and ██████████ also began pursuing her to run together with them. According to ██████████ she met with ██████████ who told her, “I want to run for Student Trustee, and I want to be on your team.” She indicated that ██████████ also told her that he had not decided yet which position he was going to run for, but he knew that he wanted to run on the same team with ██████████ ██████████ She recalled telling them, “Of course, I know you guys; you guys can run on my team.” As a result, when she went ██████████ for a month in December 2018, ██████████ believed that her team was pretty much set and she would only need to find a couple more people to run with them when school resumed.

However, ██████████ stated that when she returned in January of 2019, she noticed a changed feeling and behavior in ASO. She later clarified that she actually noticed the changed feeling sometime after February 2019, as she had not been around in February. She indicated that by late March, she began to recruit others to fill remaining slots on her team because the people in ASO had “turned against” her.

██████████ indicated that the reason she was absent from ASO for a period of time was because she was addressing Black History Month, but that she refocused her attention on ASO and the ASO elections in March when she “felt the pressure” of elections coming up. ██████████ indicated that, at that time, she made a concerted effort to get back into the swing of things with ASO.

██████████ stated, however, that when she attempted to reinsert herself in the ASO politics, the people who previously “agreed that they wanted to run with me and just people in ASO that I was cool with ... all turned against me.” She indicated as an example that she, ██████████ and ██████████ had agreed to run together, and that she had planned to ask others in the ASO to run with them, including ██████████. However, none of them were interested in running with her any longer. According to ██████████ ██████████ “sat her down” and told her, “I think your work ethic has changed” and that she was “becoming a little bit lazy” to the point that he was “not convinced by [her] work ethic this semester” that she was the best person to run for the ASO Presidency.

██████████ indicated that ██████████ comments were hurtful:

I guess the reason people felt that I was ... becoming lazy [in] ASO is because for Black History Month, since I'm involved in literally every Black club on campus, um I was excused from all the senate meetings. Because you can be excused if you're involved in clubs, [and] you need to be there ... [to] help do the events. So, I was basically gone for a month from the [ASO] organization and I guess that made me not an efficient person to run for presidency. I don't know, it was kind of just like ... a slap to my face...

██████████ indicated that by this time she had been experiencing some difficulty within the UMOJA Learning Community.

As a result, she indicated, her feelings toward ASO changed for the worse and she no longer felt as welcome there. However, ██████████ also stated she "definitely consider[ed] [her]self [to be] closer with ASO members than UMOJA members" at that time, which closeness grew from attending the Senator retreat with them and doing activities like ██████████. She indicated that the ASO members with whom she hung out at the time were ██████████ ██████████ ██████████ ██████████ and ██████████ all of whom she had done social things without outside of school.

██████████ stated that what she experienced in the ASO in late March 2019 was "a big change [in attitude, compared to] how [she] had been treated and received in the ASO" previously. When asked whether there had been any kind of misunderstanding with anyone, or perhaps a confrontation or some other type of motivation for the change in her colleagues' behavior, ██████████ indicated that there had not.

██████████ indicated that, feeling like nobody in ASO would run with her, she decided to ask the entire UMOJA cohort of students for teammates to run with her. ██████████ stated that many UMOJA students raised their hand that day, and her team ended up being comprised entirely of students participating in UMOJA.

"All-Black Agenda" Comment

██████████ indicated that at first, she did not think of her team as being comprised wholly of Black students. However, that changed one day in mid- to late-March 2019 when she was questioned while walking through the cubicles area to meet up with Executive Secretary ██████████ and ██████████. ██████████ indicated that she was rushing through the ASO cubicles when, a short "Mexican" girl who ██████████ did not know stopped her and said, "Is the reason why you have an all-Black team ... because you're trying to push an all-Black agenda?" ██████████ indicated that she either did not respond verbally to the comment or that her response was simply, "What?" and/or "Who is this person?" as she made a face and kept walking.

██████████ stated that she nevertheless felt "irritated" by the question, so she confided in ██████████ about it while there in her office. ██████████ indicated that ██████████ responded by indicating that the other team was made up of all Hispanic people, except for ██████████ and ██████████. ██████████ also told her that ██████████ who was then the ██████████ had been telling "people" that (1) ██████████ is "lazy," (2) he did not support her run for ASO president, and (3) she was just trying "to push an all-Black agenda." When pressed for the specifics of ██████████.

█ comments, █ stated that █ said that █ was “having private meetings” with the opposing team’s candidate for president, █ and that █ did not identify any other “people” to whom █ allegedly made any of the statements concerning █

█ indicated that the question from the unknown female and what █ told her about █ alleged comments hurt her feelings and made her feel uncomfortable. She indicated that she felt disheartened that someone in ASO would say such things about her, and that she believed at that point that most of the people in ASO were siding with Team Green. █ further indicated that, as a result of feeling all of this negativity and related tension, she was so upset that she “left the ASO group chat” and stopped even going into the ASO areas.

█ Complained to █

█ stated that she reported both █ alleged comments and the unknown girl’s comment to █ in late March 2019. She indicated that █ said he was not sure how much digging he could really do since it is one person’s word against another’s, but “he could talk to [█] and kind of tell him not to do any of that.” █ stated that she also told her teammates “...to be prepared,” and, “I don’t know why they’re making these comments that because we’re Black, like, we’re going to be lazy or any of this.”

█ also volunteered, “... at the end of the day, it’s ‘he said / she said’.” She continued, saying, “... I won’t say that █ is lying to me, but ...” █ also stated that she never heard █ make that type of comment about her, and that █ was the only person who told her that █ was saying anything like that about her.

█ indicated that she and her teammates attended a mandatory meeting on April 11, 2019, at which “they go over the rules with you.” █ stated that the campaign season opened the next day, Friday, April 12, 2019. Within a week, she indicated, █ and █ told █ that they had already received something like ten reports concerning her.

Complaints Against █

Announcement in Class to Get Petition Signatures

█ indicated that one of the complaints █ told her about related to an announcement that she made in her █ class. █ indicated that in order to get on the ASO election ballot, each candidate was required to have a petition signed by a number of students. Accordingly, one day in March 2019 she asked her █ teacher, █ whether she could “make a quick little announcement – because I knew that I wasn’t allowed to campaign yet” to get signatures for her petition during class. █ indicated that there were a number of current and former ASO members in that class, including █ and █. She stated that before making any announcement she asked █ – in front of █ and Mr. █ – if she was allowed to say anything in class regarding herself running for █ recalled that █ told her, “You can say whatever you want to say.”

█ stated that █ told her she could get signatures in the class, “but then she kind of pressured me ... to tell the class more about [my]self before they decide to sign on [me].” █ indicated that after the teacher asked her three times to tell the class a little about

herself, she told the class that she is a [REDACTED] major who is running for [REDACTED] she listed the clubs she was in, and then she requested their signatures. [REDACTED] stated that she believed at the time that all of those comments were permissible, but she later learned that it was “technically considered campaigning,” and so a violation of the rules.

[REDACTED] indicated that the former [REDACTED] who was in her [REDACTED] class, [REDACTED] reported her request for signatures and other issues to the attention of [REDACTED] and [REDACTED] by email. [REDACTED] stated that she knew [REDACTED] was “just a stickler for the rules.” She also stated that she did not know what [REDACTED] agenda was, nor if he had been telling Team Green that he would try to get her disqualified from running in the election.

[REDACTED] stated that regardless of his motivations, she was told by [REDACTED] and [REDACTED] that [REDACTED] sent “a lot of emails and [that] he was saying that I was violating rules and that I shouldn’t be allowed to run because of the fact that I campaigned early.” According to [REDACTED] [REDACTED] [REDACTED]. [REDACTED] also told her he was letting her know that [REDACTED] has been sending him emails almost every day and that [REDACTED] told him to drop it because [REDACTED]

[REDACTED] indicated that [REDACTED] was one of the guys she had a problem with because he brought racial tension into the room by asking a lot of questions. She indicated that when one thought of [REDACTED] “it’s like, ‘Ugh. [REDACTED]’”

[REDACTED] indicated that she went back to her team and was irritated. Accordingly, after class ended one day, she asked [REDACTED] and [REDACTED] to talk with her. She indicated that [REDACTED] stayed but [REDACTED] left. She indicated that she asked [REDACTED] if he was making [REDACTED] report her, to which [REDACTED] responded that he had not known that [REDACTED] had been complaining about her and that he would talk to him about it. [REDACTED] asked [REDACTED] to come to her and have a conversation, if there ever is a problem, so they can talk it out instead of filing reports or complaints. She said that [REDACTED] agreed and said that she could always come to him as well

Campaign Posters Issues

[REDACTED] stated that first grievance came in from Team Green, while Team Elite members were creating their team’s posters. [REDACTED] indicated that Team Elite met to form a campaign strategy immediately after the mandatory meeting for all candidates on April 11, 2019, at which the campaigning rules were discussed. She indicated that during this strategy meeting, Team Elite decided to focus their campaigning through social media to reach more people and to save on up-front costs needed for buying supplies to make posters. [REDACTED] indicated that Team Elite solicited donations from the Black Alliance to address this issue. Ultimately, one of Team Elite’s campaign strategies was to mobilize social media as best they could. Therefore, Team Elite focused its attention on campaigning through social media, supplemented by passing out sweet treats and putting up some campaign posters on campus.

[REDACTED] remembered that one of Team Green’s large posters/signs had to be taken down due to safety reasons. She stated, “we saw that it was taken down and we were like giggling and was like, ‘Oh we’re going to go put our posters up there now.’ And then we put our posters up and then we got an email from [REDACTED] saying that they took them down because it’s, like, a safety hazard for students to like reach over the balcony and ... post it.”

Team Green “Social Media Use” Grievance against Team Elite

██████████ indicated that she learned of the Team Green Grievance against Team Elite concerning social media use on Friday, April 19, 2019, as she was making posters in the poster room with ██████████ ██████████ stated that ██████████ pulled her and ██████████ into his office and showed them a large grievance packet that was signed by ██████████ She indicated that she felt surprised and unhappy that ██████████ had not approached her to discuss the issue before filing a grievance, as she thought they had agreed to do when they spoke after the issue of campaigning in ██████████ class. ██████████ indicated that at that point, she decided ██████████ was “fake” and that she had “wasted her breath” in trying to talk with him about resolving things before they became “ugly.”

██████████ recalled ██████████ having told her, “You know I care about you ██████████ but stop posting on your Instagrams,” and, “This is your official warning,” or words to that effect. ██████████ indicated that he also told her, “They have screenshots of what you’ve been posting on Instagram, and they filed a grievance. And I’m giving you a warning to stop posting.” She indicated that ██████████ then explained to her that it was impermissible to post as she had been doing. Instead, he said, “it can only be the tag or the link,” not an actual screenshot.

An account holder’s Instagram “story” is a location within an Instagram Account from which things that are posted disappear in 24 hours, versus one’s Instagram “page,” on which posted material remains until the account holder removes it. ██████████ indicated that she had been posting links from Team Elite’s Instagram page to the “story” portion of the individual candidates’ personal Instagram pages, because she had been told that was permissible. She stated, for example, “we posted this [screenshot] on the Team Elite page and then I linked it to my personal Instagram page.” This meant that ██████████ placed a link from her personal Instagram page or story, by posting a screenshot there, which screenshot (if clicked upon) took the visitor from her personal page to Team Elite’s official page. Accordingly, this was directing traffic from her personal Instagram page or story *to* Team Elite’s official Instagram Page, by way of someone clicking on the linked screenshot.

██████████ stated that the purpose of creating these links from their personal “stories” to the official Team Elite Instagram Page was “just to generate more traffic to the Team Elite Account. When asked why she was creating those links from her story instead of from the regular Instagram page, she stated that she knew they couldn’t directly post any Team Elite stuff on their personal Instagram account, they were told that could only “link stuff.” ██████████ indicated that ██████████ had explained this rule to the teams during the mandatory meeting on April 11, 2019, including specifically mentioning linking to your Instagram “story” instead of to your “page.” ██████████ indicated that because of this, when asked by ██████████ if she made the posts in question, “I owned up to it. I posted it on my story. I didn’t know [that it was disallowed]. Now what?” ██████████ stated that although ██████████ only gave her a warning, she told her team not to post anything about the election on their personal stories any more. She also indicated that when she saw that her teammate ██████████ had posted something on his story again, she told him to “take it down, now,” and he complied.

██████████ stated that Team Elite was taken to a hearing on the Team Green Grievance concerning her team posting links and screenshots from their personal account “story” pages to the Team Elite page, and that Team Elite was not provided 24-hours’ notice in advance of the meeting. ██████████ indicated that although ██████████ showed her the Team Green Grievance on Friday, April 19, 2019, nobody informed Team Elite that there would be an election board meeting regarding that Grievance on April 23, 2019, until ██████████ sent her an email

with that information at 12:39 p.m. on April 22, 2019 – which was not a full 24 hours before the meeting’s start time. However, this notice / timing issue was not raised by anyone as a problem at or in relation to the April 23, 2019 meeting.

██████████ indicated that she, ██████████ ██████████ and teammate ██████████ attended the election board meeting on Team Elite’s behalf on April 23, 2019, because they were the only team members available. She recalled that during the meeting, ██████████ told the Election Board that he did not want Team Elite to be disqualified, but that he felt that since Team Elite had been breaking the rules, there should be some type of disciplinary action. ██████████ stated that her own statement on the issue of potential penalty for the rule infraction was to the effect that she did not know that they were not to post on their Instagram stories, that ██████████ had called her in and given her instruction on the issue and a warning, and that as soon as she learned it was a violation to post campaign fliers on their personal stories, she immediately stopped doing so herself and instructed her team to cease doing so as well.

██████████ also stated that she mentioned to the Election Board that she was confused somewhat, because her understanding was that the grievance process was supposed to be that if there is a violation, the team is supposed to receive a warning and there is no hearing on the grievance unless the team violates the same provision again. ██████████ indicated that since ██████████ already gave her a warning and she and her team stopped the conduct at issue, she had believed that Team Green’s grievance already had been handled fully.

██████████ indicated that she also showed those present at this meeting that ██████████ on Team Green also had posted something about the election on his personal Instagram page. ██████████ described ██████████ post as having been a picture or screenshot of his “election ballot,” captioned by a statement of what position he was running for and “I’m so fucking excited!”⁸ ██████████ indicated that she felt that if her team was going to get in trouble for social media posting, then Team Green also should also get in trouble for ██████████ post. ██████████ stated that once she showed ██████████ Instagram post to those present in the meeting, the decision came down that neither team would be disciplined other than giving each of them an “official warning.”

██████████ indicated that right after the meeting on Team Green’s grievance concluded on April 23, 2019, she went to the Festival of Nations event where she saw ██████████ in the ASO booth. She stated that ██████████ told her, “Oh my gosh! Oh my gosh! I got tea⁹ on Team Green!” ██████████ indicated that ██████████ then described to her a conversation that she said she just overheard between Team Green members ██████████ and ██████████ in which ██████████ repeatedly expressed that he had really wanted to see Team Elite be disqualified from running, that he was very disappointed that the Election Board had not disqualified them because it messed up Team Green’s strategy, that he was frustrated with his teammate ██████████ action of having posted the picture of his “web advisor” page [i.e., the tool through which students vote] to his Instagram account, and that he was frustrated with the Election Board’s decision to not punish Team Elite even though they had created many posts of campaign materials to their personal Instagram stories.

⁸ The Investigator was shown a screenshot of ██████████ post which included a screenshot of his Web Advisor page and the words “I’m so fucking excited,” but which did not mention that ██████████ was running for office or which office he was seeking.

⁹ In current [2019] slang, saying one “has tea” on someone else indicates that the speaker has gossip or inside information about the other person.

After that discussion, ██████████ indicated that she felt Team Green was basically out to get her team and out to win the election in any way it could. ██████████ indicated that she told her team about the meeting on April 23, 2019, and what ██████████ told her about ██████████ comments. She also stated that she warned her team to be extra careful and, on their toes, because Team Green members may be mad.

Campaign Assistance

When asked whether ██████████ ever did anything or said anything to her to assist Team Elite, ██████████ indicated that the students on Team Elite “definitely confide in her,” and that she calls ██████████ ██████████” ██████████ also stated that she ran the idea of doing the Protest by BSU advisor and Black Alliance Co-leader ██████████ who said it was OK. ██████████ also indicated that both ██████████ and ██████████ made donations of some sort to Team Elite.

When asked whether ██████████ had any role in or took any action related to the Spring 2019 ASO election, ██████████ stated, “I know that she, like, donated money and things like that for us to get things”¹⁰

Team Elite Grievance Alleging Team Green Candidate(s) “Mocked” Team Elite

██████████ stated that on Thursday, April 25, 2019, just two days after the election board meeting on April 23, 2019, she received “two text messages” alleging that the author had heard ██████ Loa comment in the cubicles about Team Elite being an “all-Black team. ██████████ indicated that two additional witnesses also came forward, at least to some degree, within the next day or two. ██████████ indicated that in the end, she only knew the identity of two of the four witnesses.

When asked what rule was broken that would lead to ██████████ disqualification, ██████████ stated that the Election Code prohibits “any type of slander” and that disqualification or disciplinary actions would be taken” if slander occurred. When asked to identify the slanderous statement, ██████████ stated, “He was ... mocking us for being an all-Black team and whatever entails of that,” indicating that the generalized notion of the slanderous statement was that ██████████ had “mocked Team Elite.” Although ██████████ anticipated that during the hearing at least one of the witnesses would specify the specific statements they heard ██████████ say, none did.

Anonymous Witness #1: ██████████

██████████ stated that her friend ██████████ sent her the first text message, wherein “she basically told me that she heard [██████████] mock us for being an all-Black team.” During the interview ██████████ showed the entire text conversation on her phone, and she forwarded screen shots of that full conversation to the Investigator, which conversation included a number of issues not verbally reported by ██████████ (See Exhibit 26, Text Chain between ██████████ and ██████████ – Transcribed & Original Screenshots, dated April 25, 2019.) In the text exchange provided, ██████████ complained that, behind ██████████ back, ██████████ ██████████ and others were “talking so much shit about you that it’s fucking annoying!” ██████████ also indicated that she heard statements that Team Elite “basically think[s] you have no chance of winning and they like ... mock you all the time....” ██████████ also indicated that ██████████ “mocks you guys for calling yourselves the first all-Black team,” and that “It’s mostly ██████████

¹⁰ The Investigator did not receive any documentation or other indication of Team Elite having reported or accounted for such donations.

mocking you, but they both laugh at it like it's both funny and true" that Team Elite has no chance to win the election. (Id.) In the text chain, [REDACTED] and [REDACTED] also "mocked" [REDACTED] in relation to his [REDACTED] and [REDACTED] acknowledged having previously stated, [REDACTED] has 5 kids and he should focus on them." (Id.)

Also in this text exchange, [REDACTED] indicated that she was a little sad, a little confused, and angry about [REDACTED] alleged conduct, as demonstrated by her responses to [REDACTED] that:

[REDACTED] and his ugly ass basic team can [angry/cussing emoji] [angry/cussing emoji] [angry emoji] ... Like what do you gain[?] [M]y team literally never says shit[.] They literally campaign and they're the ones to tell me to chill out[.] [W]e (sic) always just been honest[.] [L]ike we don't sit in groups and talk shit[.] [L]ike why are they so threatened[?] **All of them are on my hit list[.] [I]f I can get them disqualified, I will – period.**

(See Exhibit 26, Transcript, p. 3; Exhibit 26, Screenshots, pp. 7-8.)

[REDACTED] indicated that she forwarded portions of [REDACTED] text to Team Elite and asked how they wanted to respond. The general consensus, she indicated, was that they felt it was a "he said, she said" situation, so they did not want to say anything about it. [REDACTED] indicated that when she subsequently spoke to [REDACTED] about her allegation, [REDACTED] told her that she overheard the comment from [REDACTED] and, probably, [REDACTED] and [REDACTED] coming from the ASO cubicles area after class one day. [REDACTED] indicated that [REDACTED] also described hearing [REDACTED] using a sarcastic voice to impersonate people on Team Elite, saying something to the effect of, "I'm running for ASO on an all-Black team." [REDACTED] indicated that [REDACTED] also told her that she heard [REDACTED] saying words to the effect of, "[Just] because you're [an] all-Black [team] doesn't mean you're going to win. Like, you're not going to win. You're all-Black on this campus." [REDACTED] understood [REDACTED] to be describing [REDACTED] comment as meaning "You're not going to win, and the reason you're not going to win is because your team is all Black."

When asked about the state of the relationship between [REDACTED] and [REDACTED] [REDACTED] laughed and described it as being "fake." She indicated that as an example, [REDACTED] smiles in people's faces but then goes behind their backs and talks poorly about them. [REDACTED] also stated that [REDACTED] received "a lot of hate from people within PTK" and she was forced to try to "be cool" with them. When asked why, [REDACTED] stated that [REDACTED] had something of a hard time getting along with others. [REDACTED] stated that while she personally "loves" [REDACTED] [REDACTED] for others [REDACTED] "is an acquired taste."

Anonymous Witness #2

[REDACTED] stated that an hour after she sent [REDACTED] text to her teammates, she received a text from an "anonymous" address" which also made allegations about [REDACTED] According to [REDACTED] this person reported, "I've heard [REDACTED] say stuff in his cubicle about you guys being an all-Black team." [REDACTED] indicated that she replied to Anonymous Witness #2 and asked if they would be okay with being a witness, but Anonymous Witness #2 responded, "No. I'm not comfortable with being a witness." [REDACTED] indicated that she did not push the witness to tell her why or change his/her mind and that she never knew this witness' identity.

During her interview, [REDACTED] pulled up a screenshot of this message, but the screenshot had

the sender's information redacted. ██████ stated, "The account is deleted now ... and all the messages from it is (sic) deleted, so I only have that [one] screenshot now." When asked for more information about the message, ██████ stated that the message came to her through Facebook Messenger and that the username that appeared in the Message was "SWC Anonymous 1023," or a similar name using different numbers.

██████ indicated that she sent the message from Anonymous Witness #2 to Team Elite and asked what they wanted to do now. She stated that her team replied that they wanted to report it, she immediately sent a screenshot of ██████ text and Anonymous Witness #2's Message to ██████ and to ██████

██████ indicated that she never asked ██████ or anyone else if they knew the identity of the anonymous witness, and she never learned the identity because the message came to her from a Facebook account that did not have an attached identity. ██████ indicated that after the hearing on Team Elite's grievance on April 29, 2019, she messaged Anonymous Witness #2 and requested a phone call so that they could discuss what Anonymous had observed, but that Anonymous declined. She also indicated that she told Anonymous Witness #2 that ██████ and ██████ had asked for a witness statement, and asked if Anonymous Witness #2 could email one, to which Anonymous Witness #2 responded "Oh no, I won't email it to you. I'll just send it to you, like a screenshot of what I want to say." ██████ further stated that she provided ██████ and ██████ the content that she received from Anonymous Witness #2 (and from ██████ in response to the requests that each provide a "statement" to the Election Board, since at that time both witnesses were still requesting anonymity.

██████ also stated that when the issues became well-known (through the meeting on May 2, 2019), Anonymous Witness #2 deleted their entire conversation from Facebook Messenger, rendering ██████ unable to contact him or her for further follow up. ██████ stated that she "thought it was all shady" because Anonymous Witness #2 snatched back the conversation from ██████ by deleting it from Facebook Messenger. When asked whether the messages were retained in her own phone, ██████ stated, "Yeah, but I just thought – I just left it alone. ... it was just so fishy, so I deleted the thread and I was just like, 'Whatever.'"

Witness 3: ██████

██████ indicated that the third witness, student ██████ approached Team Elite member ██████ during a diversity training that the Black Alliance was presenting sometime after the hearing on Team Elite's grievance concerning ██████ on April 29, 2019. She indicated that ██████ told ██████ that she once was in the ABLE Club cubicle and heard ██████ say something from a different area of the cubicles that caused her to think to herself, "Why would you say that?" However, according to ██████ ██████ told ██████ that she did not remember what ██████ said that led her to ask herself that question.

██████ indicated that ██████ told her what ██████ said to her at the diversity training regarding ██████ and that her response to ██████ was that she should report whatever she knew to ██████

Witness 4: Unidentified Student (via ██████ and ██████)

██████ indicated that sometime after Team Elite's protest on May 1, 2019, she heard about a fourth witness who allegedly stated words to the effect of "that they heard ██████ ██████ saying something" about Team Elite. However, she stated that she never learned this person's identity.

Additionally, ██████ explained that Team Elite members ██████ ██████ and ██████ all were in a class that was also attended by a female student named ██████. ██████ indicated that someone sent a screenshot of something to ██████ who forwarded that screenshot to ██████ ██████ and/or ██████ sometime after the protest, and that one of them showed the screenshot to her. ██████ did not describe the content of the screenshot, and she indicated that she did not know the identity of the person(s) shown.

April 29, 2019: Election Board Meeting on Team Elite Grievance

██████ indicated that she learned at some point during the night of Sunday, April 28, 2019, that the Election Board would be meeting the next day (April 29) concerning Team Elite’s grievance (“the Grievance”). ██████ stated that ██████ ██████ ran the meeting on April 29, 2019, with ██████ ██████ advising. The only people she remembered as being present in this meeting were members of Team Green and Team Elite, ██████ ██████ ██████ ██████ ██████ ██████ ██████ ██████ ██████ and the Election Board. She stated that some additional people may have entered toward the end of the meeting.

██████ indicated that almost immediately after the election board meeting began, ██████ ██████ the Student Trustee member of the District’s Board of Trustees, “tried to shut the meeting down” by saying the Agenda had not been posted at least 24 hours in advance of the meeting. According to ██████ ██████ ██████ replied that every member of Team Elite, all members of Team Green, and the Student Trustee were present and ██████ had the witness statements, so there was “no point” in trying to postpone the meeting. When ██████ ██████ objected again, saying that the meeting was being held in violation of the ASO Constitution and was “illegal,” ██████ stated that everyone was present, that Election Board meetings do not need to follow the same rules that other ASO meetings must follow, and that the important thing was that everyone was present – so the meeting would proceed because time is of the essence.

At one point, ██████ stated that ██████ ██████ [██████ was doing the same thing” as ██████ but she gave no further information concerning ██████ conduct in that meeting. ██████ stated that the meeting proceeded with a reading of the witness statements, and then it was “kind of tense because Rudolph was ... essentially accusing me of lying” by stating that the witness statements had not been substantiated. She indicated that ██████ ██████ was saying, “If there’s camera proof, go get the camera proof from the police, file a police report. But if you’re lying [in a police report] that’s a misdemeanor.” ██████ indicated that she felt that ██████ words and tone were disrespectful.

██████ indicated that ██████ was largely quiet during the meeting and he never denied having made the statement(s) attributed to him in the grievance. She also indicated that he made a statement to the effect that if people want to accuse him of mocking Team Elite for being an all-Black team, those people “should be able to come into this room and point at me and say that I said that.” However, ██████ indicated that she wanted to protect ██████ identity, because people in ASO already did not really like ██████ and she was concerned that there would be backlash if ██████ was publicly identified.

██████ stated that ██████ defended his team ‘really hard.’ She indicated that ██████ talked about the diversity of Team Green and ██████ ██████ ██████ ██████ ██████. ██████ indicated that he was taking

Team Elite's grievance as Team Elite coming after him and his personal integrity, when she saw the grievance as only "going after" [REDACTED]

[REDACTED] remembered that one comment that [REDACTED] made "didn't sit well with our team," which was when he said something that began with, "I don't know about you people" or something similar that included "you people." [REDACTED] indicated that she understands the use of the phrase "you people" to be a reference to Black people as different due to their skin color, and that some people on Team Elite started to indicate they didn't like hearing him use that phrase. Upon seeing that, [REDACTED] said, "I don't mean 'you people' like that" and said that he meant "you guys." [REDACTED] indicated that even though he tried to correct the statement, hearing [REDACTED] use the phrase "you people" in reference to Team Elite made her feel "weird" in an unpleasant way. [REDACTED] also indicated that [REDACTED] made a statement about making a false police report and it being a misdemeanor, which led her to feel "irritated."

[REDACTED] further stated that she did not know before the Election Board meeting of April 29, 2019, that [REDACTED] and [REDACTED] both were listed on the official form as being Team Green "campaign staff." [REDACTED] further stated that while it is not stated expressly in the ASO Constitution, she believes that by virtue of the fact that they are elected officials, the [REDACTED] and [REDACTED] should maintain neutrality between the candidates in an ASO election. When asked about Team Elite's form designating its own campaign staff, [REDACTED] indicated that her team "did not get the chance to fill one out," but that members of the Black Student Union and of Soul Sisters were going to help campaign for them.

[REDACTED] indicated that the meeting of April 29, 2019, concluded with [REDACTED] deciding that the witnesses cited in Team Elite's complaint needed to meet with him so that he could evaluate credibility and so that he could ask questions about things that the witness statements omitted, such as specific times, places, etc. She stated that at the end of the meeting, people were not respecting the witnesses' requests for anonymity and that members of Team Green were upset about [REDACTED] meeting with the witnesses instead of requiring witnesses to come state their information live in an election board meeting. However, [REDACTED] indicated that she thought [REDACTED] decision that he would meet with and question any witnesses was very fair, because he asked the people on Team Green's side what information they wanted him to find out from the witnesses.

[REDACTED] indicated that after the meeting, [REDACTED] contacted both Witness #1 [REDACTED] and Anonymous Witness #2, asking them to meet with [REDACTED] the next day. [REDACTED] agreed, but Anonymous Witness #2 refused to meet and instead sent another typed written statement. [REDACTED] indicated that after the election board meeting concluded on April 29, 2019, members of Team Elite felt that the entire topic should have been handled that day based on a belief that the matter would have been resolved within 24-hours if Team Green had been the party accused of making racist statements.

[REDACTED] indicated that the next steps were supposed to be for her to contact the two witnesses and request that they meet with [REDACTED] for an interview the next day (April 30, 2019). She indicated that [REDACTED] would interview the witnesses and the Candidate Forum would occur on April 30th, and that the Election Board would reconvene on May 1, 2019, to receive the additional information and to make a decision on the Grievance. However, [REDACTED] indicated, the Agenda for the meeting on May 1, 2019, was again was not posted at least 24 hours ahead of the meeting's start time, and as a result [REDACTED] sent an email to [REDACTED] and many others, complaining about this repeated problem.

Events of April 30, 2019

██████████ indicated that on April 30, 2019, ██████████ was supposed to be gathering the additional information from the grievance witnesses. Then a Candidates Forum was to be held, and then a second meeting on Team Elite's Grievance was to be held on Wednesday, May 1, 2018. However, because the Agenda for the election board meeting was not posted at least 24 hours before that meeting's posted start time on May 1, 2019, Trustee Villegas emailed ██████████ regarding the failure of the ██████████ to adhere to the ASO Constitution on this issue.

██████████ also stated that ██████████ who works in the ASO office and is a member of the Black Alliance, and another employee named ██████████ ██████████ who is also a Black Alliance member, attended the Candidate's forum on April 30, 2019. ██████████ stated that ██████████ told her that meetings of the election board are considered to be meetings of an "ad hoc" committee of the ASO, so the requirement to post an agenda at least 24 hours before the meeting's start time did not apply.

Events of May 1, 2019

██████████ indicated that Team Elite held a protest from 11:00 to 11:35 a.m. on May 1, 2019, because she felt that, if the roles were reversed so that it was non-Black students pursuing a grievance, the Election Board meeting to hear the grievance would not have been postponed. She indicated that she checked with Black Alliance members ██████████ and ██████████ regarding holding a protest. ██████████ indicated that ██████████ informed her that she was allowed to protest, and that ██████████ said that she should protest because the subject of the protest was something out of their control.

██████████ also stated that ██████████ advised her against meeting with ██████████ and ██████████ before the scheduled protest. According to ██████████

██████████ said that it was just weird that we're having a meeting at 10:00 and then we have a protest at 11:00. We didn't know, like, what they really wanted to talk to me about ... and I didn't want to be talked out of ... doing the protest, because ... ██████████ and the Black Alliance felt like I should go through with it [the protest] and I felt that too.

When asked whether ██████████ told ██████████ why she thought she should not meet with ██████████ ██████████ replied,

... because ██████████ didn't want the protest to be cancelled. ██████████ didn't want me to get talked out of ... doing the protest.

██████████ indicated that during the protest, she was told to elaborate more on what had been happening to them on campus, so she talked about things that happened during the Fall 2018 semester in addition to things that occurred during the election. When asked who specifically told her to elaborate more, she stated, "Um, just, like, people, like – like my team around me, just, like, Black Alliance around me..." She did not remember who said it, but she did remember saying on the megaphone, "this organization is racist," at which point someone told her, "Why is it racist?" which led her to talk about administration and scholarships.

██████████ stated that she commented that there are racist professors because, "throughout the semester, we've heard, like, how the [White, female] women's history professor, like, called the

police on one of the students and would purposely, like, pick on them.” She also asserted that “students on this campus are being mistreated by professors,” but she did not elaborate.

██████████ stated that her teammate ██████████ spoke about how he was racially profiled, and about how a White professor approached him and some other students and asked them if they were part of the athletic club. To Mr. Adkins, she reported, the professor’s question indicated the existence of an assumption that whenever a Black student is on the SWC camps, it is because the student is an athlete.

██████████ said that ██████████ approached her at least twice during the protest to tell her what to not say. ██████████ recalled, “I was announcing during the protest that I was running for ASO presidency. I was like, ██████████.” Eventually, she indicated, ██████████ “came up to me and [said], ‘I’m listening to what’s going [on], and I wanted to let you know that they’re trying to tell ██████████ that you ██████████, like, this isn’t a protest, ██████████’” ██████████ indicated that ██████████ approached her and said something similar, before ██████████ approached her for a second time during the protest, ██████████. ██████████ indicated that their comments along those lines were frustrating to her.

██████████ indicated that she felt frustrated at being told that Team Green was looking at the Constitution ██████████. Eventually, she indicated, she turned around and yelled at Team Green through the megaphone, “You can keep trying to get us disqualified but it ain’t going to happen. Keep hating. Keep hating on us.”

██████████ stated that ██████████ told her that Team Green members were characterizing her protest comments, wherein she identified herself as being Team Elite’s ██████████, “not lobbying or protesting, and therefore was against the rules. ██████████ stated,

I was told that ██████████ [██████████] ... told them that [I was] just announcing who [I am] so it’s okay that [I’m] doing that. But they were like looking through the election code to see if there was something that they could get me in trouble for.

██████████ also stated that on May 1, 2019, ██████████ held an “emergency meeting” with the Black Alliance and Team Elite, during which ██████████ “basically asked ... my team did we want the elections to be cancelled.” ██████████ indicated that her team deliberated about it for a little while and then told ██████████ that yes, they did want the elections to be cancelled. In return, she indicated, ██████████ told Team Elite that she had an inclination to cancel the elections but that she did not say whether she would do so. Furthermore, she indicated, ██████████ told Team Elite that they should “still go to the Election Board meeting ... no matter what happens ... to get closure” on Team Elite’s Grievance concerning ██████████

Later on May 1, 2109, ██████████ indicated, student ██████████ approached her and, while crying, asked ██████████ why “would [she] say that the ASO is racist, and why would she say that I [██████████] personally] am racist?” ██████████ indicated that she told ██████████ that she was not saying that ██████████ individually was racist, but rather that the institution itself was racist. ██████████ indicated that ██████████ “was crying hysterically,” which she found to be very “annoying.”

Advance Knowledge of *swccharterinsomaliland* Instagram Account

██████████ stated that she was aware of the *swccharterinsomaliland* Instagram account before the protest occurred on May 1, 2019, because the account had followed Team Elite's own Instagram account and someone who had access to Team Elite's Instagram account had followed the *Somaliland* Account back. She stated that since all members of Team Elite logged into their team's Instagram account the same way, she did not know who had followed *swccharterinsomaliland* back.

██████████ indicated that she personally knew about the *swccharterinsomaliland* Instagram Account for about a week before it posted the Team Elite protest footage on May 1, 2019. She also remembered having scrolled through that account's posts and thinking, "Who the heck is this person ... posting Black people with clown noses ... [and other] weird stuff?"

██████████ stated she had noticed *swccharterinsomaliland's* Instagram posts popping up occasionally, but that she had noticed one post in particular: the [re-]post of a SWC poster advertising a Latinx / African American event, because the caption on that photo was something indicating that Latinx people do not like to be compared to Black people because they are "dogs." ██████████ stated that she thought to herself when she saw that post, "I don't know who this person is, but ... they're posting to be a black student on campus," and then she just assumed that the account holder was "some radical black person..." ██████████ indicated that although she thought the accounts posts were "weird," it never occurred to her to unfollow the account.

██████████ indicated that she saw the post of part of the May 1, 2019 protest on the Somaliland account, so she messaged the account-holder and asked for the post or part of it to be taken down [or revised], but she did not receive a response.

██████████ also stated that she figured out that ██████████ is the person from BSU who followed the *swccharterinsomaliland* Instagram Account, because he is the only person from BSU ██████████.

Election Board Meeting of May 2, 2019

██████████ indicated that this election board meeting began with ██████████ or ██████████ stating that additional evidence had been gathered, and that the purpose of the meeting was for them to share that additional evidence, after which the Election Board would make a decision on Team Elite's Grievance. ██████████ indicated that neither team was permitted to make any statement at the outset of this meeting. Instead, she indicated, ██████████ read the allegations in Team Elite's Grievance, after which she read aloud the written statements from Anonymous Witness #1, i.e. ██████████ and Anonymous Witness #2, regarding whom ██████████ indicated that she had by then concluded was a "fake witness." ██████████ also stated that during the election board meeting on May 2, 2019, ██████████ statement(s) were not read aloud (as the witness statements against him had been read aloud), nor was her own team provided an opportunity to make any statements.

██████████ stated that after ██████████ reviewed the allegations and the witness statements, ██████████ essentially did the same thing before asking ██████████ to make a statement to the Election Board. ██████████ indicated that ██████████ became very upset when ██████████ "put her on the spot" by asking her to make a verbal statement and asked why he could not just read her statement as had been done for the other witnesses. ██████████ then read aloud what he said was ██████████ written statement, after which everyone was asked to leave

the room so the Election Board could deliberate.

██████████ stated that she did not remember being asked any questions during the meeting by the Election Board. She also stated that she was very upset during the meeting because ██████████ had informed her that when ██████████ ██████████ and ██████████ had interviewed her, they had talked about “how they felt bad for ██████████ ... because he was a student, and that they were considering just making him do a public apology...” ██████████ stated that she was so upset by this news that she had been “shaking” during the meeting, to the point that ██████████ “had to” hold her hand. ██████████ continued, “they knew already that we didn’t want a public apology [because] ... during the protest, I said a public apology isn’t enough. Disqualifications need to happen.” ██████████ also indicated that at a meeting between the governing board and the Black Alliance on April 29 or 30, 2019, there had been discussion that the college was “supposed to move toward a no tolerance policy of racism on campus,” so she was hoping that ██████████ would be disqualified from running based on that no tolerance policy.

██████████ indicated that she felt irritated that ██████████ ██████████ and some other students opted to remain in the room during the Election Board’s deliberations. She indicated that she felt it was disrespectful for them to remain in the meeting room since everyone had been asked to leave. ██████████ also stated that she felt like their remaining in the room during deliberations was putting “pressure” on the persons deliberating. ██████████ then stated that she went “off the edge” in relation to her telling Team Green that she thought they should not be in the meeting room during deliberations. She indicated that when she saw Team Green’s candidate for president re-enter the meeting room, she followed and told the Team Green people in the room that she felt they were “not respecting the process” by sitting in the room during deliberations and that she thought they should not be in the room. She further indicated that ██████████ responded by saying that she had “every right to be in the room as well,” after which they went back and forth a little bit until a ██████████ facilitator approached them and asked them all to leave.

██████████ indicated that she waited outside for at least thirty minutes before being called back in to the meeting room. During that time, she talked to the student newspaper, talked with others, and addressed Team Green as noted above. She also stated that ██████████ was escorted out of the room during deliberations because ██████████. ██████████ stated that since ██████████ ██████████ after the election board meeting on April 29, 2019, she believed that ██████████ ██████████ during the meeting on May 2, 2019, due to there being “a lot of pressure.”

Once the meeting attendees had reassembled in the meeting room, indicated ██████████ another student announced the Election Board’s decision since ██████████ was not in the room. ██████████ then stated:

When the student “announced, uh, that it was a public apology, the room kind of went quiet, and I was the first one to say, “Are you kidding me? ... Are you proud of failing us? ... [and] The ASO is a fucking joke.” And yeah, I was like really upset. ██████████ whispered in my ear and she was like, “stop.” She was like, “Stop acting up. Calm down.” I was like, “Okay.” So then after they announced the results of -- I don’t remember -- after they announced the results ██████████ literally clapped his hands and he was like, “Yes.” And I was like -- I was so -- was just so upset. I was so upset like I started crying.

At this point, ██████████ recalled, ██████████ raised her hand for the microphone to speak.

[T]hat's when [REDACTED] exposed the other team, um, members of that ... no she exposed the Instagram page, and she said, "This is the Instagram page, the **swccharterinsomaliland** account. ... I stayed up all night ... investigating what happened ... and we have proof that it was someone from that team [indicating Team Green] that recorded the videos and was posting this."

At that point, stated [REDACTED] [REDACTED] told [REDACTED] the president of BSU, to name those people from Team Green whom, she asserted, recorded and posted the video at issue on the Instagram Account. [REDACTED] stated that [REDACTED] identified those individuals as being [REDACTED] [REDACTED] and two other people. [REDACTED] further indicated that [REDACTED] then "put down" a pile of printed packets that she brought to the meeting on either side of her, which then were passed around the room. While the packets were being passed around, she indicated, [REDACTED] "told them [the Election Board] why disqualification, like, needed to happen."

[REDACTED] stated that she did not know about the Instagram post before the meeting on May 2, 2019, and that she felt irritated that [REDACTED] raised the issue there because she would have liked to have included it in her grievance. [REDACTED] indicated that she thought she may have been able to get several members of Team Green disqualified through the grievance process if the material had been presented as a grievance instead of being presented as random information during the election board meeting and causing an "eruption."

When asked why the Instagram post discussed by [REDACTED] was relevant to Team Elite's Grievance, [REDACTED] stated, "... not only was it inciting violence, but it was someone from that team..." When asked how she knew that the Instagram post had been created by someone on Team Green, [REDACTED] made conclusive statements that [REDACTED] – whoever was running that [**swccharterinsomaliland**] account with those four people that were accused of running that account ... recorded a video, and ... [REDACTED] had, like, time stamps ..." [REDACTED] also stated that [REDACTED] recording of the protest showed four people from or associated with team Green standing in the location at which [REDACTED] believed the video posted on the Internet account had been recorded.

According to [REDACTED] [REDACTED] spoke for approximately five minutes during this meeting. She stated that [REDACTED] voice was not shouting or screaming, but that she sounded "mad," and that "you could hear the anger in her voice" as she was "laying down the facts." [REDACTED] said that she felt [REDACTED] tone of voice was not an "attack" tone, but it expressed that she was "mad." [REDACTED] stated that she felt that [REDACTED] comments during the meeting were appropriate for that setting, but she also indicated that her opinion would change if it turned out that the account was not something done by any of the four indicated students.

According to [REDACTED] after [REDACTED] spoke for those five minutes, "the room was in an uproar." [REDACTED] continued, stating, "... people were crying, I was crying, people ... were just upset." "I remember watching [REDACTED]" said [REDACTED] "[He] was ... shaking from head to toe because he was [REDACTED]."

From that point, indicated [REDACTED] [REDACTED] tried to mediate a whole-room conversation by passing the microphone. [REDACTED] stated that she really wanted to speak during this portion of the meeting, but nobody would give her the microphone. She never got to speak because [REDACTED] entered the room and ended the meeting. [REDACTED] indicated that they heard [REDACTED] say something to the effect of "enough is enough," and then:

...all the Black people stood up, and we were trying to leave and I remember two

police officers came into the room while we all stood up. And we were trying to leave but ... someone was literally ... blocking us off so we [couldn't] leave, because [REDACTED] was – [REDACTED] – [were] asking us to stay.

Regarding the police presence, [REDACTED] stated that some police had been walking around outside the meeting before they entered the room. She also remembered that someone told her that [REDACTED] had requested the police presence because the Instagram post was “inciting violence and [the account-holder was] posing to be a Black student, and we [were] about to have a room full of Black students....”

[REDACTED] indicated that she left the room about ten minutes before the meeting really concluded, as did many other Black people, when someone “finally moved their legs.” [REDACTED] indicated that she and others who left the room stood outside of the ASO building for about ten minutes, during which “everyone was crying.”

[REDACTED] stated that she spent the time outside in talking with others, calming down, watching others cry, and thinking to herself, “Is this what it means to be Black, to get an education at a racist institution?” She also stated that she watched [REDACTED] cry, “because during the meeting the [REDACTED] told [REDACTED] ... that she was in trouble for talking to the students, talking to Team Green, and, like, releasing the Instagram posts.” [REDACTED] continued, stating, “I know that was a huge reason why [REDACTED] was crying, and she was telling me, like, ‘I could lose my job because I decided to – because I decided to defend you guys in there.’” [REDACTED] statement left [REDACTED] feeling “so upset, like ‘What do you mean you’re going to lose your job?’”

[REDACTED] also recounted [REDACTED] telling her, outside of the meeting room:

I don't know if I'm going to lose my job, but I'm definitely going to get in trouble and because I decided to defend you guys. But I'd rather sit here and defend you guys a hundred times over than sit there and watch injustices happen.

[REDACTED] also stated Team Green's [REDACTED] tried to talk with her, but as he said her name, she put her hand up to him and said, “Don't talk to me.” She indicated that he then approached [REDACTED] who later told [REDACTED] that during that conversation [REDACTED] “called you a liar,” showed [REDACTED] the receipt for the microwave and coffee maker to prove that the ASO had not spent \$6,000.00 on them, and said that [REDACTED] “was a bad senator....”

At some point, [REDACTED] indicated [REDACTED] the [REDACTED] asked to talk with Team Elite members with no others present. During that meeting, the students talked about their unsettled feeling and what they wanted, moving forward. [REDACTED] indicated that she was concerned at the time because [REDACTED].

[REDACTED] indicated that she cried throughout the night of May 2, 2019, as well as the next morning. She also stated that she had an anxiety attack on May 3, 2019, as she was walking on campus to meet with the [REDACTED], because she “did not know how to process racism like this,” referencing “knowing further information about the Instagram Account.” She stated, “This [was] way beyond someone mocking us for being an all-Black team. Like, we could have been in danger because of the fact that they decided to make posts like that.” Additionally, [REDACTED] indicated that the *swccharterinsomaliland* Instagram Account was taken down immediately after the election board meeting on May 2, 2019. She stated, “it was just

kind of funny because, well, we already have all the screenshots, so it's, like, too late now to try and delete it, but we know that someone was definitely in that room who decided ... to delete that account."

██████████ also stated "it is a fact" that the Instagram Account had a different user name at some point before May 2019, because, she heard, someone contacted Instagram and was told that "Instagram couldn't release the name before it was changed ... since there was (sic) no actual threats." Based on that and the idea that BSU and others would not have "followed" or "liked" anything posted to the account if it was named *swccharterinsomaliland*, ██████████ indicated that [she believes] the name definitely was changed at some point.

Social Media Post by ██████████ After Meeting on May 2, 2019

██████████ indicated that directly after the election board meeting ended on May 2, 2019, ██████████ posted a picture with a caption on Instagram. The language of the caption included the words, "Real leaders work hard to achieve their goals." (See Exhibit 47, Instagram Post by J. ██████████ dated May 2, 2019.) ██████████ also indicated that sometime later that day, ██████████ also posted on his Instagram Story a picture of the ASO microwave, which upset her. She stated that she felt like, "So this is how you reply to a protest? This is how the AOS decides to respond to a protest?"

██████████ did not indicate that she had any understanding on May 2, 2019, continuing through her interview on May 13, 2019, of the possibility that the allegations that ██████████ made and she echoed against members of Team Green might be incorrect or how the subsequent actions of Team Green members might be affected by any allegations inaccurately lodged against them.

Advisors' Meeting on May 6, 2019

██████████ indicated that at a meeting of the advisors held on or about May 6, 2019, SWC administrator ██████████ distributed copies of a statement from Team Green to the other advisors present. According to ██████████ that document "literally was inciting that ██████████ [██████████ and ██████████] provided an unsafe environment when [they] confronted those students." ██████████ who stated that she did not attend that advisors' meeting, indicated that ██████████ distributing Team Green's written statement endangered the jobs of ██████████ and ██████████ and that "[██████████ and ██████████] did get checked for that." She continued, saying that it was "not okay" for ██████████ to also distribute Team Green's statement during ██████████ May 8, 2019, meeting to address why she had "cancelled" the elections. Furthermore, ██████████ stated that ██████████ never talked to anyone on Team Elite or asked if Team Elite had a written statement to be distributed.

Letter to ██████████

██████████ indicated that during the week after the election board meeting of May 2, 2019, Team Green and Team Elite were supposed to meet each day between Monday, May 6, 2019, through Wednesday, May 8, 2019, and that her team showed up for the meetings but Team Green did not.

██████████ indicated that ██████████ told her that ██████████ the Director of Student Equity and Inclusion, went to an advisors' meeting during the week of May 6, 2019, to which ██████████ brought and passed out written "statements" from the Green Team that "literally w[ere indicating] that ██████████ and ██████████ [██████████] provided an unsafe environment [i.e.,

during the election board meeting of May 2, 2019] when she (sic) confronted those students.” [REDACTED] [REDACTED] also indicated that [REDACTED] also told her that [REDACTED] then went to [REDACTED] meeting,” at which she publicly announced the statement.

[REDACTED] said that she was “so heated” regarding [REDACTED] because [she believes that] [REDACTED] [REDACTED] “reached out to the Green Team” but did not reach out to Team Elite. Another reason for her high emotional state, she indicated, was that [REDACTED] “pass[ed] out [Team Green’s] statements to try to get [REDACTED] and [REDACTED] fired,” yet [REDACTED] had not asked Team Elite if it had any statement(s) that she could distribute.

[REDACTED] indicated that on May 10, 2019, she personally delivered a letter to [REDACTED] expressing her displeasure. She indicated that she also emailed the text of that letter to [REDACTED] Vice President of Academic Services [REDACTED] ([REDACTED] direct supervisor), and SWC [REDACTED] and that she was going to deliver it to members of the Board of Trustees at a meeting that afternoon.

[REDACTED] letter stated in full:

You, as the [REDACTED] (sic), have not lived up to your name; you haven’t been inclusive of our narration to the story.

We believe, that you, [REDACTED] have to be a neutral arbitrary. You are not inclusive of the black voices on campus, specifically of Team Elite. We also believe that you have not been equitable in support or advocacy. You have failed to reach out to us from your office or find a way to support us as students.

Furthermore, we have noticed you’ve enter (sic) multiple meetings with statements and testimonies from Team Green that are not factual. We feel disrespected, unwelcomed, dismissed and maligned by your office and your actions that haven’t been inclusive to our narrative and have only provided information on Team Green’s side of the story.

We believe your actions have perpetrated and propagated our culture of division amongst us as students. Again, this is evident on account of you entering numerous meetings with only the statement from Team Green. We believe you inserted yourself in this process and it’s counterproductive to the mission of this college and the charge of this institution.

We respectfully ask you to consider your actions of advocacy for the oppressed and victimized students trying to create change at Southwestern College. You played the role of instigator as opposed to a neutral arbitrary and you have inflamed the Black and Brown students.

Since you are not being inclusive of our story, you are participating in anti-Black messages and the defamation of Team Elite, the first all-Black team running for ASO. Because you continue to defame and propagate false statements against us, we do not feel safe nor welcomed by you.

Not only have you aided in the spread of false accusations against Team Elite and Black faculty, but you also were a follower of the defamating (sic) Instagram account that threatened the lives of us Black students. You are not a (sic) effective

[REDACTED] (sic) because you are not equitable or inclusive.

In fact, we feel alienated by you.

Signed,
Team Elite

Miscellaneous

Regarding the ASO being disrespectful or rude to her or members of the Black community, the only person [REDACTED] identified was [REDACTED]. When asked specifically whether [REDACTED] [REDACTED] anyone on the Election Board, or anyone who was acting on behalf of the District had been rude or disrespectful to her or anyone on her team, [REDACTED] indicated that they had not been rude to.

[REDACTED] stated that she decided to involve The Sun in election events, that she “confided” to its editor-in-chief during the election season, and that she had invited The Sun to attend one of the meetings.

Witness Demeanor and Credibility

[REDACTED] was generally a forthcoming witness and able to answer most questions. She presented as a sensitive, earnest, and smart young woman who was willing to take on leadership roles and some level of risk. It also appeared that this witness was motivated in large part by her emotions, that she was focused more on her own strong sense of fairness than on the applicable rules, and that she sometimes acted before fully researching or considering the situation at hand.

It was clear to this Investigator that [REDACTED] often reported as truths things that others told her, and that at times she edited her responses as she spoke in an effort to not implicate [REDACTED] in the act being discussed. It also was abundantly clear that [REDACTED] feels a strong affinity for and connection with both [REDACTED] and [REDACTED]. It was also apparent to the Investigator based on her statements and demeanor during the interview and statements made by other witnesses that [REDACTED] knew the identity of Anonymous Witness #2, even though she denied having that knowledge.

6) [REDACTED]

Background

Ms. [REDACTED] was interviewed at District offices on May 16, 2019. Also present was her union representative, Robert Shaffer. [REDACTED] indicated that she has been employed with the District for two and a half years and is currently a full-time, tenure-track faculty member in the College’s biology department. [REDACTED] stated that she [REDACTED] and that she [REDACTED]. [REDACTED] stated that before [REDACTED].

[REDACTED] indicated that she [REDACTED] and a [REDACTED]

[REDACTED] She stated that [REDACTED]
[REDACTED]
[REDACTED]. [REDACTED] described UMOJA as a Learning Community designed to emphasize African-American, or Black, culture. At the time of [REDACTED] interview, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Regarding how her [REDACTED]
[REDACTED]
[REDACTED].

Leadership Roles and other Involvement with College Clubs & Organizations

[REDACTED] stated that although she has [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] indicated that [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] stated that she [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED].

In addition to the roles described above, [REDACTED]
[REDACTED]
[REDACTED]

Racial Issues in the ASO during 2017-2018

[REDACTED] stated that racial issues were occurring in the ASO beginning in the Spring 2018 semester. When asked to describe those racial issues with more specificity, [REDACTED] stated, "There were racial issues with the [REDACTED]"

██████████ who is ██████████
██████████
██████████
██████████ and “some other ██████████.”

According to ██████████ the issues being mediated in 2017-2018 were “racial issues” that ranged from “kicking the [Black] students out [of various areas around campus] for being ‘too loud,’ to constantly creating barriers and roadblocks for the ██████████ to achieve anything in the ASO.” When pressed for more details, ██████████ stated that because ██████████ was constantly kicking the Black students (and only the Black students) out of places for being “too loud,” ██████████ ██████████ wanted to create a multi-cultural area where the “loud” students could hang out. ██████████ stated that ██████████ also wanted to create “a kind of meditation area for those who are Muslim or religious [and] need time for prayer.” According to ██████████ Room 444 was provided for one semester to be used as a multi-cultural area, and the prayer room was created and still exists, but it “took a very long time” to be opened.

██████████ did not believe that there had been any racial issues in the ASO preceding the Spring 2018 semester.

Racial Issues in the ASO During 2018-2019

██████████ stated that student ██████████ at least one other unnamed student, and [now ██████████] all communicated the following general information to her regarding the ASO during the 2018-2019 academic year. ██████████ indicated that the purpose of the UMOJA conference is “to learn about leadership and UMOJA practices.”

██████████ indicated that ██████████ told her that when the ASO was considering granting Requests For Funds (“RFFs”) submitted by the leadership of two different student clubs designed primarily to serve Black students (i.e., Black Brotherhood Leadership Association (“B2LA”) and UMOJA), more barriers to granting those requests were raised than occurred when ASO considered similar RFFs submitted by clubs that were not specifically designed to serve Black students. According to ██████████ ██████████ informed her that both B2LA and UMOJA submitted an RFF seeking several thousand dollars for some of their members to attend the Fall 2018 annual UMOJA conference. At the time of those requests, some UMOJA club members also were members of B2LA. ██████████ further indicated that ██████████ told her that the ASO’s discussion of each of these RFFs took longer than the discussions of funding requests submitted by other types of clubs. Additionally, ██████████ indicated that ██████████ ██████████ told her that the ASO was putting up barriers to funding requests made by B2LA and by UMOJA to attend the UMOJA conference, and that ██████████ and ██████████ were the only persons who informed her of this issue.

██████████ further indicated that ██████████ told her that the ASO “was making it extremely hard for his club [B2LA] to get funding” and that all of the students are having to come to ASO meetings to try to show support. She indicated that he also said she should attend the next ASO meeting “to see what they are having to go through.” ██████████ also indicated that ██████████ said that he could tell from the way the ASO people were talking during the Ways and Means Committee’s discussion of B2LA’s RFF that his group was being “treated unfairly,” in that the number of questions and the amount of time that it took for B2LA’s item to be discussed “was quite lengthy compared to other items [discussed] during” that meeting, even though the other RFFs “were asking for either a similar amount of money, or even more funds.” ██████████ stated that she overheard other students whose names she did not know make similar comments about UMOJA’s

request for funds. She indicated that ██████ relayed essentially the same information to her and said that he knew about it because he attended and spoke at the ASO meeting regarding UMOJA's Request for Funds.

██████ stated that she personally attended a few ASO meetings in the Fall 2018 semester, at which she herself saw "systemic racism" occurring. ██████ indicated that the first time she attended an ASO meeting, her purpose was to promote "Supplies for Success," a program or club that she was participating in, the purpose of which is to provide needed supplies to students. ██████ indicated that she also attended two more ASO meetings during the Fall 2018 semester because she wanted to see what ██████ and ██████ were talking about when they alleged that the ASO was making it hard for the clubs for Black students to get ASO funds. She indicated that she felt hostility in the ASO meeting room because one Senator wore a "MAGA"¹¹ hat; "a thousand questions" were asked of the group whose RFF was being discussed; and the student wearing the MAGA hat also verbally used the phrase, "you people"¹² in reference to the students who were at the ASO meeting in support of UMOJA's RFF.

██████ indicated that she did not attend the first of the three ASO general assembly meetings at which the ASO addressed B2LA's Request for Funds to attend the UMOJA conference. However, once ██████ approached her, ██████ decided that she would attend the remaining meetings concerning the clubs' RFFs concerning the UMOJA conference. She indicated that at the second ASO meeting (which was the first meeting she attended), the ASO addressed the issue of funding UMOJA's RFF. ██████ stated that there was a 30-minute question and answer / discussion regarding whether to approve this RFF, during which ASO senators asked questions and club members answered questions. At another point, a different Senator described the purpose of the UMOJA conference as being so the attendees would "learn about their struggles," by which comment ██████ was offended.

██████ indicated that she also attended the third ASO meeting concerning the RFFs, which was supposed to be the meeting at which ASO could further address and then vote on UMOJA's Request for Funds. During this meeting there was some discussion of whether the ASO Senate

¹¹ "MAGA" is the acronym for "Make America Great Again," which was the 2016 campaign slogan of Donald J. Trump, America's 45th president. MAGA hats and the slogan itself have been the subject of much debate. For some people, MAGA is a patriotic statement of pride in our country and refers to what they view as the successful economic policies of the current administration. For others, MAGA hats are an overt symbol of racism and oppression. As explained in an opinion piece, "Why Trump's MAGA Hats Have Become a Potent Symbol of Racism," by Isaac Bailey, published by CNN on March 19, 2019:

The MAGA hat, like the Confederate flag, wouldn't elicit outraged reactions if it were only a piece of cloth that harkened back to bygone days never to be relived. But it isn't. It is a signifier for those who believe America was great during some point in the past they dare not name, knowing if they do, it would reveal a time when it was worse for people of color. When was America 'great'? When millions of black people were slaves? When hundreds of thousands of black men were sold to US companies via convict leasing? Maybe during the heart of Jim Crow, the height of lynching, or when black people struggling with drug addictions were viewed as criminals to be controlled, not fellow human beings needing help?

(<https://www.cnn.com/2019/01/21/opinions/maga-hat-has-become-a-potent-racist-symbol-bailey/index.html>)

¹² The phrase "you people" is believed by some to be a "microaggression," and is understood (when said by a member of one race to a member of a different race) to be an expression that the listener's social status is beneath that of the speaker.

should approve the full \$3,500 that UMOJA Club was requesting, or perhaps a lower number like \$2,500. ██████ stated that during this meeting, unspecified “Senators were soliciting people to vote against the funding [requests].” She described this “soliciting” as “whispering, and all of a sudden someone would drop their hand and change their vote.” ██████ could not hear what the Senators were saying, but she felt, “it was pretty obvious if your hand goes up, someone tells you something and then you change your vote. Then they tell someone else something [and] they change their vote.” She indicated that in the end, just a few people voted against funding UMOJA’s full RFF, so the UMOJA club did get all the funds it requested.

██████ indicated that because the vote to fund UMOJA’s RFF was not unanimously in favor, she asked some of the students who had voted against the RFF why they did so, to which a female Senator said that she “doesn’t like voting for funding for conferences.” ██████ indicated that she questioned these students despite the RFF being approved because she “could tell that it was toxic and that those Senators were being painted as racist ... and a track record can speak for itself.” ██████ stated that she believes that Superintendent Murillo checked this student’s voting record, which showed that the only RFFs to attend conferences that this particular senator voted against were the ones for the “Black clubs.”

██████ stated that she was silent at the first ASO meeting she attended concerning funding of UMOJA’s and B2LA’s requests for funds, but that she spoke during the second ASO meeting she attended on this topic. ██████ stated that these meetings left her with a feeling that the ASO was unnecessarily “creating so many loop holes and questions for the item[s that] it turned into like a three-meeting ordeal.” She indicated that in the end, the ASO approved the RFFs that both B2LA and UMOJA submitted to fund their members’ attendance at the UMOJA conference.

██████ indicated that toward the beginning of the Spring 2019 semester, she and ██████ met with ██████ regarding racial issues in the ASO. During this meeting, indicated ██████ ██████ said that she “finally” had listened to the tapes and that ██████ “was right.”

Involvement in Spring 2019 ASO Election

██████ stated that on or about April 14, 2019, ██████ contacted her and requested that she reach out to Black Alliance members to seek funds to help Team Elite pay for the purchase of posters, lollipops, and other things to give out in the course of campaigning.

██████ stated that she had no involvement in the election between ██████ request that she raise funds from Black Alliance members to pay for Team Elite’s campaigning materials on April 14, 2019, until she attended the election board meeting on May 2, 2019. She also denied having strategized with or advised any student(s) regarding how to approach any situation or event related to the ASO Elections. To the contrary, ██████ stated that she does not know how ASO elections work, and she expressly denied having advised any students regarding things to do, or to refrain from doing, in relation to the ASO election.

██████ indicated that she did not mention or otherwise advise ██████ to refrain from participating in any meeting(s). However, when pointedly asked toward the end of her interview whether she advised ██████ to not meet with anyone, ██████ stated that she advised ██████ to not meet with ██████ and ██████ before Team Elite’s protest on May 1, 2019. ██████ stated that she gave that advice because (1) ██████ told her that she did not want to meet with them because she had been trying to do so for two days and thought it was very suspect that they would want to meet with her right before the protest; and (2)

she thought that they may try to stop her from protesting. [REDACTED] accordingly indicated that she suggested that [REDACTED] could reschedule the meeting with [REDACTED] and [REDACTED] to occur after Team Elite's protest. [REDACTED] believes that [REDACTED] did try to reschedule that meeting but does not know if the meeting ever occurred.

[REDACTED] indicated that on Friday April 26, 2019, [REDACTED] shared some screenshots with [REDACTED] via a "group chat" messaging app that UMOJA uses. The screenshots "were text messages from another [REDACTED] [REDACTED] confiding in her [REDACTED] that she [REDACTED] had overheard someone saying these things and the whole team was laughing." [REDACTED] stated that [REDACTED] did not seek any input or direction, but rather announced that she was feeling stressed because this (the texts) was what she was dealing with at the moment. [REDACTED] did not offer any advice, but just ended the communication with, "see you in class."

[REDACTED] indicated that during the next UMOJA biology class, held on April 29, 2019, [REDACTED] told her that there was going to be a meeting that day, which would be open to the public, and said that [REDACTED] could come if she wanted. [REDACTED] also told [REDACTED] that she had asked the College's President / Superintendent, [REDACTED] to attend.

[REDACTED] stated that she wanted to attend the election board meeting on April 29, 2019, "because I know how the ASO normally operates with racial issues," but that she could not due to her teaching schedule. When asked "how the ASO normally operates regarding students," [REDACTED] stated that the ASO "ignores" racial issues and "sweeps them under the rug."

After the election board meeting of April 29, 2019, students told [REDACTED] that "they just spoke about witnessed stuff and said we need more information." The students also told [REDACTED] that the next meeting on the topic would be held Wednesday, May 1, 2019.

[REDACTED] indicated that [REDACTED] for UMOJA students on May 1, 2019, students told her that the May 1st election board meeting had been "postponed again because of some constitutional thing with ASO, and that they would be protesting." More specifically, students said that they were going to protest right [REDACTED] that day, because a student made a racial remark and the meeting of the election board concerning potential consequences for that remark kept getting pushed back. [REDACTED] understood from [REDACTED] that the content of the "racial remark" was that it consisted of "teasing Team Elite for being an all-Black team."

[REDACTED] indicated that she attended the protest of May 1, 2019, which was her only involvement with it. While there, she observed that "Team Green members and the Student Trustee was (sic) kind of off to the side, figuring out ways to get them [Team Elite] expelled and disqualified for protesting." The Student Trustee had a laptop with him and [REDACTED] heard him talking to [REDACTED] repeatedly asking questions like, "What about Code blah, blah, blah? Can we get them for that? Can we get them for this?" [REDACTED] also heard the Student Trustee ask [REDACTED] "Can they get expelled for saying that ASO is racist?" and other things of that nature. She indicated that Black Alliance members who were present "almost created a little wall between the students who were protesting and ... the [REDACTED] Team Green, and the Student Trustee."

[REDACTED] further indicated that during the protest she heard [REDACTED] say that race, racial slurs, and anything that has to do with racism should be a priority, but that ASO keeps not addressing the racial issues that she has brought up. By "not addressing it," [REDACTED] indicated that she meant (1) allowing the "hostile" situation to exist (i.e., the Black students allegedly had to

face hostility from ██████████ when they asked for ASO money to attend a conference, but other racial groups do not face such hostility when they requested funds for conferences) and (2) allowing the discussion to roll over into a second session instead of discussing and voting during the same session. ██████████ indicated that she learned about the upcoming May 2, 2019 election board meeting when ██████████ said during the protest that the election board would meet again the next day at 10:00 a.m.

██████████ indicated that at some point, ██████████ also stated that a member of Team Green, ██████████ made fun of Team Elite for being an all-Black team and the Election Board would be meeting the next day at 11:00 a.m. to address it. ██████████ stated that she decided to attend the election board meeting of May 2, 2019, as soon as she heard that it was being held at a time of day when she did not have class. She indicated that toward the end of the protest, a male student who appeared to be not Black asked a “snarky” question along the lines of, “Is this only about *one* race?” The question “was a rhetorical, kind of, and instigating question.”

Black Alliance, Team Elite, & District Leadership Meet After the May 1 Protest

██████████ stated that her ██████████ ██████████ said that the Black Alliance needed to hold an emergency meeting because of Team Elite’s protest. The purpose of this meeting, recalled ██████████ was to meet and talk with the students and make sure they felt okay. Accordingly, ██████████ indicated that from 4:00 to 5:00 p.m. on May 1, 2019, members of the Black Alliance, members of Team Elite, and members of the Black Student Union met with District Superintendent / ██████████ and the Vice President of Academic Affairs, Dr. ██████████ in room L238. ██████████ further indicated that ██████████ ██████████ and the Vice President of Student Services ██████████ did not attend because at that time they were in a conference call with the facilitator [i.e., someone from the ██████████] regarding events concerning the election.

██████████ recalled that the May 1, 2019 meeting with ██████████ began with a recitation of how things got to the point of Team Elite having a protest, because some members of the Black Alliance who do not interact with the students very much did not know. ██████████ stated that she, ██████████ ██████████ and the UMOJA counselor, ██████████ were the only Black Alliance members to whom the students had really been talking about the issues that led to their protest of May 1, 2019. Those individuals, said ██████████ “were not shocked that there were accusations of racism in ASO because, again, this is the norm. . . . But they were upset that it had got (sic) to the point where the students felt they needed to protest.” She stated that during the discussion, Black Alliance members told students things like, “We’re here for you,” “What do you need from us?” and, “You know, we’re sorry that we’ve missed it to where it’s gotten this bad. Like, we feel that we failed you.”

██████████ stated that after about 45 minutes of discussion, ██████████ asked the Team Elite members present “if they wanted the election to be voided.” The students responded that they wanted some time to think about it, then they all stepped outside of the meeting and talked for about five to ten minutes. When they returned to the meeting, “they said that they did want the election to be voided, but they also wanted to finally have acknowledgement and go through with that 10:00 a.m. [Election Board] meeting, which was supposed to happen the next day.” The students therefore asked ██████████ that “if she does go through with ending the election, that she does not do it till after the election board meeting on May 2, 2019. ██████████ indicated that at that point, ██████████ said that “she has cancelled [an ASO election] before so she has no problem doing it,” but that she would think about it and let them know. ██████████ indicated that from there, the meeting ended and everyone dispersed.

Knowledge of Instagram Post of May 1, 2019

██████████ stated that her next involvement with the ASO Election began at 8:07 p.m. on Wednesday, May 1, 2019, at which time she received a group text that ██████████ sent to her and other members of the Black Alliance. She indicated that ██████████ text said, “Look at this,” and provided a link to an Instagram post from an account named **swccharterinsomaliland** (“the Instagram Account”). ██████████ stated that she looked at the linked material, the content of which she described as having been “spoken as if it was a Black student trying to incite violence against Hispanic and White students.”

The Instagram Post, which is attached as Exhibit 45, is comprised of a brief (3-second) video of part of Team Elite’s protest of May 1, 2019, on the College’s main campus, captioned by the following text:

My brothers this is so fucking stupid, to start a revolution we must chop off the heads of the euro centrist whitr (sic) supremacist Mexicans of the campus. We must fight to change the mascot into a black panther, and we must work towards a fruitful revolution. Whites will be our slaves and we will hold positions of power as you want. Join me in lopping the head off the euro centrist dragons on campus.

(Exhibit 45, Packet of Instagram Materials Distributed by T. ██████████ during Election Board Meeting of May 2, 2019, p. 1.)

██████████ stated that because the Instagram Account had been “liked” by the Black Student Union, she called BSU president, ██████████ (██████████ ██████████ ██████████), during the evening of May 1, 2019, and asked him questions such as, “What’s going on?” “Why did we like this [Instagram Post]?” “Who are we following?”¹³ [and] “What in the world? ...” During this conversation, she recalled, ██████████ said that he had not followed the **swccharterinsomaliland** Instagram Account and that he had “no idea” why BSU was following that Instagram Account, in addition to indicating confusion about how BSU had followed that account. ██████████ also told ██████████ that as the ██████████, he uses an app that automatically “likes” the posts of every Instagram account that the BSU has followed.

At that point, indicated ██████████ ██████████ “started digging” for information about how and when BSU’s Instagram account followed the **swccharterinsomaliland** account and liked the **swccharterinsomaliland** post(s) in question. To do this, she said, ██████████ “... pull[ed] up followers of the **swccharterinsomaliland** Instagram Account,” after which he told her “that it seemed like it was a legit¹⁴ account” because both ██████████ the ██████████ ██████████ [some of whose members were Black students] also were followers of the Instagram Account.

██████████ indicated that ██████████ told her that it is possible for the owner of an Instagram account to change the account’s name, and that he was starting to think that maybe the account owner knew that BSU automatically “likes” Instagram posts and therefore changed the account name from something innocuous to **swccharterinsomaliland**, in order make it appear [by being liked or followed by organizations that serve Black students] that the account owner was a Black

¹³ A copy of the listing the **swccharterinsomaliland** Instagram Account of “followers” is attached as Exhibit 45.

¹⁴ ██████████ stated that saying the Instagram Account was “legit” meant that the account’s content reflected the Instagram Account owner’s [negative] state of mind regarding Black people.

student. [REDACTED] also stated that she and [REDACTED] believed the name of the Instagram Account must have been switched “because he never followed [any account named *swccharter insomaliland*] before and for [the Instagram Account] to be posting stuff like that, it makes no sense for groups that were following them [i.e., the Black Student Union] to be following them.”

[REDACTED] then indicated that [REDACTED] informed her that when he recorded the protest of May 1, 2019, he had also recorded the audience. She indicated that at that point, [REDACTED] seemed to have an epiphany as he spoke, saying that his recordings show who recorded the protest from the same vantage point as the recording that was posted on the *swccharterinsomaliland* Instagram Account. He also said that his recordings were time-stamped, meaning that they would be able to align the recordings by those time stamps, by markers (such as people wearing distinctive colors), and by the angle from which the video recording posted on the Instagram Account had been shot, in order to identify who made the video that was on the *swccharterinsomaliland* Instagram Account.

[REDACTED] indicated that [REDACTED] then emailed (and possibly texted) her a number of videos, which she watched on a computer in order to better see them on a larger screen. Once she saw the videos that [REDACTED] provided her, said [REDACTED] “it was very clear ... exactly who was recording” the protest. She indicated that although she did not know, at that point in time, the name of the person who made the protest recording that was posted to the Instagram Account, [REDACTED] told her that “he knew the people who were in the video.”

[REDACTED] stated that she and [REDACTED] continued to communicate back and forth regarding these matters for one to two hours between 8:00 p.m. and 10:00 p.m. on May 1, 2019. By the end of those two hours, indicated [REDACTED] she had reached a conclusion that the person in the group of four standing in [REDACTED] recording of the crowd was the person who recorded the protest video that was posted on the *swccharterinsomaliland* Instagram Account. Her conclusion was based on [REDACTED] and her own review of the videos that he sent to her that evening, plus [REDACTED] statements that he was “sure” that the people standing – whom he identified by name to [REDACTED] – were the ones who made the recording at issue. [REDACTED] also told [REDACTED] that the four people were either members or supporters of Team Green.

[REDACTED] Continued Investigation of Instagram Account on May 2, 2019

[REDACTED] indicated that on the morning of May 2, 2019, she was unsure about what to do with the information she had. [REDACTED] recalled that she “knew there was an [upcoming election board] meeting, ...[that] she could go to the police about [the situation], ... that ... serious [consequences] could come about from that post, [and that she] “also knew that we were still talking about students. So [she] called [REDACTED] [REDACTED] for guidance.” [REDACTED] indicated that in her conversation with [REDACTED] who also is a member of the Black Alliance, she knew who the students were who posted the Instagram Post and asked what [REDACTED] suggested she do. In response, [REDACTED] suggested that [REDACTED] go to the police about the Instagram Post, that she make sure that [REDACTED] gets a copy of everything, and that she share the information that she would be giving to the police and [REDACTED] during public comment of the election board meeting later that morning. [REDACTED] indicated that since [REDACTED] suggestions reflected the course of action that she had already been considering, she decided to follow that plan.

[REDACTED] stated that after the conversation with [REDACTED] she met with [REDACTED] at her office at the College at about 8:30 a.m. By that time, she indicated, [REDACTED] had provided her with the campaign photos of the two Team Green members who “he was sure it was, because

he interacts with them.” ██████ stated that she checked to make sure that the faces in the photos that ██████ just sent her matched the faces in the materials he had provided to her the night before. ██████ indicated that she was not sure about whether the photos of ██████ matched, so ██████ took ██████ through ██████ Instagram, showing her pictures to the point at which ██████ felt that it was a “clear” match. She indicated that at that point, she felt that she sure of what she was saying so she “printed out the different things that we had,” made copies of them, and then went to the police with the copies and ██████ ██████ stated, “I literally just printed what was emailed to me” by ██████

Meeting with ██████ on May 2, 2019

██████ stated that she and ██████ went to the District’s police department in the morning on May 2, 2019, prior to the election board meeting, and gave them a copy of the same packet of Instagram Post screenshots that she distributed at the election board meeting later that morning. (Exhibit 45.) According to ██████ after providing the police department a copy of the Instagram screenshots packet she had just copied, she and ██████ talked to ██████ and told him about the Instagram Account. She indicated that ██████ then told them that he had already heard about the Instagram post, that he actually had recording of the area, and “that he knew it was one of those four but that when he zoomed in, it was too grainy.” She further indicated that ██████ indicated that he appreciated the fact that they had the extra video because he could put a face to what he already knew.

██████ recalled that when they discussed the possibility of “filing charges,” ██████ ██████ told her and ██████ “that it’s going to be a bigger investigation so not to worry, eventually it will get taken out of his hands and looked into.” ██████ stated that she did not remember anything else about this meeting other than the fact that this meeting lasted for “maybe 30 minutes” and ended at 9:35 or 9:40 a.m. However, she amended this statement later during her interview, when she stated that before leaving this meeting, she also asked ██████ ██████ “to be around the building” during the election board meeting.

Election Board Meeting on May 2, 2019

██████ stated that after meeting with ██████ she stopped at the restroom and the cashier’s office on her way to the ASO conference room for the election board meeting. ██████ recalled arriving at about 9:55 a.m., just before the meeting began. She indicated that the room was set up with tables arranged in a large rectangle shape that was open in the center, with several rows of chairs at one end of the room as a sort of gallery. The Election Board members were seated at the head of the rectangular table arrangement. ██████ ██████ and ██████ were seated to the right of the Election Board members, and Team Elite, ██████ and other Team Elite supporters including some Black students and some members of the Black Alliance were seated to the Election Board’s left. ██████ stated that she was seated approximately in the center of that long side of the rectangle, and ██████ was one seat away from her as ██████ boyfriend, ██████ was seated between them. The remainder of the table structure was filled by ██████ and members of Team Green, who were seated across from Team Elite and around the bottom edge of the table structure. ██████ indicated that there were rows of chairs at the “back” end of the room, facing the Election Board, which were filled because it was standing room only. There were a lot of people in the conference room, to the point that people were leaning on the walls and sitting on the floor.

██████████ indicated that District police had come to the meeting area and were “circling the building, like I had asked.”

██████████ stated that there was an agenda up on the overhead screen for everyone to see, which she recalled stated that there would be an opening, deliberation, something about results and findings, public comment, and then closing. She indicated that for the first 25 minutes of the meeting, only ██████████ and a ██████████ spoke. When asked whether any members of either Team Elite or Team Green spoke during this portion of the meeting, ██████████ stated, “No. I don’t believe that was the point of that portion. The point of that portion was to establish why they were here and what the statements were.”

██████████ indicated that ██████████ verbally reviewed why the meeting was occurring, ██████████ read the witness statements aloud, and then ██████████ said that an additional witness ██████████ had come forward and was willing to share her information in this meeting. ██████████

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██████████ indicated that ██████████ continued to ask ██████████ to speak, but that due to ██████████ behavior, ██████████ “just turned to ██████████ and I said, ██████████ just read the statement that she gave you.’ And then he kind of went, ‘Oh,’ and then he started reading it.”

██████████ indicated that ██████████ was so upset that ██████████ and someone else, maybe ██████████ took her out of the room, after which ██████████ read ██████████ statement to the room. Thereafter it was announced that the Election Board needed some time to discuss, so the meeting’s attendees were sent outside for the deliberations period, at about 10:20 or 10:25 a.m. ██████████ stated that she went to the student hangout area, which is in a glass room, and waited and talked with others until they all were called back into the meeting about an hour and ten minutes later.

██████████ indicated that while she and the others were outside of the conference room, it appeared that ██████████. She stated that ██████████ was in the area, so when the student passed out, he came in and helped. There was more waiting, but eventually people were called back into the ASO conference room.

██████████ indicated that once the meeting attendees had reassembled in the ASO conference room, somebody from the Election Board read the Board’s decision out loud. She stated this took four to five minutes, ██████████. The decision announced by the Election Board was that ██████████ “would have to give a public apology to Team Elite by the end of that day; that he would have to do a public apology by that Monday; and something about him facilitating a workshop about not being racist.”

Once the decision on Team Elite’s grievance concerning ██████████ was announced, “people were

visibly upset on the Team Elite side, and people were visibly happy on the Team Green side, including the [REDACTED] and the Student Trustee.” [REDACTED] stated that she was “not surprised” by the Election Board’s decision, and that the only feeling she felt about it was “disappointed.” However, indicated [REDACTED] [REDACTED] became “extremely upset” and “had an outburst.”

[REDACTED] pointed out that [REDACTED] Gonzalez and Student Trustee looked “happy” after the Election Board announced its decision. When asked why she noted that, [REDACTED] replied, “Because they’re supposed to be neutral during all of this.” When asked for the thinking process underlying that statement, she stated, “based on just their role as [REDACTED] [and] as Student Trustee especially, you’re supposed to be for all students.” This belief that the [REDACTED] and the Student Trustee needed to be neutral had been “shared amongst the Black Alliance members and [REDACTED] [REDACTED] – because he’s a Black Alliance member as well – during the protest because the Student Trustee was the one leading – actively leading for them to get either disqualified or expelled.”

When asked who was the first person to vocalize the idea that the [REDACTED] and the Student Trustee were supposed to be neutral, [REDACTED] stated that [REDACTED] first vocalized that the Student Trustee is supposed to be neutral, “but everyone knew that to be true.” She does not know whether anyone has vocalized that the [REDACTED] is supposed to be neutral. Rather, stated [REDACTED] that is her personal believe, which she shared only with her [REDACTED] [REDACTED] well after these incidents occurred. [REDACTED] stated that she never shared that opinion with anyone while the election and subsequent related issues were happening.

[REDACTED] stated that shortly after [REDACTED] outburst, [REDACTED] announced that public comment would begin, then he acknowledged her by name and passed the microphone to her. [REDACTED] stated that as she was going to get the microphone, she leaned over and whispered in [REDACTED] ear, “You need to calm down. Right? This isn’t the time. This isn’t the place. Remember who you are.” [REDACTED] stated that the only things she remembered about [REDACTED] outburst were that it occurred, that [REDACTED] was “extremely upset” and “emotional,” and what she whispered to [REDACTED]

[REDACTED] stated that once [REDACTED] gave her the microphone, “I shared my findings from the Instagram post,” which took two to three minutes. She described her public comments as follows:

The gist of it was that I had seen the [Instagram] Post and that BSU had liked it. I remember reading the [Instagram] Post ... out loud. I then remember saying that [REDACTED] was actually recording the audience for this [Instagram] Post and that a majority of the members are on Team Green. And then I passed the packets and then I remember saying something to the effect of like, “Why would you put our lives in jeopardy? I stayed up all night worried that someone who’s crazy with a gun would come and read that and feel validated in attacking Black students, and attacking me because I’m over BSU.” Just the gist of it was that this has gone too far, you know? And doing public apologies isn’t going to fix anything because look how it’s escalating.

...

Oh, I did mention that we were disappointed in the fact that it was a public apology and that ... I’m pretty sure I’m not alone in the feeling ... and I also remember calling out the Student Trustee to be looked into because he’s not neutral. And

then I talked about the Instagram Post.

According to [REDACTED] all of the students in the room except for [REDACTED] appeared to be shocked by what she was saying. She indicated, for example, that she noticed that “the person who held the camera,” [REDACTED] [REDACTED] “visibly was drained of blood,” and the students “got very quiet.” [REDACTED] stated that for the remainder of the meeting until Superintendent/[REDACTED] appeared, “everyone was speaking ... people were visibly hurt and upset.” However, she asserted, she was not paying attention to what was happening on Team Green’s part because “there was so much [turmoil] going on,” on Team Elite’s side of the room.

[REDACTED] stated that when she made her statements, “I lowered my tone ... because it was more serious matter,” meaning that she used a “deeper voice” that was “stern” and “serious.” She also stated that she sat up straighter in her chair. [REDACTED] stated that she used that tone “because it was a serious matter. We’re talking about violence and racism, and how it’s gotten to this.”

Regarding how she passed out the evidence packets that she prepared and brought to the meeting, [REDACTED] stated that she passed one to [REDACTED] and another to [REDACTED] [REDACTED] to pass down. She stated that she was not aware of anyone tossing or throwing any of the packets.

[REDACTED] indicated that the [REDACTED] [REDACTED], “kind of crawled around over to me ... and started ... questioning what I was doing... but I started tuning her out because there were students that were having ... emotional reactions that I was kind of tapping into...” [REDACTED] indicated after she told her something to the effect of, “the students need validation ... this is going too far ... somebody has to say something,” Dr. [REDACTED] “kind of crawled back away” from her.

[REDACTED] indicated that student [REDACTED] was the next speaker, and that he talked about things that he had been through in ASO. Specifically, he said something like, “This is the norm ... of course it’s gotten to this point. These are all the things that I have to deal with, and this is why Black people don’t want to join ASO.”

[REDACTED] indicated that after [REDACTED] spoke, [REDACTED] of the [REDACTED] [REDACTED] who had introduced herself sometime earlier, said to the room, “Okay, let’s open it up to everyone.” She walked around the room and passed around the microphone “to anyone who wanted to share.” [REDACTED] indicated that [REDACTED] had her hand up for the microphone but was skipped several times. [REDACTED] stated that although she pointed this out to the facilitator, [REDACTED] did not get a turn with the microphone.

[REDACTED] recalled that at some point, Student Trustee, [REDACTED] “got the mic... and ... was kind of disputing what I had said ... with some Constitutional bylaw or something.” She indicated that [REDACTED] then got the microphone and said to [REDACTED] on the microphone, “I had a conversation with you – you don’t – like, do you want me to actually share what we talked about?” [REDACTED] replied, “Go for it, do it!” and then, stated [REDACTED] [REDACTED] “just discussed how he’s supposed to be neutral and how he’s supposed to be for all students.” [REDACTED] stated that she felt that [REDACTED] “was being very passive aggressive and snippy with [REDACTED] to the point that he was even being rude to the facilitator [REDACTED]” She recalled that [REDACTED] tried to cut [REDACTED] off at one point, but two male students said, “Aye! Let her talk. Don’t be disrespectful,” after which she was able to finish her statement. Finally, [REDACTED] indicated [REDACTED] when [REDACTED] entered the room, she took the

microphone and “basically said that we need to stop all of this.”

██████████ stated that throughout the morning of May 2, 2019, she had been worried and keeping her guard up. She described her emotional state as being “cautious,” “in a protective mode,” and “just watching, takin everything in.” ██████████ stated that her emotional state was due to her concern that “someone crazy” who read the Instagram Post would go to the election board meeting (because they would know, from Team Elite’s protest, that “all of the Black people” would be at the election board meeting) and do something harmful to the Black people, or that perhaps a fight would break out due to all of the high emotion.

When asked whether there was a feeling of anger in the room during this third part of the election board meeting, ██████████ denied feeling angry herself, denied observing anyone at all behave angrily, and denied perceiving a feeling of anger in the room. Rather, she stated, everyone on Team Elite, ██████████ and the members of the Black Alliance all “just seemed hurt, and tired, and disrespected.” “They were visibly hurt.”

As for the facilitators who were present, ██████████ stated that Dr. Brown “was just kind of handing the mic around telling people to remember to breathe,” and that she did not remember seeing the other facilitator do anything. ██████████ stated that she did not find anything that Dr. Brown did or said during the election board meeting to be helpful at the time, but that later in the day she “kind of proved why she was there.”

After the Election Board Meeting on May 2, 2019

██████████ indicated that after the meeting, she remained near the meeting location, whether in the lounge or outside of the ASO building, talking with people for more than 30 minutes. She stated “not just Team Elite, but also Team Green members were grabbing me and talking to me. Students who had supported Team Green who were in my class previous semesters were in my arms sobbing and stuff so I was very much connecting to all of the students.” She further indicated that “people were crying, people were upset... It very much looked like the aftermath of some type of catastrophe.”

██████████ indicated that after about 35 minutes, the facilitator came and got her and took her to ██████████ office for a ten-minute meeting attended by both of the ██████████ mediators, ██████████ ██████████ and ██████████. She indicated that the purpose of the meeting was to address how she [██████████ and ██████████] felt, and what they thought was best for the students moving forward. ██████████ recalled that during this meeting, she suggested there was a need to provide a safe place for the Black students “to be human and feel,” and that people should be patient with the Black students if they are upset, angry, cussing, etc., because “they’ve been putting on a face for a long time, because anytime they show any sort of emotion they’re painted as a villain.” Regarding herself, ██████████ recalled telling the group that her “shoulders felt heavy, like [she was] carrying all of these students.” ██████████ indicated that after meeting with ██████████ and the facilitators, she returned to the area of the ASO building and continued talking with students from both teams.

Regarding her discussions with members of Team Green after the election board meeting on May 2, 2019, ██████████ stated that ██████████ Team Green’s candidate for president, “was actually the first one to pull me aside and asked if he could speak with me, as soon as the meeting was over.” ██████████ remembered that during this conversation, ██████████ said, “I had nothing to do with the post,” to which she replied, “You know, I know. You weren’t even in the video.” She stated that the two talked “a lot,” and she described their discussion as “a really good

mother-to-father heart-to-heart” talk. [REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] stated that [REDACTED] Team Green’s candidate for VP of Club Affairs, also pulled her aside to talk, but that his purpose was “to attack [REDACTED] as opposed to get[ting] any type of resolution.” [REDACTED] recalled that [REDACTED] asked if she actually thinks that [REDACTED] was a good senator. She stated that [REDACTED] stated that [REDACTED] lied during the protest when she said that ASO paid \$6,000 for a microwave because it was only \$700 and there’s a receipt. [REDACTED] stated that she felt that the two of them were not on the same page because [REDACTED] “was still trying to kind of attack and pull down [REDACTED] character rather than see what we’re talking about,” so she “talked to him about the fact that our priority should be ... not condoning racism.” She told him that the issues he was raising were small in comparison with the racism, and they should focus on the bigger issue. [REDACTED] described this as a “good” talk and stated that [REDACTED] one of [REDACTED] “mentors,” had been present for the conversation and told her that she was having “really good talk” with the students.

[REDACTED] stated that on May 2, 2019, she became afraid of [REDACTED] [REDACTED] the student whom she had accused of taking the video of the protest that was posted on the *swccharterinso maliland* Instagram Page, and either providing that video to the owner of the *swccharterinso maliland* Instagram Account or posting it there himself. [REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

[REDACTED] She indicated that they told her this because they thought made it more likely that [REDACTED] did post the protest video to the *swccharterinsomaliland* Instagram Account. As a result, [REDACTED] indicated that she became concerned for the safety of “the 30 Black students” [REDACTED] [REDACTED] and for her own safety, since she was their teacher. [REDACTED] stated that as a result, she went with [REDACTED] [REDACTED] Albert Robinson, [REDACTED] [REDACTED] and [REDACTED] [REDACTED] to see [REDACTED] of Students [REDACTED] at about 5:00 p.m. on May 2, 2019, to express concerns for their safety about [REDACTED] given what occurred in the election board meeting that morning. [REDACTED] recalled:

I was just concerned. Monday mornings, I teach UMOJA. It’s me and all 30 Black students. **If he gets angry from Thursday to Monday, who knows [what he might do]?** So, when I was walking past him [later on May 2, 2019], I felt the tension and I kind of wanted to kill that. Immediately.

[REDACTED] indicated that for that reason, she approached [REDACTED] in the afternoon of May 2, 2019, and initiated a conversation. She stated that she told [REDACTED] that she could feel there was tension and asked if he wanted to meet. When [REDACTED] replied, “No, I’m okay,” [REDACTED] asked, “Are you sure?” At that point, [REDACTED] indicated [REDACTED] [REDACTED] told [REDACTED] “No man, she’s okay. Like we – you – can talk to her. Like here, like, we can talk to her.” [REDACTED] stated that she then told [REDACTED] that she was open to talking if he wanted to do so, and [REDACTED] accepted. [REDACTED] stated that she replied, “Okay. How about if we all go outside?” [REDACTED] indicated that once they were outside:

I kind of just talked to [REDACTED] [REDACTED] [REDACTED] [REDACTED] "You know, I know that it hurt when you were called out for that. So, I'm going to give you a chance to tell me how that made you feel?" And he did ...

[REDACTED] indicated that during that conversation, [REDACTED] denied [REDACTED] allegations against him. More specifically, recalled [REDACTED] [REDACTED] said that he didn't send the video that he took at the protest to anyone and that she could see the video that he took with his phone. [REDACTED] **indicated that she did not consider the possibility that [REDACTED] was telling the truth.** Instead, [REDACTED] told [REDACTED] that when she went to the police that his "name wasn't new ... They already had videotape of you guys." She indicated that she made this clear so that he knew that "it's not just coming from me."

According to [REDACTED] the conversation progressed from there, and addressed different things. Eventually, recalled [REDACTED] she said to the Team Green students who were there:

Anything you guys need from me, let me know. Let's not escalate this any further. Let this be it. How beautiful would it be if the students could work out the racial issues before the faculty and staff?

[REDACTED] stated that this conversation occurred at the end of her work day, so she left when it concluded.

Other Witnesses

When asked for the names of other witnesses who should be interviewed in this matter, [REDACTED] suggested five people be interviewed: [REDACTED] [REDACTED] [REDACTED] [REDACTED] and student [REDACTED] [REDACTED] [REDACTED] [REDACTED] stated that [REDACTED] "would be a good person to talk to" because "he attended the [May 2, 2019] meeting and he mentors and teaches ... students from Team Green and Team Elite." She stated that [REDACTED] would have a "very unbiased" opinion. When asked if she had talked with [REDACTED] about the election or events surrounding it, [REDACTED] admitted that "he reached out to me a few times" and indicated "that he appreciates me and that it's unfortunate that there's hurt on all sides."

[REDACTED] also named [REDACTED] as an important witness to interview, because [REDACTED] was the person who shared the Instagram Post with some members of the SBA, "she talks to [REDACTED] a lot," and she would have factual information concerning the ASO's history and concerning "employees knowing about these different racist occurrences and, again, not addressing it head-on." She indicated that [REDACTED] also attended the election board's May 2nd meeting, the SBA's meeting immediately preceding the May 2nd election board meeting, and the SBA meeting that occurred at 4:00 p.m. on a Wednesday afternoon.

[REDACTED] also suggested that the investigation include interviews of [REDACTED] [REDACTED] [REDACTED] and [REDACTED] all of whom were interviewed.

7) [REDACTED]

[REDACTED] was interviewed on May 21, 2019 at District offices in the presence of her union representative, [REDACTED] [REDACTED] has been a District

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Regarding work-related clubs and associations, [REDACTED] stated that she is a [REDACTED], and that she is part of the Black Alliance. She indicated that “the point of the Black Alliance is to try to make things better on this campus,” and that the Black Alliance meets bi-weekly, on Fridays, and members communicate between meetings via electronic messaging. [REDACTED] explained that when the Black Alliance originally started in 2000 or 2001, it was called the African-American Alliance. In approximately 2013, the group re-formed as the Southwestern Black Alliance, for which [REDACTED] was its Secretary. In 2015, the group re-formed again as the Black Alliance.

[REDACTED] indicated that she currently is the [REDACTED], where she [REDACTED].” [REDACTED] stated that the Black Alliance puts on Black Graduation because “the Black students aren’t widely recognized on campus. There’s not a lot for them, so we started Black Graduation years ago to recognize them specifically.” She indicated that this event includes a dinner for the students and their families, the presentation of awards, discussion of the students’ future plans, and the presentation of Kente cloth stoles as a Rite of Passage. She indicated that typically 150 to 200 students¹⁵ attend this event.

[REDACTED] also stated that she is “a mentor to Black students” as the need arises. She stated there is no system for assigning students to Black Alliance members for mentorship and that she just supports any student who comes to her. She indicated that sometimes, but not always, the students she mentors are members or participants in the UMOJA Learning Community, B2LA [Black Brotherhood for Leadership Association], BSU [Black Student Union], Soul Sisters, or District athletics. [REDACTED] stated:

I don’t have any interaction with the Puente Students or the Bayan students, because they have their own Learning Communities and they have their own advisors – I guess [a] version of Black Alliance or something. If they came to us, we would [help them], but ... they don’t come to us with anything.

[REDACTED] stated that students come to talk to her all the time about a wide variety of things, from wanting something to eat, to showing her their grades, to just chatting. She stated that she provides the students an avenue to just talk, and that was part of the mentorship that she provides.

Advising Team Elite Regarding Election

[REDACTED] stated that she had no role in the Spring 2019 ASO election and that she did not know who Team Elite’s leader was. She stated that she felt that all members of Team Elite made an equal effort and worked together on their campaign. She indicated she is not aware of any adult providing any assistance to anybody on Team Elite regarding anything having to do with

¹⁵ Roughly 5% of the District’s roughly 18,400 students (2017-18) self-identified as Black or African-American, which is approximately 920 students. Thus, it appears that 16 – 22% of the total Black student population typically participate in “Black Graduation.”

the election, including election board meetings, other than [REDACTED] who would have done so as part of his job.

When asked if she provided any mentorship or guidance regarding the election to any of the students running for office, [REDACTED] initially stated that she did not do so and that the students “are smart [and] ran their own thing.” [REDACTED] further stated that she did not give Team Elite any kind of verbiage for use in the election or any ideas about strategy or what they were supposed to say while campaigning for the election, because they did not need her to do so and because staff are not allowed to do things like that. Rather, she just went out to support whatever it was the students were doing.

However, [REDACTED] later stated that she “talk[ed] to the [Black] students about campaigning and what they’re doing, you know, that kind of thing.” She further stated that she asked them, “Are you ready? Are you guys working on your posters?” [REDACTED] stated that her purpose in making those comments was “just motivation, getting them ready, you know making sure they’re prepared,” and to make sure they had supplies. [REDACTED] also stated:

I’m pretty sure I’ve talked to some of them, but maybe not about specifically [the] election. Maybe mostly about how they’re feeling, how they’re doing with things, um, you know – stay within your rights, different things like that. I never asked them their details, [but] if they want to share it with me that’s fine ... I never tell them what to do, I let them tell me what they’re doing.

[REDACTED] indicated that by “stay within your rights,” she meant that the students needed to make sure that they did not do anything outside of the rules contained in the ASO’s Constitution and Bylaws and in the District’s Student Code of Conduct, because they needed to protect themselves.

She indicated that the students told her that they were working on something that was a surprise. [REDACTED] stated that she was very proud of the students for making their excellent campaign video on their own, but that she did not know which student(s) made the video. She indicated that a member of the Black Alliance showed her their campaign video at an unofficial meeting.

Regarding supplies for election campaigning, [REDACTED] [erroneously] stated that Team Elite got their supplies from the ASO, because ASO was supposed to “give them supplies for posters and paint, and stuff like that.” [REDACTED] stated that she did not personally provide any kind of donation for either Team Elite or Team Green.

[REDACTED] indicated that she and others went out to the Jaguar Walkway to support and encourage the Team Elite students as they passed out lollipops (i.e., their campaign materials) during college hour and to tell them they were doing a “good job,” and to get a lollipop. She stated that did this activity twice.

When asked what information she has concerning the Spring 2019 election, [REDACTED] stated:

... there had been an ongoing issue between the Team Elite and Team Green, and a bunch of different things happen [sic]. There was a protest, then there was a meeting, then there was an issue at the meeting, and then there’s been several

issues after that. I don't know anything about the process for their election, what they were doing, where they were in the process, ... how they campaigned – any of that.

Pre-Election Issues Among Candidates

Regarding the ongoing issue between the election teams, ██████████ stated that she was told that the problem had started before the teams were solidified. She stated:

... [T]his whole thing did not start off as a Black team – because that's what the story line is – and a Hispanic team. It originally did not start that way, it was a blended team, [but] I guess there was [sic] some issues there and that caused the break off into Team Elite and Team Green.

Although ██████████ stated that she had “no idea” what the pre-team issues were, she also said that she knew from talking with the Black Alliance or “our students” (meaning Black students in the District) that “there were some issues with one of the students and some of the other Hispanic students, and they did not want that student on their team or however that went. So now you have the respective teams that they're on now.”

According to ██████████ the student whom the Hispanic students did not want on their team was ██████████ and possibly one other student. When asked what gave her the impression that there was some sort of issue between ██████████ and several of the students in the Hispanic group, ██████████ stated, “I don't know about the early issues. I don't know what they were. I don't know those in detail, I just know that there was something and it ended up with there being a Team Elite and a Team Green.”

██████████ then stated that she did not know the source of any of the information that she had regarding the pre-election issues or exactly what the issues were, but she believes that there were issues. ██████████ also stated that she knew from either Black Alliance meetings or the students who made the reports that those issues were reported to either ██████████ or ██████████ in the ASO.

Team Green Grievance re Social Media Use

██████████ stated that the next issue she was aware of was that Team Green filed a grievance with the Election Board against Team Elite concerning Team Elite's campaign video, related to where the video was posted or something in that realm. She indicated that Team Elite was told one day that they had to be present for a meeting or hearing the following day concerning this grievance, so Team Elite did not receive 24 hours' notice of this meeting. ██████████ stated that she received this information from Omar or another member of the Alliance.

Team Elite's Protest of May 1

██████████ stated that around the time of Team Green's grievance concerning Team Elite's use of social media, “there were some back and forth with different things like nit-picky things happening, like who took down whose poster.” She stated that she did not have details or dates but she stated that she knew that “some different things happened,” followed by the protest.

██████████ indicated that she found out about Team Elite’s protest on the day it occurred, which was “at the last minute.” She also stated that she believed that the protest stemmed from two things: (1) Team Elite not getting to have a meeting / hearing right away on the grievance they filed against Team Green, despite the fact that the meeting / hearing held on Team Green’s grievance about Team Elite’s use of social media was held on less than 24 hours advance notice; and (2) something else that Team Green did but which ██████████ could not remember.

██████████ stated that although Team Elite wanted and asked for an immediate hearing on their grievance against Team Green, they were told there could not be a meeting with less than 24 hours advance notice, and therefore no hearing regarding the Team Elite Grievance occurred before they held the protest on May 1, 2019.

██████████ recalled that several one-time students, including ██████████ ██████████ ██████████ and perhaps ██████████ and ██████████ came in as a group to see her. She indicated that the students talked to her about their reasons for holding the protest. ██████████ stated that she did not recall if this discussion occurred before or after the protest. However, she indicated that during this conversation, the students talked about a variety of things, including sports, personal relationships, Black graduation, and the fact that the students were frustrated and felt like nobody was listening to them regarding their grievance.

██████████ stated that the students alone came up with the idea of having a protest, and that the protest surprised her. She stated that she was neither in favor nor opposed to a protest occurring. ██████████ further stated that the Alliance went to Team Elite’s protest “just to support them in their protest and the protest” itself. She indicated that she arrived about five minutes after the protest began. ██████████ stated that the protest lasted for about an hour, and it included students taking turns speaking out whatever they had to say.

Regarding what she personally did to support the Team Elite students while at their protest, ██████████ stated that she stood there and watched, and that at one point she went over to ██████████ as she was speaking through the megaphone and told her, “You don’t have to keep talking. There’s no time limit. You know, just take your time,” because ██████████ looked frustrated. At one point there was a chant, which she participated in, like everyone around her.

██████████ stated that for the rest of the protest, she was standing off to the side with other members of the Alliance, where she listened to a group of Hispanic students who were standing about four feet away from her. She indicated they mostly were members of Team Green, plus “Rudy” [Villegas], the Student Trustee, talking. ██████████ stated that she therefore could hear what the group of Hispanic students had been saying. According to Ms. ██████████ the group of Hispanic students “were upset because they felt like everything ██████████ and the other kids were saying were lies.” ██████████ recounted that the Hispanic students’ comments included words to the effect of:

- “We can look up this, look up that statute, this constitution...”
- “We can get them to spend it on that”
- “We can get them in trouble for that”
- “How dare they? Just because they’re Black, they just get to have a protest because they’re angry? They’re standing there slandering the ASO and telling lies about the District!”
- “They’re calling the District racist and ASO racist. That’s slander, we can get them on that.

Regarding who made which of those statements, ██████████ stated that ██████████ made the last comment alleging that the protesters calling the District and ASO racist was slander, as well as another comment to the effect of, "it's all lies." ██████████ also said that ██████████ made the "just because they're Black" comment, which was along the lines of: "Just because they're Black and they're angry, they get up there and go protest? And they can just say all these lies and stuff that's not true?"

As a result, ██████████ stated that she asked ██████████ if she could talk to ██████████ to which ██████████ replied, "You can try." ██████████ indicated that she then pulled ██████████ aside, within the hearing of ██████████ and told him "that I overheard what he was saying and I thought it was inappropriate and unbecoming of him as a Student Trustee to be having those conversations with the ... students." ██████████ indicated that she also raised the issue of whether the Student Trustee must be neutral, at which point he "cut me off and said, 'Oh no, I have to be neutral. I am neutral. I'm a neutral party in this.'" ██████████ stated that she then told ██████████ that what she overheard him saying to the group of Hispanic students had been "not neutral at all," and that his behavior at the protest (such as standing with members of Team Green during the protest, his facial expressions, and his body language) did not look neutral either.

At this point, recalled ██████████ the Student Trustee said words to the effect of, "I can understand that, but you're here supporting the Black people. You don't look neutral." ██████████ stated that she then explained to the Student Trustee that she was there to listen to and support students who were putting on a protest, as she would do for Team Green if it were to put on a protest. The Student Trustee then said words to the effect of, "Well, if Black people can support Black people, then I can support ..." at which point ██████████ told him that he was missing the point because he is supposed to be the Student Trustee for all students, not just for Hispanic students. After the Student Trustee replied, "I'll say again that I am neutral," and "I appreciate your opinion and I'll take that into consideration," the two ended their discussion and each went back to the group they were with before they started talking. ██████████ / ██████████ did not say anything during this conversation.

When asked if she agreed with the viewpoint that she heard the Hispanic students expressing, employee said, "No. Especially the point where she's saying that the ... District of Southwestern College is racist. That's not an opinion, that's a fact." ██████████ ██████████

██████████ She also stated that she has talked with students about whether there is and her own experiences with racism on campus, but she is not sure when she did so. Such discussion with the students, she stated, was not related to the ASO elections.

Other than the above-stated comments by ██████████ / Student # 13 and ██████████ / Student #12, ██████████ did not hear or see any other conduct or comments while she was at the protest that seemed to be inappropriate.

Bullhorn Used at Protest

When asked where Team Elite got the bullhorn that they used for the protest, ██████████ stated, "They asked me for it," and, "They got it from me." More specifically, ██████████ stated that on May 1, 2019, a student named ██████████ who is not on Team Elite but might be in B2LA, asked her for the bullhorn.

When asked whether she asked [REDACTED] why he needed the bullhorn, [REDACTED] stated that she “probably” asked him. When asked what [REDACTED] said he wanted the bullhorn for, [REDACTED] asserted, “I don’t remember.” [REDACTED] stated that she doesn’t remember whether she knew about Team Elite’s plan to protest at the time she gave the bullhorn to [REDACTED]

[REDACTED] stated that all of the bullhorns she has are District property, and that she does not know whether there are rules about whether students are allowed to use them for protests. However, she believes that students can use District property in general, because “It’s theirs.” It did not occur to [REDACTED] to check on whether there was a rule on point. The bullhorn was returned, undamaged, on May 1, 2019.

Knowledge of May 1, 2019 Instagram Post(s)

[REDACTED] became aware of the Instagram Account / Post at issue during the night of May 1, 2019. She stated that she talked to a few people, including her husband and some members of the Black Alliance – [REDACTED] [REDACTED] (a [REDACTED]), and probably [REDACTED] – about the Instagram Post, but otherwise did nothing that night in response to having seen it.

The general nature of those discussions on May 1, 2019, she indicated, was to say that the [Black] students [whom she knew] had nothing to do with the *swccharterinsomaliland* Instagram Account and that there was nothing that could be done about it at that moment other than to have the students try to get it off the Instagram Page, “to delete it in some kind of way because it is so dangerous.”

When asked what her main concern(s) were about the Instagram Account / Post, Ms. [REDACTED] stated that her main concerns were that she “wanted it off [the internet] because I knew they didn’t do it and I knew somebody put it there to make it seem as if they did;” that “of course” someone had published the Instagram Post at issue in order to make it look like one of the College’s Black students had posted it; and that she was “worried about them because whoever would go to this length to do something like this, is way out of control and this is dangerous, and it’s reckless.”

Although she was unsure of whether she spoke with [REDACTED] about the Instagram Account / Post with [REDACTED] on May 1, 2019, [REDACTED] was certain that she discussed it with her before the next morning’s election board meeting.

[REDACTED] stated that she doesn’t know anything about Instagram other than how to “like” other posts and save recipes. However, she [REDACTED] on her Instagram Account before, and someone told her that it’s possible to change the name of an Instagram account without changing any other thing about the account. She stated that anyone can create an Instagram Account that starts with the letters “swc.”

[REDACTED] identified [REDACTED] of being a follower of the *swccharterinsomaliland* account.

Election Board Meeting on May 2, 2019

The next thing that [REDACTED] remembered about the Spring 2019 election was the election board meeting held to discuss Team Elite’s grievance, which was held the day after the

protest. ██████████ went to the election board meeting because someone in the Alliance (perhaps ██████████ ██████████ or ██████████ verbally asked the other Alliance members to attend in order to support Team Elite students.

██████████ stated that she saw the newspaper video-recording the meeting and that she has been told that there are audio recordings of the meeting.

Part 1 – Pre-deliberations Statements

██████████ stated that the May 2 election board meeting “was supposed to be about ██████████ ██████████ and his statement, the racist statements that he made.” At this meeting, someone read some witness statements that described what ██████████ “was overheard saying in the cubicles” regarding Team Elite one afternoon in April 2019, and one female witness “was asked to get up and that didn’t go well ... she had a bit of a meltdown,” so her statement was read aloud instead of her giving a live statement.

██████████ was present for this entire first section of the election board meeting, but she did not speak and does not remember anyone speaking except for ██████████ ██████████ ██████████ and the ██████████ ██████████ was in the room for the entire meeting, standing or sitting at the end of Team Elite’s side of the long rectangular conference table.

Part 2 – Deliberations Period

After the witness statements had been read, everyone except for ██████████ ██████████ ██████████ and Dr. Keisha from Jones and Associates was asked to leave the room so the Election Board could deliberate. While outside, people were mingling, talking, and waiting around. After about 45 minutes, people were called back into the room.

Part 3 – After Deliberation on Grievance

Announcement of Decision on Team Elite’s Grievance

Once everyone was back in the room, a female member of the Election Board “announced that they were not going to disqualify ██████████ ██████████ and they gave a bunch of list (sic) of things that he had to do, which includes an apology, a retreat, and some other things like that ... a plan of action...” At this point, there were “a whole lot of people in the room [who were] sitting, watching, standing.”

██████████ stated that she did not make any verbal response to the announcement of the Election Board’s decision. After the plan of action was announced, ██████████ ██████████ heard other people making comments like, “That is ridiculous!” “How is that possible?” and similar comments. She also heard ██████████ loudly say, “Are you happy that you failed us?!” On Team Green’s side of the room, ██████████ ██████████ heard someone clap their hands but nobody joined in and the clapping died out. She did not hear any comments or observe any other reaction from Team Green.

Next, ██████████ “did some other ... housekeeping [things] and then ... opened it up for public comment,” essentially asking if anyone wanted to say anything.

Allegations Made re Instagram Account / Post(s)

██████████ stated that professor ██████████ asked for the microphone first when the meeting was opened for public comment. Once ██████████ passed her the microphone to speak, ██████████ “said some things ... about what happened, um, about the [Instagram] post ...” and then ██████████ “handed out the packets about the [Instagram] posts.” Ms. ██████████ stated that ██████████ passed the packets out herself, by “handing them out across the table,” and then “some of the people that were sitting by her passed them down when she put them on the table.”

When the interviewer requested more specific information about how the packets were distributed, by demonstrating distributing a packet and asking whether ██████████ “sort of shoved” the packets across the table in that manner, ██████████ initially stated that ██████████ did not “toss” but “slid” the packets across the table, to other people who passed them along. On further questioning, ██████████ stated that she was not paying close attention to how the packets were being distributed because she “was just trying to see what was [i]n the packet,” so she does not remember.

██████████ stated that she received one of the packets, and she confirmed that the copy of the packet that the Investigator showed her was an accurate copy of what ██████████ distributed at the election board meeting of May 2, 2019. ██████████ stated that the packet contained “the post, pictures of the people who recorded ... who were recording from the angle that was posted -- the video that was posted – on the post, names of all the people who the pages and the people who follow that page.” A review of the packet reveals that it consisted of the following: a Post on the subject Instagram Account that contained a screenshot or picture of Team Elite’s protest with a caption below it; a list of the Instagram Account’s followers; a picture showing four students standing together; and campaign pictures of two candidates.

The investigator then led ██████████ through the accounts identified in the packet as being “followers” of *swccharterinsomaliland*, to see if she knew any of them. The only person she was familiar with was ██████████. In identifying ██████████ ██████████ paused and smirked, or smiled a little, so the Investigator asked, “Is there something going on with you and ██████████” ██████████ replied, “Ask ██████████” When the investigator continued to press the point, ██████████ stated, “Nothing at all going on.”

When asked what the picture of the four students standing together shows, ██████████ stated, “I think it’s a picture of – it’s a picture of who was filming from the angle where the video that was uploaded to the [Instagram] post was showing,” and “who was standing there, videoing with their phone.” However, she did not know the identities of the individuals in that picture / screenshot.

██████████ stated that she did know about the Instagram post(s) before the election board meeting of May 2, 2019, and that she thinks they were posted to the Black Student Union’s Instagram page the night before that meeting. However, because she and ██████████ did not discuss in advance what ██████████ would be saying in the meeting, it stood out to her when ██████████ started by saying, “You guys think we’re not smart” or “they’re not smart.” She summarized ██████████ next comments as “laying it out about when the posted, how it was posted, how they figured out the students ... because I think ██████████ [██████████] is the ... social media person ... how they figured out ... how this got posted, who posted it, the angle, you know, all that stuff.”

At one point, ██████ said to ██████ ██████ "who are the people in the picture?" or words to that effect, ██████ named three or four names. At this point, people on the Team Elite side of the room said things like, "Ohhh," "That's not good," "Mmmm, okay," and "That's bad." She continued, stating,

... the people who he's naming are sitting right across from me and they're not saying anything, they just have their heads down and they're not saying anything. They look terrified is what they looked like. And they just had their head down, and they weren't saying anything.

So, I'm thinking to myself, "Say something because you're being accused of this ... Like, really? Like, that's what we're doing now?" ... Really, I was shocked by it. I was like "Wow, okay." But they didn't say anything.

... if it was me, and ... someone said my name and "you did this, and these are the names," I would have said, "No, no, no. I didn't do that. I didn't have anything to do with that. None of that happened." So, to me, it was all suspect. It made it look like they were guilty to me, because they didn't say anything....

██████ stated that she believes that one or all of the four students whom ██████ named during the election board meeting of May 2, 2019, took the video of Team Elite's protest of May 1, 2019, and posted it online, to the Instagram Page shown in the packets ██████ distributed. When asked why she believed one of those four students took and posted the video, ██████ stated:

Because of what ██████ laid out, because of ... the proof that she had. First of all, ... you had to have been following the page previously, and being followed, for you to be able to post. So, all the person [who posted the protest footage] had to do was change their name of their [Instagram] page ... and then create that profile and put that post out there. And then she did cite that ██████ [Corona]'s name was one of the people following that [Instagram account] ... So, you know just the evidence that she made...

██████ also indicated that she believed that because ██████ who is District personnel, followed the Instagram Account in question, that meant that the Instagram Account originally must have had a legitimate-sounding name, but then someone changed the name to ***swccharterinsomaliland***.

██████ stated, "People were unhappy with the decision not to disqualify ██████ [██████] ... but the [Instagram] post really – to me, it opened up – it shed a lot of light on certain situations that had been happening and ... It was just sad. It was disgusting." By "certain situations that had been happening," ██████ said she was referring to:

[the] nit-picky stuff, all of the things that were being said that the Black students were going through because of Team Green. The things that were being said, the things that were being done, which I don't know for sure and I don't know all the details. But there were things that had them feeling very uncomfortable that had them feeling, you know, like they were being discriminated against.

[and]

For someone(s) ... for students to do something like that ... First of all, it was dangerous and it was reckless. Whoever did it ... in today's world, you don't do things like that. You never know where people's heads are, or how unhinged they are. And for somebody to read that and then at the protest they announced several times that there's going to be a meeting at 10:00 [referring to the election board meeting of May 2, 2019] ... so what if you were one of those people that were out there and ... you read this and you thinking, "Okay, now the Black students are saying 'Behead all the Eurocentric Mexicans and make White people our slaves,'" and now here you come to the meeting with a gun or something and you're aiming to shoot any Black face that you see. You don't do things like that!

When asked, "What was the impact on you of viewing that post?", ██████████ replied, "I don't want to answer that," and "I don't want to talk about it. I don't feel good about it, at all. And I'll leave it at that."

At some point during public comment, ██████████ asked whether anyone wanted to speak. Since Student Trustee ██████████ had just commented, ██████████ sought the microphone in order to address him. She stated that she said something to ██████████ expressing [her belief] that he needed to be neutral due to his position as Student Trustee, then ██████████ "said something that was a lie." Therefore ██████████ said something to ██████████ like, "Do you want me to say what I heard you saying? What we talked about?"

From there ██████████ had the microphone and began talking. ██████████ no longer had the microphone, and when she tried to respond to something that he said, ██████████ "talked over" her and tried to "shut me down and not let me talk, because he didn't want me to say what we discussed out at the protest that day." ██████████ recalled that some people responded by saying things like, "Be quiet," and "Let her speak." ██████████ stated that she made one more comment to ██████████ then the back-and-forth between them ended. Sometime thereafter, ██████████ saw ██████████ go over and speak to ██████████ From there, she stated, Dr. Keisha spoke, after which ██████████ and District police entered the meeting room and ██████████ ended the meeting. At that point, administration was trying to get people to separate into different rooms "to talk about something." However, ██████████ stated ██████████ and some others in the room, said that "they thought people should not break up into separate groups to further their discussion. The [Team Elite-allied] students decided they didn't want to do that or they wanted to leave, so then we left."

When asked what she observed as being the impact of ██████████ comments on the students in the room during the election board meeting of May 2, 2019, ██████████ said she could not speak to that. But she also stated that whoever authored the Instagram Post "would feel terrified and scared, because you're caught and you may get put out of school or you may not be able to run in the election." That opinion was based on the fact that ██████████ said she would feel that way herself if she was the one in that situation. The only emotions she said she observed coming from members of Team Green were "shock," followed by anger, frustration, and agitation. ██████████ then stated, "People were crying and frustrated, and it was impactful for everybody [because it] ... was a heavy situation" However, she declined to say whether the impact was negative or positive. With regard to the people she said she observed who did not seem to be negatively impacted by ██████████ statements, ██████████ said that she did not know what they were feeling, then described seeing a wide variety of facial expressions on people present, ranging from no expression at all to looking surprised, confused, crying, agitated, angry, and "scared to death." She described the people on Team Green and

seated at or near Team Green's portion of the table as, "they just looked caught, they just looked like a deer in the headlights, like, caught."

When asked what she remembers about how she felt during the election board meeting of May 2, 2019, ██████████ stated, "I'm not going to talk about the way I felt in the meeting." While she thinks she probably did subsequently communicate those feelings to persons other than her husband or counselor, ██████████ stated that she did not communicate her feelings to any student(s) in detail. She continued, ",, that's why I'm not going to talk about it."

I'm not going to go into detail with them [students] about my feelings because they already have enough to deal with on their own. I'm not going to take my twenty-two years' worth of shit on this campus and put it on them. ... I'm not going to do that. So no, I wouldn't have gone into detail with them about how I'm feeling. But based on the tears that I had, they can understand that I'm sad and I'm hurt for them, because I am.

██████████ also stated:

I'm at every equity, diversity, anti-Black, "Let's Kumbaya" meeting they have on this campus, and I never been silent or quiet about how I feel, so it's out there. But am I going to put that on the students? No. They don't need it. They get enough by themselves.

When asked when, in relation to the election board meeting, she reached the point of tears because she was so sad and hurt for the students, ██████████ stated, "during, after, before ..." then she scoffed, before continuing, "... every day. I'm not going to talk about that either." ██████████ also stated, "There's a lot of things I was upset about before the meeting. It has nothing to do with ASO elections."

Events After the Election Board Meeting on May 2, 2019

Additional Instagram Posts

██████████ stated that has an issue with additional Instagram posts that "keep popping up even after the cordial, positive, 'let's move on' conversations."

For example, she mentioned an Instagram post, by ██████████ ██████████ that said "something about ... your race and being mediocre, and your sexuality and then ... something derogatory [possibly] something about 'no lemonade, no tea.'"

██████████ Discussions with Team Green; Team Green Failure to Deny

██████████ volunteered that she overheard some conversation between ██████████ and some students talking right outside of the meeting room, immediately following the election board meeting of May 2, 2019. She stated that:

... a lot of those Team Green students approached ██████████ and talked to different people in [the Black] Alliance in general, outside [of the meeting room] ... and it seemed like ... some of the conversations ... were admitting to what they did, but they wanted to put it past them and they wanted to move forward.

I overheard ██████ **talking to several of them about moving forward** um, you know, “Let’s not escalate this ... Let’s just stop it. Let’s get -- you guys get back to the business of... ya-ya-yadda,” you know, that kind thing. They were open conversations ... and I seen (sic) them thank her and hug her and all this stuff ... after the conversations.

When asked what she meant when she said that it seemed that members of Team Green “were admitting what they did,” ██████ stated, “you have to ask ██████” She had no recollection of anything specific that any student said to give her that impression, other than that she did not hear any student deny any of the allegations against them.

██████ also stated, “I think I overheard ... a conversation with ██████ and maybe one of the other kids” whom she described as tall, slender, and having “flippy bangs,” in which she did not hear anyone say they did not do “this” or “that.” Instead ██████ thought that she recalled hearing a well-mannered and cordial conversation in which the student(s) expressed an attitude of wanting to move forward and wanting to meet and to talk with Team Elite. However, sometime after May 2, 2019, Team Green changed its position and no longer wanted to meet regarding the situation.

When asked what it sounded to her like the students were admitting, ██████ stated, “that they ... did do something with the [Instagram] post or something like that...” The sole basis of her impression that it sounded like the students were “admitting it” was that, at least as far as she overheard, they “didn’t say [they] didn’t do it.” ██████ stated, “As far as I know, nobody said that [they didn’t do it] at that time or after...” She continued, “nobody said ‘I didn’t do that,’ or ‘I didn’t have anything to do with that.’ [Well,] somebody did [do it], and there was specifically three or four names that were put out there about it...” Other than the aforementioned conversation(s) immediately following the election board meeting of May 2, 2019, there were no other conversations that made ██████ think that the students on Team Green were admitting it.

Team Green Members Decision to Not Meet

██████ stated that her “biggest issue” of concern after the election board meeting of May 2, 2019, was that all of a sudden, members of Team Green did not want to meet or talk with members of Team Elite. Despite what she overheard in the conversation between ██████ and ██████ she said that:

... along the way, somewhere between that meeting [May 2, 2019] and ... when the students were supposed to meet [with the ██████ and each other], then all of a sudden, they don’t want to meet anymore, they don’t want to talk”

██████ expressed that Team Green’s decision to hold off on meeting with Team Elite has Team Elite “upset.” Specifically, she explained that Team Elite members showed up to three scheduled meetings that nobody from Team Green showed up for, not even to talk to mediators. As she described it, Team Elite members are “feeling slighted and just thrown aside because they’re showing up for these mediation meetings and nobody’s showing up to talk with them.” ██████ continued, saying that members of Team Elite, “... don’t want to perpetuate any of this ... they just want to meet and talk about it, get it situated, and move on,” but Team Green is not allowing that to happen.

██████████ Advised Team Green and Team Green Comments about Feeling Unsafe

██████████ stated that she was unaware of ██████████ advising Team Green until ██████████ attended a meeting that was called for advisors. ██████████ stated that during this meeting, ██████████ said that she was advising Team Green, “which makes sense.” However, ██████████ also stated that because her official role is as the District’s Equity, Diversity, and Inclusion person, ██████████ needs to be equitable, to be inclusive, ██████████ would need to “reach out to all of the students, not just the Hispanic students.” She continued, stating:

██████████ never reached out to any of the Black students. She came with statements and all kinds of things at this advisors meeting, well-planned, pre-prepared things, so she’d been working with them, obviously, but [scoffing] the Team Elite students have, who – the Black Alliance, I guess? Because nobody else is reaching out to them. She’s not [reaching out to Black students], and that’s her job. And I do have a problem with that. Yeah.

██████████ also asserted that someone is “putting out ... these stories” that Team Green members, “for some reason feel unsafe because of the ... Black students, or the Black faculty, or the Black staff.” By this comment and her word choice in it, ██████████ indicated that she believes the “stories” are false, and she disclosed a lack of understanding of why any Team Green member might feel “unsafe” in any way as a result of what occurred in the election board meeting of May 2, 2019.

██████████ stated that she first heard from ██████████ in the advisors’ meeting, that Team Green members are “saying they feel unsafe, they’re stressed out, ... they have anxiety, ... their grades are being affected, they miss class, different things like that. They don’t feel safe walking around ... on campus....” She stated that some students and ██████████ also expressed those student concerns during the May 14, 2019 Governing Board meeting, and that she has similar comments generally in unidentified public situations.

██████████ also asserted that she feels like ██████████ is advising Team Green to not meet with Team Elite. She continued, “My opinion only: I don’t think the students came up with that on their own, but that’s an issue for me.”

Witness’ General Demeanor & Credibility Analysis

██████████ presented as a bright, outgoing mid-aged woman who stated that she was a long-term employee of the District. Generally speaking, ██████████ seemed to be somewhat hostile toward being interviewed, but nevertheless she generally cooperated. ██████████ also was somewhat difficult to interview because she frequently spoke while the investigator was posing a question, which interfered with the interview process. A

t times ██████████ appeared to be experiencing some stress, anxiety, or perhaps frustration in relation to the correct execution of her directions for setting up event sites that day for upcoming student graduation ceremonies (i.e., dealing with her regular duties). The interview was interrupted several times for phone calls or texts to the witness in this vein, for which breaks were always provided. The Investigator also offered a break at least one other time when ██████████ seemed (based on her tone of voice, word choice, and body language) to be upset or angry, but ██████████ declined the offer. Of all the witnesses interviewed, ██████████ behaved as if she was one of the most upset at the time of her interview.

██████████ seemed to be forthcoming in her descriptions of discussions with students and the election board meeting. However, she seemed to be holding back information in some areas, such as what she knew about the Instagram Account / Post before the election board meeting of May 2, 2019, and her interactions with others regarding the Instagram material before and after that meeting, and this Investigator does not believe that she was credible on a number of issues, such as whether she made any donation of anything for Team Elite's use in the election, whether she knew what the bullhorn would be used for on May 1, 2019, and whether she was coaching or otherwise attempting to help ██████████ during the May 1, 2019 protest.

██████████ believably indicated that she has experienced negative conduct in the workplace that she, at best views as unfair (and the Investigator anticipates she views as being illegal discrimination), but she declined to provide any further information on those issues. Based on her behavior and comments, ██████████ also appeared to be hostile toward employee ██████████ for reason(s) that she would not identify or discuss.

8) ██████████ ██████████ ██████████

Student ██████████ ██████████ ██████████ was interviewed on June 11, 2019 at District offices. He stated that he is a 22-year-old biology major who has been attending SWC for about three years, and his goal is to become a doctor. ██████████ is ██████████ and a ██████████ ██████████ / ██████████. ██████████ did not respond to May 2019 requests for his interview because they were sent to his school email, which he that he was not checking.

██████████ views ██████████ ██████████ and ██████████ as his closest friends. He also is friends with ██████████ whom he has known since she was his biology professor in 2016 at Grossmont Community College. ██████████ stated that he and ██████████ had been "pretty close for a number of years," and that she was his "person," the one with whom he talks about all of his "stuff."

██████████ main involvement relates to Team Elite's campaign video, the Instagram Account, and B2LA's Fall 2018 request for funds to attend the UMOJA conference. First, ██████████ created Team Elite's campaign video.

Regarding the Instagram Account, ██████████ stated that he "randomly followed" the Instagram Account while acting for the Black Student Union. He also stated that BSU's Instagram Account utilizes an app that results in the BSU page automatically "liking" every post that is put up on any Instagram Account that BSU is following.

Regarding the discovery of Team Elite campaign material and protest footage on the *swccharterinsomaliland* Instagram Account, ██████████ contacted him about it at night on May 1, 2019. ██████████ indicated that he immediately did the online research for her regarding the Instagram Account, that he also reviewed a panoramic video shot that he took at one point during Team Elite's protest, that the panoramic video shot showed that there was a group of Team Green candidates standing together and recording with their phones during approximately the same time as the events shown in the snippet of Team Elite's protest that was shown on the Instagram Account, and that he thought, based on the angles, that someone in that group of Team Green candidates recorded the video that ended up on the Instagram Account.

██████████ indicated that he reported this information to ██████████ within about two hours and that he sent her the documents that ended up being the content of the packets that ██████████

brought to the election board meeting on May 2, 2019. ██████ stated that his understanding of the posts and comments on the Instagram Account were that they were comments posted by someone to “instigate a problem between Mexican people and Black people.” However, he also volunteered that he did not know what the word “instigate” meant.

██████ indicated that ██████ told him not to tell anyone about the Instagram Account, and that he thought that ██████ and ██████ did not know about the Instagram Account before the election board meeting.

Regarding the events of May 2, 2019, ██████ stated that he went with ██████ to the SWC Police department at about 10:00 a.m., and that while there ██████ requested that the police be present at the election board meeting that morning. ██████ stated that ██████ also asked The Sun newspaper to attend that morning’s election board meeting, and that she wanted to hold a press conference with The Sun after the meeting.

██████ stated that they went from the police department to the election board meeting, where he sat directly behind ██████ ██████ indicated that during this election board meeting, ██████ brought out packets of the materials that he sent her the night before regarding the Instagram Account, the fourth page of which was the still shot of Team Green candidates that he pulled from a recording that he made at Team Elite’s protest, that ██████ made it clear that the students shown in the fourth page of the packet were the people she was saying shot the video that was posted to this Instagram Account, and that ██████ asked him to verbally identify the students who were shown on that page. When ██████ asked ██████ to identify the students in the packet, he felt “nervous because they were standing right in front of me,” and “uncomfortable.”

Regarding the distribution of the packets to people at the meeting, ██████ indicated that that he did not remember whether anyone threw or tossed the packets of materials that ██████ brought when distributing them.

██████ stated that he felt “real uncomfortable” during the meeting, and that when he looked across the room at members of Team Green, they looked angry but not in a vengeful way. ██████ indicated that as soon as the mediator got the microphone, he asked ██████ if he could leave, because he was uncomfortable, and that she replied that he “could leave if he wanted to but he should try to stick around.” So, ██████ remained in the meeting for the remaining 20 minutes or so.

According to ██████ after the election board meeting ended, he and ██████ went outside, where he comforted her because she was crying. He described ██████ as being “upset, sad, and scared” after the meeting concluded.

██████ also indicated that he had not ever observed any conduct by any of the Team Green candidates that would lead him to believe that they had race- based, discriminatory motives. However, he confirmed that he did believe that the individual students he named were the ones who posted the offending material to the Instagram Account.

██████ stated that, in his opinion, the election board meeting was not an appropriate place to raise the allegations against Team Green members, and that they should have let the police handle it. He also indicated that if given the choice, he would not have publicly named the individuals whom he thought created the Instagram Account and post.

Witness Credibility and Demeanor

██████████ appeared to be biased in favor of ██████████. However, he answered all questions posed and he appeared to be forthcoming.

9) ██████████

The Investigator met ██████████ the District's acting chief of police, on several occasions near the outset of the instant investigation and spoke to him on the phone several times for updates.

The two main subjects that ██████████ assisted with was providing the identity of and an initial introduction to the Instagram Account holder, ██████████ and providing the College Police Department's investigation that led to the correct identification of the owner of the Instagram Account, who posted the footage of Team Elite's protest of May 1, 2019, on his account. He also recounted his meetings with ██████████ and caused his staff to make attempts to learn whether the Instagram Account at issue had ever operated under a different name, which information his department was unable to secure.

Through a swift and effective investigation that included the review of video footage and witness interviews, SWC's police department identified the person who owned and operated the *swccharterinsomalland* Instagram Account, who took a three-second video of Team Elite's protest on May 1, 2019, and who posted that short video to the subject Instagram Page. This was the same Instagram Account and post of footage of the Team Elite protest that ██████████ ██████████ incorrectly accused four SWC students of posting. The main components of the SWC Police Department's investigation are summarized below.

██████████ confirmed that he met with ██████████ and ██████████ at approximately 9:10 a.m. on May 2, 2019, which was before the election board meeting began. He also stated that ██████████ asked that SWC police attend that that morning's meeting, but that he indicated to her that he would have officers in the vicinity but not inside the meeting, unless needed. ██████████ ██████████ also stated that he did not tell ██████████ when they met before the election board meeting on May 2, 2019, that he knew, believed, or was pretty sure that one, or any, of the names that she brought to him during that morning's meeting was the one who created and posted the video or other material on the Instagram Account.

SWC police officers reviewed video recordings taken by multiple SWC surveillance cameras that captured various angles on campus during the protest on May 1, 2019, as well as recordings provided by witnesses, in order to determine who took the footage of Team Elite's protest of May 1, 2019, which ultimately was posted to the subject Instagram Page. SWC Police confirmed that they were looking at the correct portion of the video by using easily identifiable landmarks and events that were shown in the various video recordings. Following this approach, SWC police identified a person whom they suspected of having taken the video footage at issue. The suspect's appearance on May 1, 2019, included some unique identifying markers that enabled SWC police to clearly identify him and track him as he moved about the campus on May 1, 2019, until police located an angle that provided a relatively clear shot of the suspect's face. In the course of its investigation, SWC police analyzed additional District surveillance footage in order to locate the suspect on campus and track him down for a brief interview.

Once stopped by SWC Police, the student, ██████████ initially acted as if he had no idea what the subject Instagram page was, but before long he changed his approach and ended up

voluntarily cooperating with SWC Police as they questioned him. In this brief conversation with [REDACTED] [REDACTED] admitted that he created the **swccharterinsomaliland** Instagram Page, that he personally shot the video footage of Team Elite's protest on May 1, 2019, which was posted to that Instagram Page, and that he had uploaded the video footage to his Instagram Account.

Within two hours of the Police identifying and interviewing [REDACTED] this Investigator also interviewed him as the result of [REDACTED] assistance in putting us together in quick order.

Thereafter, [REDACTED] cooperated in the investigation as reflected in the summary of his statement, which is found below in this report.

[REDACTED] provided the Investigator a copy of the incident investigation report that he prepared, which included video of his interview of student [REDACTED]

10) [REDACTED]

Student [REDACTED] was initially interviewed on May 9, 2019 at District offices. He thereafter cooperated in several follow up conversations and meetings held for the purposes of establishing or ruling out whether he had any connections with any members of Team Green or Team Elite, including identifying who informed him that someone was investigating Instagram Account. Ultimately it was determined that [REDACTED] was not affiliated with anyone on either Team Green or Team Elite.

[REDACTED] is a [REDACTED]. The [REDACTED] [REDACTED]. [REDACTED] indicated when interviewed that he is interested in politics and satire, and that he thinks that where he was raised influences that, as well as his overall understanding of life and the world. For example, he described Puerto Rico as having been colonized by America and indicated that there is no love lost between himself and America. [REDACTED] indicated in the course of his interview that that Black culture is part of Puerto Rican culture, that it was part of his life there, and that things seem different for Black people here in San Diego.

[REDACTED] knew from having been contacted by and introduced to this Investigator by [REDACTED] that the Investigator wanted to speak with him in relation to his Instagram Account. When interviewed on May 9, 2019, he freely admitted that he created the **swccharterinsomaliland** Instagram Account and that he operated it as a form of political satire until recently. [REDACTED] spoke as a young person does, and throughout his interview he appeared to think that his Instagram Account was funny.

[REDACTED] stated that he created the **swccharterinsomaliland** Instagram Account in January 2019 as a "parody account," to make fun of Southwestern College and its politics, and he showed the Investigator a disclaimer on a screenshot of the Instagram Account which plainly stated that the account was a parody account. As [REDACTED] described it, his concept for the account:

[was] to poke fun at the school and in the weirdest manner I could. The description of the account was, "Our goal is to help impoverished Africans learn java script," Like, that was the idea. I was just trying to make weird things.

██████████ indicated that he chose material to post on the Instagram Account that he thought was funny in a satirical kind of way. When asked for elaboration, ██████████ stated that he “invented” the name of the account and indicated that he “wanted to make a charter in the weirdest place,” where a person would think that SWC would never set up a charter school. ██████████ indicated that the initial posts on his account were “random photos” he found online that had African people and computers in them, and he would make jokes about new course offerings for learning Java Script. (For ██████████ the page was about being absurd.) “Up to a certain point, the joke ... was that we were in Africa, so we had to be representatives of Africans.” When asked to explain how or why that was supposed to be funny, ██████████ could not.

██████████ stated that he had only posted a few photos with captions, when the Black Student Union (“BSU”) started following the Instagram Account. ██████████ indicated that he was surprised and pleased when BSU started following his Instagram Account months ago, so he started following BSU’s page in return and that is how he found out about the ASO elections. According to ██████████ the BSU “liked” everything that he posted on the account. ██████████ indicated that he was amused when the girls’ basketball team, B2LA, and a Muslim group followed his page. “Once the elections rolled around, I took the advantage of also trying to parody the elections.”

When the BSU “liked” everything that he posted on the Account, he started following BSU which is where he saw that the elections were ramping up. ██████████ indicated that the BSU site is where he saw Team Elite’s election video, which he then posted to his own site, to cheer them on, but of course with “longer, more weird paragraphs of text” beneath their video. ██████████ stated that he was “working under the character of an African warlord named Abimbola the Rich Child,” whom he said is not a real person but the name is real because he found it while searching for common African names.

When asked to explain why or how it was funny to for there to be a SWC Charter in “Somali Land,” or what made his Instagram Account funny, ██████████ was not able to explain. When asked what he views as the politics of the College, ██████████ stated that “it depends.”

██████████ [M]most students from what I’ve ... talked to are normal centrists maybe even a bit of conservative eh but the politics of the school in of itself are very liberal view of things. Eh such as diversity and stuff like that, which I have no problem with, but I just wanted to poke fun at because it’s just things that I believe obviously should exist. But I think that the emphasis upon them just makes it null up to a point just say -- it’s not really diversity if it’s like oh we have to do this, it’s got to be happy for this you know?

When asked what he put on the site that to actually making fun of SWC’s politics, ██████████ replied,

██████████ ... all I wanted to poke fun at, eh, you could say ... was what I perceived to be the politics of BSU and clubs like that but in a way that poking fun in a parody way. I’m supporting them in the account but if you read it it’s more like a ridiculous parody.
... [and]

██████████ ... In a parody type way, the last posts were mostly aimed around uh in supporting them in a weird way since **they were the Black**

Student Union and their logo is a, a, uh, a hand like this over uh the continent of Africa.

██████████ indicated specifically that he wanted to make fun of BSU and its politics, which he thought probably would be less offensive to them if spoke his satire and jokes it in the character of a black person.

Posting Video of Team Elite Protest to His Page

██████████ stated that he took a three second clip of Team Elite's May 1 protest, which he thought "was stupid," which he purposely reflected in the weird text that he put below the clip when he posted it, which had to do with Mexican Dragons.

When asked if he thought at all about the potential repercussions of the Instagram posts he was creating, ██████████ indicated very clearly that he had not.

- ██████████ Okay. Did it ever occur to you that somebody might look at this and think that it was people who are, you know, maybe a member of the Black Student Union or something like that, who was saying these things and that these were actually threats?
- ██████████ Mmm it didn't occur to me that it would eh have problems with the election in that sense. I just thought since they already follow me, they must know it's just a cheap liberal account.
- ██████████ Huh. I wonder how he would know that. I -- didn't you get an email telling you to take it down?
- ██████████ Eh I got um a message from Team Elite on Instagram eh and since they didn't follow me eh it was a request to send me a message so I could view it before accepting it and they didn't know that I viewed it. So, I saw it and it was a -- if I remember exactly it says "Hey can you please change the captions a bit? This could mess up the elections." Eh and I did not touch it. I did not answer them. I didn't want to. The only thing that came to mind was maybe taking a screen shot of that and saying how the Russians wanted to mettle in my elections but that was all.

Deletion of Instagram Account

██████████ indicated that he received an Instagram message from Team Elite, that said something to the effect of: "Hey can you please change the captions [on your Instagram posts] a bit? This could mess up the elections." His feeling about the situation, he said, was that they did not follow him, so he was not going to answer them.

To the contrary, ██████████ indicated that he had considered "maybe taking a screen shot of that and saying how the Russians wanted to meddle in my elections," but that was all.

██████████ indicated that he was near the Student Center / ASO Building around mid-day on May 2, 2019, when a guy he knew from his Psychology 101 class (later identified as ██████████) walked up to him and told him that the Instagram Account was being investigated. ██████████ stated that he deleted the account as soon as he found out that it

was causing any controversy.

Credibility Assessment and Demeanor

██████████ presented as a high energy, bright young man who knew that he could be in trouble. His comments did not demonstrate his having any understanding of or concern for how offensive his posts may be to readers.

The Investigator believed that ██████████ statements about his motivations may have been partially truthful but that there likely was more to his race-based Instagram Account and posts than he admitted. Other than this issue, the Investigator found the information provided by ██████████ to be credible, particularly in light of his continued cooperation throughout the investigation.

11) ██████████

Student ██████████ was interviewed on May 9, 2019 at District offices. She was helpful, direct, and thoughtful.

██████████ is ██████ years old and ████████████████████. She wants to get a degree in biology and become a plastic surgeon. ██████████ is part of the UMOJA Learning Community, a member of PTK (honors society), and is ████████████████████. Although she named a number of friends at school, ██████████ specified that ██████████ is not one of her friends who she normally would do things with outside of school.

This witness told the basic story of the events. Of note, she provided thoughtful explanation of the impact on herself of some of the ASO's Fall 2018 conduct, including being asked about fundraising, which led to a feeling of being characterized as being stereotypically "lazy." She also discussed the instance(s) where the Student Trust made comments about filing a police report and being charged with a misdemeanor if the allegations concerning ██████████ are discovered to be false. Other helpful information provided by this witness included her descriptions of the impact of some of the ASO officers' conduct on those who observed it.

██████████ also provided significant information concerning Team Elite's social media use. Although she did not get to attend some of the meetings at issue because they occurred during college hour (11:45 – 1:00), when she had a math class, ██████████ kept her up to date through Team Elite's Group Chat on What's App.

During a meeting, ██████████ made a comment more than once that if Team Elite really believed what their grievance alleged, they could go file a police report, but if they find out you're lying you'll get a misdemeanor [for filing a false report]. To ██████████ this comment felt like ██████████ was calling ██████████ a liar.

12) ██████████

Student ██████████ was interviewed on May 8, 2019 at District offices. She is a SWC student who participates in Filipino Club and Pagkakaisa, which club she indicated teaches leadership skills and Filipino-American culture. She also served as the ██████████ for the election.

When interviewed, ██████████ adamantly communicated that she did not receive adequate training regarding the requirements of her position. The fact that she did not post any Agendas

for Election Board meetings until essentially forced to do so for the May 2, 2019 meeting at the insistence of two or more of Team Green's campaign staff tends to corroborate that she did not receive sufficient training. In addition, the training materials that she prepared and used at the mandatory meeting for all election candidates on April 11, 2019, contained significant errors, particularly regarding the dates of events, beginning on the first page of the PowerPoint and continuing to through its final page. The number of errors in the document tends to support the notion that the ASO Coordinator / Advisor either did not review, or did not adequately review, the materials before they were published and disseminated.

The person who fills the [REDACTED] [REDACTED] position is responsible for ensuring that the [REDACTED] is properly trained on his/her duties and responsibilities and for ensuring that he or she correctly and sufficiently trains the members of the Election Board. [REDACTED] also stated her belief that she and the members of the Election Board should have received more training, including training on the racial climate, anti-bias training, ... and de-escalation training. Further, [REDACTED] indicated that she believed the election candidates needed more training on the rules that applied to the election.

[REDACTED] seemed to remember the meetings as a group than individually. She did remember both [REDACTED] and [REDACTED] speaking to some extent regarding the grievance, but she did not remember ever hearing [REDACTED] say that he didn't do it. [REDACTED] did not feel well prepared to fill her role as [REDACTED]

Regarding the election board meeting of May 2, 2019, [REDACTED] primarily remembered that it was rather stressful, that [REDACTED] kept saying things that "were irrelevant to the meeting" so [REDACTED] kept responding to his comments, and that she had an anxiety attack while the meeting was in progress.

Regarding Team Elite's Grievance that gave rise to the election board meeting of May 2, 2019, [REDACTED] indicated that a major point for her was that she never heard [REDACTED] say that he did not make the statement. Rather, as she remembered it, [REDACTED] only kept saying that he did not remember making such a statement.

[REDACTED] experienced significant stress during this time period and during the meetings at issue, including having what she called an "anxiety attack" during the election board meeting on May 2, 2019. Further, she indicated that she wanted to remember more but her memory is fuzzy.

13) ATHINA DUMARAN

Student [REDACTED] was interviewed on May 13, 2019 at District offices. [REDACTED] is a first-year college student participating in the Bayan Learning Community.

[REDACTED] was asked by the [REDACTED] to be a member of the Election Board, and she agreed. When asked what kind of training she received in order to do her job as an Election Board member, [REDACTED] said, "I honestly did not receive any training." She indicated that she was emailed a link to the ASO Constitution and Bylaws but she never saw them in print. She also stated, "We were just, like, brought into the meeting area and we were just discussing what was on the Agenda and what we thought about it, our opinions."

Regarding the election board meeting on April 23, 2019 regarding Team Green's Grievance, [REDACTED] remembered being called to a meeting one day for a grievance pertaining to social media. She also remembered that during this meeting, [REDACTED] told the Election Board

about “how the Constitution needs to be updated because, um, social media is a very progressive kind of, um, matter that we need to adapt to.” She also recalled that during deliberations, there was discussion to the effect that Team Elite had good intentions and didn’t do anything wrong, as they had been trying to promote without doing so on their personal Instagram accounts and they did not know that they were not supposed to do it the way they did, which was links to their personal web pages. Upon looking at the grievance documents, ██████████ identified where at least three of the screenshots submitted in support of Team Green’s Grievance demonstrated that the campaign materials had been posted by members of Team Elite to their personal Instagram accounts. The comment below the campaign photo that ██████████ had on her personal account stated, “If you support me, please go follow this page and show some love.” ██████████ also demonstrated, through the grievance attachments, that one or more campaign posts had been posted by ██████████ to her personal Instagram Story.

██████████ stated that Team Green’s Grievance against Team Elite was the only grievance raised or addressed in the meeting on April 23, 2019. When explicitly asked, she denied that anything was brought up verbally regarding Team Green. However, when later asked whether Team Green did essentially the same thing as Team Elite did regarding posting election materials from their own personal Instagram pages, ██████████ stated that they received a separate grievance from ██████████ alleging that ██████████ posted something to the effect of, “I can’t f---ing wait” and showing his Web Advisor ID which takes one to the voting polls. ██████████ described ██████████ post as being “kind of the same thing, but [by] only one person.” Although ██████████ did not post anything about the fact that he was running for office, ██████████ indicated that it subtly told people, without directly saying it, that he was running for office. She also indicated that ██████████ was not in attendance at that election board meeting, so the Election Board did not receive any testimony from him regarding his intentions, as it had received from Team Elite regarding their intentions associated with their Instagram posts.

██████████ stated that the group “decided to let [Team Elite’s conduct on social media] off as a warning because it wasn’t that serious of a problem, because it was just a social media post.” She did not indicate that she or any of the election board members reviewed the Election Code as part of that decision, but she did indicate that the Election Board felt that there had been a lack of clarity in what was allowed to be posted on Instagram.

██████████ indicated that the April 29, 2019, meeting was a full house, that there was an agenda for the meeting, and that the press was present. According to ██████████ ██████████ presented Team Elite’s Grievance and two witnesses “came forward” to ██████████ by text. She stated that the written statements of both witnesses, who were not named, were projected for all to see and they were considered by the Election Board during its deliberations. ██████████ indicated that Team Green asked to have the witnesses come forward, mainly so that ██████████ could speak with them. She also indicated that the subsequent statements of those witnesses were considered by the Election Board during its deliberations at the May 2, 2019 meeting.

██████████ indicated that during its deliberations on April 29, 2019, the Election Board did consider Team Green’s request for the anonymous witnesses to be named, and as a result they asked ██████████ and ██████████ to talk personally with them and ask how they would like the Election Board to provide for their physical and emotional security after they come forward. She indicated that the Election Board also decided to “extend the meeting” on Team Elite’s Grievance because one of the students present in that meeting said it was an “illegal meeting” because the agenda had not been posted outside and in order to gather “enough evidence such as, like, names of the witnesses and credible witnesses...” Other than that, she indicated, the

meeting was closed with no action being taken by the Election Board.

██████████ stated that she believed that ██████████ and ██████████ spoke with both of the anonymous witnesses because during Team Elite's protest on May 1, 2019, she asked ██████████ if he and ██████████ had talked with the witnesses and "he said 'they did,' [but] it was during the protest [so] I ... was trying to hear what ██████████ had to say during the protest."

██████████ indicated that all of the Election Board members attended Team Elite's protest on May 1, 2019. When asked why she attended the protest, ██████████ stated, "mainly because I wanted to ... hear their side ... not just the issues they have with the election, but, like, overall issues. And I wanted to be there to show support as well because I know that they were going through a hard time ... everybody was going through a hard time ... [and] it means a lot to ... listen when someone ... wants to be heard."

██████████ also indicated that about 30 people were present at the protest, including the members of Team Elite, Team Green, and the Election Board. Accordingly, that indicated that not many other people were in attendance.

Regarding the election board meeting on May 2, 2019, ██████████ stated that ██████████ settled everyone down for the meeting, then ██████████ read out the grievance material and witness statements and called for "public comments" by either team, followed by ██████████ calling for ██████████ to come forward to give a verbal statement. ██████████ indicated that ██████████ was not able to come forward so ██████████ read her handwritten statement aloud, after which the Election Board heard public comment. At that time, she said, ██████████ spoke to say that she was really disappointed about everything that was happening. At some point, she indicated, ██████████ and/or ██████████ informed the Election Board that "they did meet up with the anonymous witnesses and they deemed them to be credible." ██████████ stated that ██████████ also spoke during the open session that day, to provide information about how he was not part of the incident.

██████████ did not feel that ██████████ directed the election board's decisions. When asked exactly who spoke for the Election Board in the election board meeting of May 2, 2019, she identified herself, saying that ██████████ asked her to be "vice chair" to continue the meeting when ██████████ became ill.

Once the Election Board asked to clear the room so it could deliberate, there was discussion about what the Election Board members thought of the grievance, possible solutions that would not exclude ██████████ from the election but rather "bring him into the community and make it better." ██████████ stated that the Election Board did not consider any evidence or information that was presented at the meeting held on April 29, 2019 but not at the one held on May 2, 2019, which necessarily means that any information provided by ██████████ was not considered. She also stated that the Board considered information that it received through attending Team Elite's protest. The ██████████ facilitator, Dr. [Kiesha] Brown, asked a lot of questions to get them thinking about solutions and she mentioned something about "reconstructive justice." ██████████ stated:

we ... tried so hard to remain neutral and we ended up with a decision to have implicit bias trainings, to have a retreat that is mandatory for both teams to, you know, be reconciled, which would be facilitated by ██████████. And we also wanted to have like an inclusion coach that would be help -- like provided by the Jones, [as well as ... someone to talk to about racial issues ... on campus ... where

students ... feel safe and included and ... not discriminated against.

██████████ also stated that in her opinion, the Election Board's decision did not go far enough and things would have gone differently and been "more manageable" if they had had put the option of disqualifying ██████████ on the table. When asked what she meant by that, ██████████ stated that there was a vote on whether he should be disqualified from running, which was voted down. She also stated, "I feel like we decided not to disqualify because people already voted," and the real issue was how to bring ██████████ back into the community (whether he won the election or not) rather than permanently excluding him. ██████████ elaborated, "I feel like we just discussed based on, um, what we thought would be more productive in the sense that it would help the community feel more inclusive rather than actually pinpointing all the evidence to just... get this issue resolved."

██████████ did not recall if there ever was any discussion of – assuming that ██████████ actually made the comment attributed to him – was there a rule that ██████████ violated by doing so. She also stated that she did not know the rule on whether or not witnesses can be anonymous under the process that exists for the Election Board to handle grievances, and that she thought it would be fairer if the witnesses did come forward. ██████████ stated that, in the end, the Election Board's decision on the sanction of ██████████ was reached by consensus, and that if anyone was leading the deliberations, it would have been herself, not ██████████. When asked explicitly, ██████████ indicated that it did not seem to her that ██████████ was on either team's side.

██████████ indicated that once everyone was called to return to the room, she announced the Election Board's decisions and then they took public comments, which was when "everything got heated up." ██████████ also indicated that once the professor and / BSU advisor made her comments, "Everybody was yelling, things were heated up, everybody was - um - like saying: 'This isn't fair; we don't like your decision!'" She also remembered ██████████ standing up and saying, "Are you proud that you failed us?"

Regarding ██████████ comments, ██████████ indicated that she remembered ██████████ saying that she could not sleep the night before, and that she was focused on the safety of "her students" because of the comments made in the Instagram post. She recalled that members of Team Elite were distributing packets of papers that ██████████ brought to the meeting, and that she did not remember if anyone threw any of the packets. ██████████ recalled that the material ██████████ brought was put on the overhead and that it was very tense in the room. Eventually two police officers entered, which ██████████ indicated she felt was unnecessary, some people talked about their feelings, the Black students got up and left, and then the meeting was closed down. ██████████ also stated:

I never would have thought in my entire life that I would be handling an issue so touchy like as racism as this in our grievance forum. So, I feel like it was - I personally think it was unfair for us to have been handling this particular ... issue.

Credibility and Demeanor Analysis

██████████ indicated that she did not have any association with any of the individuals on either team nor any of the adults involved. Based on her demeanor, her ability to observe and remember, the lack of exaggeration or partisanship in her statement, this Investigator determined that ██████████ was a credible witness.

14) ██████████

██████████ an 18-year SWC employee, is the District's Acting Executive Director of Employee Equity Inclusion and Professional Development was interviewed on May 23, 2019 at District offices.

First Knowledge of Instagram Account, May 1, 2019

When the topic "Instagram Account," arose ██████████ immediately said, "My big mess up!" ██████████ then explained that ██████████ sent it to her via a text asking if she had seen it, and her first thoughts had been: "Oh my gosh!" and "I hope no one's doing this!" So, she sent it to members of the Black Alliance saying, "What is this? Because this is not ok!" ██████████ checked it out and let her know that it was not their kids. When she told ██████████ that no one from the Alliance seems to think that it came from students, she realized that she was not supposed to have shared it.

Election Board Meeting on May 2, 2019

██████████ attended the election board meeting of May 2, 2019, but missed parts of it while she helped some students in distress, including ██████████. Once the Election Board announced their decision on the Grievance, the meeting opened for public comment and ██████████ raised her hand to get the mic.

██████████ remembered ██████████ saying that she was disappointed for three reasons, "and she then whipped out an Instagram post" that was passed around the room. ██████████ said, "This is hate speech," she shared that the [Black] students didn't do it, and she mentioned that ██████████ had been following the Account. It didn't take ██████████ long to approach someone on ██████████ team and say, "This is not productive, it needs to be shut down," because "what was happening was not healthy." ██████████ remembered that she felt a little stunned by seeing the Instagram post in the meeting, because she had not been expecting it. She also recalled that eventually

Harper Report and Some Comments on Race

██████████ office has been orchestrating meetings and doing other work related to the USC Race Study / Harper Report that came was distributed¹⁶ in print in early fall of 2018. Indicating that there has been some disbelief by some regarding its findings, ██████████ commented, "When [race-based discrimination] is not folks' lived experiences, it's sometimes hard to accept, acknowledge, realize."

In Spring 2018, a student named Alvin Cook who was about to transfer elsewhere came to see her ██████████ at the very end of year before he left campus, shut the door, and he said to her that "the very same things" that the Harper Report identified in his verbal report out that spring as happening to District employees "is exactly what happens in the ASO." He said, "You have to make sure that this [study] happens with students, because the same things happen to them." And then he was gone.

¹⁶ ██████████ initially delivered his findings verbally, in late spring 2018. He then provided a written report only to ██████████ and ██████████ in June 2018. When the full faculty and staff returned in the fall of 2018, the Harper Report was made public.

Miscellaneous

██████████ stated that she had the idea some years ago to start the predecessor program to UMOJA, in response to seeing a number of the school's Black students leave the school because they felt they had no place there.

██████████ finds the way that Student Trustee ██████████ talks to people rude, disrespectful, and condescending.

Witness Demeanor and Credibility

██████████ appears is smart, talkative, and outgoing without being loud about it. She is easy to talk with and inspires trust.

██████████ provided information and/or details that the Investigator anticipated might be difficult for her. She demonstrated that recalling things like names, dates, and locations are challenging. She has a positive attitude and is a generally pleasant person.

15) ██████████

Student ██████████ was interviewed on June 7, 2019 at District offices, after just having completed his first year of college at SWC. Except as provided to the contrary below, the information provided by ██████████ tracked and supported information received from other witnesses on Team Elite.

██████████ is ██████████ boyfriend and was on Team Elite's candidate for VP of Finance. ██████████ indicated that he was Treasurer for B2LA during 2018-19 academic year. He indicated that he decided to run for VP Finance essentially to make it easier to get funding requests passed for B2LA and UMOJA, because it seemed like a hassle last fall. He indicated that typically, whenever BSU, B2LA, or UMOJA makes a Request for Funds to the ASO, a group of at least 10 members of their club will attend the ASO meeting.

██████████ indicated that he went to most if not all of the meetings and hearings related to the Spring 2019 ASO election.

██████████ stated when interviewed that ██████████ told her that he had another (fourth) witness to ██████████ alleged comment(s) by the cubicles. When asked about this, however, ██████████ denied having knowledge or proximity to a fourth to ██████████ statement in the cubicles.

██████████ shared some of his personal experiences with receiving race-based, negative comments or conduct on campus and elsewhere.

██████████ stated that if the investigation reveals that the accused member of Team Green did not do what Team Elite has accused them of, then he will owe that accused person an apology.

Credibility Assessment

██████████ is a credible witness. He exhibited a calm, pleasant, strong presence of quiet control. He did not tend to exaggerate or minimize.

16) [REDACTED]

Student [REDACTED], who ran as Team Elite's candidate for [REDACTED], was interviewed on June 11, 2019 at District offices. [REDACTED] described himself as being very outgoing, a "real people person," assertive and a leader who can delegate well. He indicated that he is nearly 20 years old and that [REDACTED] was his first year at Southwestern College, where he studies psychology and is a member of B2LA, UMOJA and BSU. [REDACTED] described B2LA as doing basically the same thing as BSU, except that it is specific to men, because the retention rate for Black men on SWC's campus is quite low, so B2LA has a goal of improving that statistic and to encourage all Black men to graduate on time. Except as provided to the contrary below, the information provided by [REDACTED] tracked and supported information received from other witnesses on Team Elite.

[REDACTED] provided information regarding UMOJA in general and his experience with the program as being very helpful and insightful because in it he learned things that he had never heard in any other educational forum. In fact, the UMOJA program was a big pull for him to attend Southwestern College.

[REDACTED] stated that he became involved in the election as a result of [REDACTED] making an announcement in class one day in March 2019, where she asked everyone for support. Within a week or two he had decided to be part of her team. He indicated that the election started off pretty smoothly but that it became problematic when a number of "nitpicking" grievances were filed against Team Elite for "misusing social media to promote the elections." He indicated that he understood that Team Green wanted his team to be suspended from using social media for a day, which he felt was not right because Team Green "was also doing the same thing."

When asked, [REDACTED] indicated that he did not review the materials that were provided to the candidates during the April 11, 2019 meeting (i.e., the ASO Constitution and Bylaws having to do with elections). However, he believed that [REDACTED] and [REDACTED] read all of the materials, because they talked with the members of Team Elite about the important points for everybody to understand about a week before the election board meeting of April 23, 2019.

Regarding the allegations against [REDACTED] [REDACTED] said that he believed them because there was more than one witness. He indicated that [REDACTED] knew who both of the anonymous witnesses were, but that she wanted their identities to remain anonymous to protect them.

[REDACTED] indicated that he attended all of the Election Board meetings. Regarding the election board meeting of April 23, 2019, he indicated that he was surprised that Team Green would file a grievance about the social media issue, because it was not "done on purpose to hinder the way things were supposed to be run." Moreover, he indicated, the issue raised in Team Green's Grievance had not even been discussed during the April 11, 2019 meeting where candidates received instruction on the rules for campaigning. While the fact that a grievance threw up a red flag for him, he did not give it a lot of thought after the meeting concluded. However, he did become suspicious about what else Team Green might be monitoring.

[REDACTED] indicated that he felt the issue was being put on the back burner when the meeting was continued from April 29th to a different day, but that he did go to the ASO Constitution and found that [REDACTED] and [REDACTED] had not made up the alleged rule that 24 hour notice was required for the grievance meeting. He also stated that Team Elite did discuss this fact, separate and apart from the election board meetings. When asked whether Team Elite then felt like, since there was a rule on point, delaying the meeting was the right thing to do, he responded as follows:

... we were definitely ... filled with ... emotions because we felt as if, ... yeah, there's policies in place and you got to follow ... policies ... but when something - it may not seem like as big for other people, but when you're - [when] a racial remark is being made against ... your race, you feel ... not happy because ... you're downplaying anything that we're trying to do. And it's, like, the ASO is ... putting it on ... a back burner and letting it continue without fully addressing [it], like, "Hey, is this really true? How can we go about solving this?" So, I - we - were definitely ... filled with -- I don't want to say anger, but we were ... all over the place.

Team Elite's thought process, as ██████████ described it, was not whether there was a rule on point that required 24 hours' notice to hold a meeting, but rather than the issue they were raising was "really important" and therefore needed to be addressed immediately.

██████████ indicated that Team Elite did not check the Constitution to see whether there was a specific rule that ██████████ alleged comment, if established, violated. However, even if there was not a specific rule, Team Elite felt that SWC's claim to be a school environment that does not believe in discriminating [based on race] should suffice and be the basis for removing either ██████████ or the entire Green Team. He indicated that if there is no rule that such a comment by a candidate would violate, then the ASO should ██████████ their policies to include one, as "at the end of the day, it's really all about respecting one another."

██████████ described Team Elite's May 1, 2019 protest as being spontaneous. He stated that he was there when ██████████ asked ██████████ or possibly ██████████ for the megaphone, and then a few minutes later he saw her with a megaphone. ██████████ indicated that he spoke briefly during the protest in order to communicate the points of the need for equality and that the ASO had failed both Team Elite and all students because they pushed ██████████ statement to the side. He also indicated that toward the end of the protest a male who may or may not have been a student tried to ask him a question to the effect of why are they protesting or what is their main point.

The problem with ██████████ comment, as ██████████ understood it, was that he made a reference to the race of Team Elite's members while using a "mocking" tone. As he explained, the problem with such comments is that they deter people from wanting to run for office or otherwise makes them feel uncomfortable because their race or ethnicity is being brought up in a situation to which it is not relevant. "You're running [for office] as yourself, not for a community or race...."

██████████ indicated that he did not know about the Instagram Account posts until ██████████ brought them up during the election board meeting of May 2, 2019. However, he stated, after the meeting he discovered by talking with them that ██████████ and Ms. Dawson knew about them before ██████████ disclosed them in the meeting. His recollection was that ██████████ "said that she believed that ██████████ [██████████ or ██████████] were in charge of [the Instagram Account]" and that she said she felt the SWC "campus was not safe for her students, including me, and that there shouldn't be any place for this type of behavior being allowed." ██████████ confirmed that the packet's content was displayed on the overhead, and he demonstrated that there was an audible "gasp" in the room as people read the Instagram post at issue. He also indicated that he felt "disgusted" by what he read in those Instagram posts.

Regarding how ██████████ packets of materials were distributed around the room, ██████████ stated:

██████████ had the packets in her hand, I took one, and then - **I don't want to say I threw it, but I kind of like slightly tossed it towards, ah, ██████████**

██████████ then demonstrated that he partly tossed and partly slid the packet to ██████████ (only), and he verbally confirmed that to be an accurate description of his action. He stated that he did not recall whether ██████████ dropped the stack of packets on the table in a way that made a noticeable sound.

Miscellaneous

Regarding whether he had received any training at SWC regarding diversity or race relations, including getting along with people and handling differences, provided at the ICC retreat in 2019, ██████████ stated that there was no talk about race. However, there was talk about getting along with others and building connections. ██████████ stated that there were different activities but indicated that they needed to be organized differently, including making sure that there was an equal number of people in each group and that it would be better if the students did not stay in groups with people they already knew.

Regarding scholarship applications, ██████████ confirmed that all UMOJA students were required to submit an application for a scholarship, but none of them received one. He stated that he did not know anyone outside of UMOJA who submitted a scholarship application.

Regarding discrimination in the ASO, ██████████ stated that when UMOJA wanted funding for 14 students to attend the UMOJA conference in Fall 2018, they were asked many questions but when a different club (having to do with making clay art or models) wanted two to three times more money than UMOJA had requested but to send only four (4) students to a conference, ASO approved that funding request without questions. So, he felt that "it was an uphill battle" to secure that funding. He further indicated that during the Ways and Means Committee meeting, when his group said that they had not fundraised for the conference, they were asked questions about why they didn't fundraise, since they knew all semester that the conference would be coming up, which questions he indicated were not appreciated. ██████████ indicated that it would not really be possible to fundraise in the fall semester to attend this conference but when pressed for information as to why it was not possible, he did not have information. Ultimately, ██████████ stated that fundraising could have been on an agenda or list of tasks to be done starting at the beginning of the academic year, but that the task was not on any such a list. Based on what he observed during that Committee meeting, he felt that UMOJA was "heavily interrogated" about their funding request but other clubs were not. ██████████ recollection of the Senate meeting at which the Senate voted on UMOJA's request for conference funds was that he thought some Senators thought that they should have funding from some source(s) other than ASO.

In addition, ██████████ indicated that B2LA intended to take 10 students to the UMOJA conference, including himself. The way it worked out, he explained, was that the UMOJA students who were also in B2LA would go to the UMOJA conference using the funds provided for B2LA, and the students who were only in UMOJA would attend the conference using the funds that were provided for UMOJA. So, in summary, some of the funding that would be provided through B2LA's request for funds would be used by students who were members of both clubs to attend the UMOJA conference. In this way, a larger number of UMOJA students were able to attend the conference.

When asked what ██████████ did to support Team Elite in the campaign, ██████████ stated, "Oh, it was just ... resources like markers and ... printer paper."

██████████ discussed the difference between a person referring to a group of people as “you guys” versus as “you people,” indicating that the latter phrase can be offensive because it seems that the speaker is substituting the word “people” for some other [pejorative] word that they don’t want to utter. He indicated that he did not hear this phrase used during ASO meetings. Rather, he indicated that he heard Team Green member ██████████ use the phrase “your people” during one of the election meetings, which ██████████ then “tried to take back” by saying that his own children are Black so he didn’t mean anything by it. According to ██████████ the phrase was a comment to ██████████ or Ms. Dawson to the effect of, “You need to control your people,” which he found to be offensive.

Credibility Assessment

██████████ is a credible witness. He demonstrated a calm, thoughtful, articulate, and positive demeanor. When he did not remember something, he was forthcoming about it. He also did not tend to exaggerate or minimize.

17) ██████████

Student ██████████ was interviewed on May 15, 2019 at District offices. ██████████ indicated that she began attending SWC in the fall of 2016, and that she would be transferring to a different school in the fall of 2019, but did not yet know which school.

At the outset of the interview, ██████████ indicated more than once that she did not want her identity to be revealed to anyone, and she asked that her name be redacted from any report of the investigation. The Investigator informed ██████████ that her name would not be held back from any report that goes to the District and that she did not yet know how any request(s) for anonymity would be handled beyond that report, but that she would note ██████████ request for continued anonymity.

Club Affiliations, Friendships, and ASO Involvement

██████████ indicated that she was a Senator in the Fall 2018 semester and then was appointed to the position of ASO Executive Secretary for the Spring 2019 semester. As a Senator throughout the Fall 2018 semester, ██████████ was part of the Ways and Means Committee and the Communication Committee. Part of her duties in that role were to record ASO meetings and prepare minutes for them. ██████████ provided the Investigator an email that she sent to ██████████ on November 25, 2019, which attached the audio recording of the November 20, 2018 ASO Senate meeting and noted that the comments of then-Senator began at approximately an hour and eight minutes into the recording. ██████████ also provided the Investigator access to the audio recording of the October 18, 2018 ASO Senate meeting. When asked for access to the recording of the October 25, 2018 ASO Senate meeting, ██████████ indicated that there had been some difficulty with some of the recordings and that she did not know if she had that this particular recording.

██████████ indicated that she views people on both teams as friends. Specifically, ██████████ indicated that she is “very close” friends with ██████████ and that she gave ██████████ advice about what to say in speeches but was not officially registered as campaign staff for Team Elite. On the other hand, ██████████ indicated that she is not friends with ██████████

[Intentionally left blank.]

October 2018 ASO Senate and Committee Meetings

██████████ described the process that B2LA's and UMOJA's requests for funds to attend the November 2018 UMOJA conference in both the Ways and Means Committee and on the Senate Floor. In so doing, she indicated that B2LA's funding request went first and that there was about 20 minutes of discussion on it, whereas the discussion a week later on UMOJA's funding request was shorter because information about the UMOJA conference had just been discussed the preceding week in relation to B2LA's request.

██████████ indicated that there was some confusion among the Senators, many of whom were first-time Senators, caused by the fact that two different groups were requesting funds to attend the same conference. However, she indicated, once it was established that the two requesting groups were not seeking funds for the same people, things moved along pretty quickly. She also indicated that since many of new Senators were unfamiliar with UMOJA or the UMOJA conference, there were questions about what conference attendance could do for students who were not part of the UMOJA Learning Community, so the Senators asked about those issues. Thus, ██████████ felt that, in the Ways and Means Committee, B2LA was asked a lot more questions about what it would get out of attending the UMOJA conference than the Clay Club was asked about what its members would get out of the event that their members sought funds to attend.

██████████ also pointed out that Senator ██████████ in particular, was confused about why there was a second request to attend the UMOJA conference by another group, since the ASO had just approved \$5,000 the preceding week for attending the same conference. According to ██████████ ██████████ confusion caused confusion throughout the Senate meeting. She also indicated that because the issue had already been addressed in the Ways and Means Committee meeting, when it came up again in the Senate meeting ██████████ and Jimmy, another Senator who is Black, "were scoffing and signing because they were tired of that question being asked." ██████████ indicated that ██████████ was not part of the Ways and Means Committee, so he had not heard the prior discussion of the facts related to why there was a second request by another group to fund attendance at the same conference.

Regarding decorum during the meetings on which B2LA's and UMOJA's funding requests were handled, ██████████ indicated that she did not see any memorable difference between the two, and that the only difference she remembered between the decorum in the meeting surrounding UMOJA's funding request was that some deference was provided to ██████████ as a Senator.

██████████ pointed out, however, that one Senator, ██████████ was generally against funding trips for any clubs, which ██████████ indicated she *believed* had prompted some "complaints" but that she *knew* gave rise to controversy when ██████████ voted against funding B2LA's and/or UMOJA's funding request to attend the Fall 2018 UMOJA conference. In ██████████ opinion, ██████████ seemed to be more open to the possibility of voting to approve funds requested by the Bayan Scholars (a club for Asian Pacific Islander students) and less open to the possibility of funding B2LA's and UMOJA's requests (clubs oriented toward Black students). This belief was based on ██████████ observation that ██████████ was "less engaged" and "more prone to being on her phone" during the meetings when the latter groups' funding requests were discussed.

██████████ plainly stated that she disliked ██████████ due to how she acts in the Senate, and how she behaved toward ██████████ and two other UMOJA members. ██████████ also stated that she never asked ██████████ about why she was on her phone more during the discussions of

only available to one race of SWC students. She stated that the committee meeting quickly became heated, the [REDACTED] stepped in, and the meeting chairperson stopped recognizing [REDACTED]. [REDACTED] stated that, in her opinion, [REDACTED] was “just trying to stir up trouble,” which was something that he seemed to enjoy doing.

Allegations Against [REDACTED]

In the context of a text conversation they were having on April 25, 2019, [REDACTED] told [REDACTED] that [REDACTED] said something about Team Elite running as an all-Black team, while using a mocking tone of voice in the ASO cubicles area one afternoon in April 2019. [REDACTED] was unable to remember what she heard him say but was confident that she heard him say something that was mocking of Team Elite.

When interviewed, [REDACTED] described [REDACTED] comment as follows:

I was walking around the cubicle ASO offices area ... and ... I overheard someone from Team Green, specifically [REDACTED] um, commenting about how Team Green was running against the first all-Black team, in a very mocking and demeaning tone.

[REDACTED] stated that she did not see who else was part of the conversation at issue, as she could not see into the Phi Theta Kappa cubicle, where [REDACTED] was, and she could not distinguish or recognize any of the laughing voices. When asked to be more specific in describing [REDACTED] tone, or to demonstrate it, [REDACTED] did not do so, but she stated, “It was followed by a lot of laughter, so it was definitely meant in a way that was hurtful, I guess in a way.”

[REDACTED] stated that she heard [REDACTED] comment “for a split second” as she walked past the cubicles one day between 4:30 and 4:50 p.m. She indicated that she believed [REDACTED] made this comment on Monday, April 15, 2019, or Wednesday, April 17, 2019, but that it could have occurred the following week (i.e., on April 22 or 24, 2019) during the 4:30 to 4:50 p.m. time frame.

[REDACTED] also stated that she did not tell [REDACTED] that she knew who [REDACTED] made the comment to, and she denied having told [REDACTED] that [REDACTED] made his comment to [REDACTED] (Lovato) and to [REDACTED] ([REDACTED] Padilla).

Regarding prior comments by [REDACTED] concerning Black people, [REDACTED] stated that during Black History Month in February 2019, [REDACTED] made two comments to her in the PTK cubicle about Black / African-American people that she found to be “racially-insensitive” and that she did not agree with. One of those statements by [REDACTED] was when he told her, regarding a Black student in his class who was very vocal about being Black and proud of it, that he understood that the student was Black and proud, but that he did not want to hear about it all the time, or words to that effect. The other “racially insensitive” comment that [REDACTED] said she heard from [REDACTED] was something to the effect that [REDACTED] thought that Dr. Martin Luther King’s “approach of non-violence, when compared to Malcom X, was better, and that he didn’t really understand why Black people idolize Malcom X.” [REDACTED] explained that she felt the comment about Dr. King and Malcom X was insensitive because, she believes, “a lot of non-Black people” like to think that they are really accepting and that they love Dr. King, but they tend to utilize Malcom X “to demonize Black people for being, you know, rightfully angry and [for] using that approach to further their agendas towards (sic) equality and towards (sic) equity.”

[REDACTED] indicated that she never talked with [REDACTED] about his comment, to see what he meant or to find out the context of the conversation, but rather that she forgot about it until it just

popped up in [text] “conversation” with ██████████ one day. When asked if it was possible that ██████████ statement to the effect that Team Green was running against the first all-Black team” was not a pejorative statement, ██████████ admitted that was a possibility but based on the two prior “racially insensitive” comments that she heard ██████████ make, she thought the statement was pejorative. ██████████ continued,

I mean there is always a possibility that he meant it in a non-pejorative way, um ... I don't think that he had ill intent when he said it though; I think it was mostly out of ignorance. But I think there's always that possibility that I may misinterpreted it.

Student Complaint to Student Judicial Review Board re Lack of Notice of Election Board Meetings

██████████ indicated that as Executive Secretary of the ASO Executive board, she was an honorary member of the SJRB. Therefore, she was copied when a student submitted a complaint to the SJRB asking that body to review the Elections Code and determine whether the Election Board had to comply with the 24-Hour Notice rule contained therein. According to ██████████ the student [██████████] withdrew his complaint once the Election Board agreed to comply with the 24-hour notice rule.

Witness Demeanor and Credibility

██████████ appeared to be biased against ██████████ and in favor of ██████████. The content of her text chain with ██████████ on April 25, 2019, is questionable. Her ability to observe and to report the initial statements by ██████████ are questionable. This witness admitted that she did not know what ██████████ said, she did not hear the context of the conversation, she only heard a “split second” of his comment, the only thing she remembered about his comment was that ██████████ said that his team was funning against an all-Black team, people laughed so he probably meant his comment in a pejorative way, and it was possible that the comment was not pejorative. Additionally, she denied having told ██████████ that ██████████ and ██████████ were the people to whom ██████████ made the comment at issue, whereas the text message chain clearly demonstrates that she did make that statement. However, her allegation that she heard ██████████ say “something” in the ASO cubicle area was corroborated, at least to some extent, by ██████████ Sanchez's own statement.

18) ██████████ DE JESUS

Student ██████████ was interviewed on May 28, 2019 at District offices. She attended the College from 2007 to 2010 and again from 2014 through 2019. She received her Associate of Science degree in May 2019. ██████████ is interested in plants and that she would like to make a career of working at a nursery or maybe doing horticultural therapy. ██████████ also indicted that she joined ASO leadership in October 2018 as a Senator at Large, and that she is a proud member of the ABLE Club, which is a club for SWC's DSS (Disabled Student Services) students.

██████████ was the third person to submit a written statement¹⁷ regarding the comment(s)

¹⁷ The Investigator never received a copy of ██████████ handwritten statement but has the purported content of that statement (taken from the audio recording of the election board meeting of May 2, 2019, at which ██████████ read aloud what he represented to be ██████████ written statement). Subsequent to his interview, ██████████ contacted the Investigator and asked whether he gave Ms. De

allegedly made by ██████████ in the club cubicles area of the ASO building / student center, which comment(s) were the subject of Team Elite's Grievance concerning ██████████. Although she was a campaign staff for Team Green and she voted for Team Green's slate, she provided the statement because she thought that the right thing to do was to tell about what she heard.

Statement by ██████████ in ASO Cubicles

██████████ stated that she was sitting in the ABLE cubicle in the student center at about 3:00 one afternoon in April, working on a 13-page anthology revision that was due on April 31st, when she heard ██████████ say something in the PTK cubicle, and then there was laughter. As ██████████ described the situation, "It just sounded like people in Phi Theta Kappa, like, having fun, laughing about something."

██████████ indicated that she could not see who was in the PTK cubicle with ██████████ and that she could not recall the gender of the voices laughing but that she thinks there was enough laughter for there to have been two or three people with him.

When asked for specifics of the comment she heard, ██████████ stated that she heard ██████████ whose voice was familiar to her, "say something about the other team [while using a] dramatic kind of voice," and then she heard some laughter from probably two or three different voices. ██████████ continued, saying:

I do not know what he said. I just remember thinking [to myself], "Why did you say that? This is the cubicles, anyone could have heard you...."

When asked how she knew that the thing she heard ██████████ say in his "dramatic" voice was about Team Elite, ██████████ replied:

I just remember it was "they," and then – and – It had to have been about Team Elite because it was like – um – 'cause he – he – and he's on Team Green and it was during the elections, so who else would he have been talking about?

[... and ...]

I think it had to have been about Team Elite, because – um – in the rules – I don't have the Constitution of the ASO on me right now, but you're not supposed to – um – campaign – um – in the – in the ASO cubicle areas. So I remember, whatever it was, it made me think: "Why did you say this in here? This – this could get you disqualified."

Accordingly, ██████████ concern at the time was that ██████████ might have said something in the cubicles related to Team Elite that could constitute campaigning and therefore get him in trouble, not that he had said something race-based related to Team Elite.

Discussion with ██████████ After Grievance Meeting on April 29, 2019

██████████ indicated that hearing the allegations raised during the April 29th election Board meeting reminded her that she heard ██████████ say something in the cubicles that afternoon earlier

Jesus's original, handwritten statement to the investigator, since he could not find it in his papers. However, he had not done so.

in April, so she approached him right after that meeting. Generally speaking, [REDACTED] indicated that she told [REDACTED] that she remembered that he said something in the cubicles one afternoon that made her think something like, “Oh, why did you say that, it could get you disqualified,” and that [REDACTED] response was something to the effect that he knew that he had not said anything bad about Team Elite.

[REDACTED] indicated that while at the Town Hall meeting between the Governing Board and the Black Alliance that night or the next, she also told [REDACTED] what she remembered, who took her to [REDACTED] who then called [REDACTED] from her cell phone from outside of the meeting. [REDACTED] indicated that [REDACTED] then put the cell phone in speaker phone mode, that she then told [REDACTED] what she remembered, and that she said “yes” when he asked her if she would be a witness.

[REDACTED] indicated that she thereafter prepared a handwritten statement and gave her only copy of it to [REDACTED]

Team Green’s Facebook Group Chat

[REDACTED] indicated that during campaign season Team Green had a Group Chat on Facebook.¹⁸ She also indicated that during the night hours of April 29, 2019 some Team Green members were “ragging on” the anonymous witnesses, “... saying that they were weenies ... , things like that...” [REDACTED] further indicated that she messaged [REDACTED] via Facebook that evening and told him something to the effect of: “I’m sorry, [REDACTED] but I think I do have to be a witness and ... say something against you because I do remember this and ... I told you this earlier today - and your response that you ... feel like you said nothing wrong – um – is not very encouraging to me.” According to [REDACTED] [REDACTED] response was something to the effect of, “I know you’ll always be my friend. I’m – I’m not going to call you a liar.”

[REDACTED] indicated that after she told [REDACTED] that she was going to provide a statement regarding his comment in the cubicles, there was a change in the tone of the group chat, and that somebody on the chat commented something to the effect of, “Oh well at least she’s – she’s actually presenting herself as a witness.” She also indicated that someone on the chat said something like, “Whose side are you on?” or “Who are you supporting?” [REDACTED] indicated that her feelings were hurt by that question and that she feels a little like “maybe I’m a betrayer, but it’s like, I just wanted to tell the truth.”

[REDACTED]

[REDACTED]

¹⁸ [REDACTED] indicated that the chat was already deleted at the time of her interview and that she had not printed or saved any parts of it.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED] However, she has been able to attend college and earn an [REDACTED] degree, she was able to follow questioning and to be responsive during questioning, [REDACTED]

After some gentle but probing questioning on the issue, [REDACTED] indicated that she is confident that what she heard in the ASO Cubicles, detailed above, [REDACTED]

[REDACTED] Additionally, this witness appeared to be interested in doing the right thing, as opposed to being right, and she did not appear to be capable of guile. The statements [REDACTED] made to this Investigator supplement the written statement that she provided to [REDACTED] and, while the supplementary information she provided tends to render her statement less impactful within the context of Team Elite's Grievance because her concern was that [REDACTED] may have broken a rule by saying something that would count as "campaigning" in the ASO area, her statements to this Investigator do not contradict what she has been saying all along. [REDACTED] appears to have no motive to be dishonest here, and she indicated that no person tried to influence the statements that she provided to this Investigator or to [REDACTED] for that matter. In all, this investigator finds [REDACTED] testimony as reflected above to be credible.

19) [REDACTED] JIMINEZ

Student [REDACTED] was interviewed on May 22, 2019 at District offices. She recently changed her name from [REDACTED] to [REDACTED]

[REDACTED] stated that she believes that the situation between Team Elite and Team Green is a big miscommunication and that the parties should talk to each other about it.

[REDACTED]

[REDACTED]

██████████ In addition to her studies, ██████████ is the College Project Coordinator for Phi Theta Kappa (“PTK”), the honors society, and she participates in the ASO (Associated Students Organization). ██████████ served as an ██████████ during the Fall 2018 semester and as the ██████████ in Spring 2019. She decided not to run for ASO again in Spring 2019 because she is very busy with school work and other things.

Personal Relationships with Candidates & Role in Spring 2019 ASO Election

██████████ stated that she had no role in the Spring 2019 ASO elections, but that she knows people who were running for office. ██████████ reported that she tries to make friends with everyone and that she is friends with everyone who was running as part of Team Green, even the candidates she barely knows. The people she knows best on Team Green are ██████████ and ██████████ ██████████

██████████ stated that she also has two friends on Team Elite (██████████ and ██████████ ██████████) and that she met the rest of Team Elite’s members during the Spring 2019 Inter College Club (“ICC”) / Senate Retreat. ██████████ stated that she knows the remaining members Team Elite better than she knows the remaining members of Team Green because the Team Elite members attended the ICC / ASO retreat.

Of all the people she knows on both teams of ASO candidates, ██████████ stated that she is the closest with ██████████ and ██████████ both of whom she socializes with outside of school, including having each of them to her home. ██████████ stated that she is “really close” friends with ██████████ but that she is “a little more close” with ██████████

Diversity of the Teams

██████████ stated that Team Green was a diverse team. She believed Team Green was diverse because it included ██████████ whom she described as ██████████,” and because it included at least two people who are openly gay. As far as ██████████ knew, Team Elite did not have such diversity.

Race-Based Comments

██████████ stated that neither ██████████ nor ██████████ has ever done or said anything negative to her related to her own race / ancestry / national origin, even though ██████████ ██████████. Because both have always been respectful to her and her family on these issues, ██████████ does not believe that either ██████████ or ██████████ would say anything disrespectful of another person’s race / ethnicity / national origin.

When asked if she ever talked with ██████████ about whether or not he made fun of Team Elite for being an all-Black team, ██████████ stated that she never asked him about it. Their only discussion of it was when ██████████ told her that he was “really stressed with the whole situation.” She also saw him crying about it at one point.

Attending Election Board Meetings

██████████ stated that she attended two election board meetings during the Spring 2019 election cycle: the April 29, 2019 meeting and the second half of the election board meeting of

May 2, 2019.

Election Board Meeting on April 29, 2019

Regarding the April 29, 2019 meeting, the main thing that ██████████ remembered was that there was a grievance alleging that ██████████ “was mocking the other team.” She also recalled that she was confused about what was going on; that things were being said in relation to there not being 24 hours of advance notice of the meeting; that people were taking photographs; and that she thinks her friends ██████████ ██████████ ██████████ and ██████████ also were present in the meeting. As far as she could remember, the confusion related to the date on which ██████████ allegedly made the “mocking comment.”

When asked what she remembered about her feelings during or right after the April 29, 2019 meeting, ██████████ teared up and said that it was “hard” for her because she knows both of the teams. She also said that during the protest, she felt really bad and was crying, because “we should all be together ... I know them, personally ... it just hurts people ... both of them, I feel, were hurt and I don’t like that. I don’t like people getting hurt or feel – like – uncomfortable.”

Election Board Meeting on May 2, 2019

██████████ stated that she was not present for the part of the meeting that occurred before the meeting broke for deliberations. As for the portion of the meeting that she did attend, ██████████ generally remembered and identified where a number of people were seated around the table and the room. She described the meeting as being in two parts, meaning before and after the break during which the Election Board deliberated. Her statements focused on the post-deliberations portion of the meeting.

██████████ expressed that she felt upset during the election board meeting of May 2, 2019, and described the events and feeling of the meeting as being mentally draining and “too much” for her. She stated that she cried throughout the election board meeting of May 2, 2019, because: the situation was “really emotional,” she knows members of both teams, the situation “breaks my heart,” she wants the teams to get along, and “I see them as kids, and they shouldn’t go through this. ... I don’t want them to go through that.”

Through tears shed as she described these matters in her interview, ██████████ described the Election Board’s decision [on Team Elite’s grievance alleging that ██████████ made “mocking” comment(s) about them running as the first “all-Black” team] as requiring ██████████ to apologize in public, requiring him to do something having to do with an event, and requiring one more thing that she could not remember. ██████████ stated that when the Election Board announced its decision, members of Team Elite and some supporters near them in the room “were upset.” She did not see the reaction of anyone on Team Green.

██████████ stated that after the Board’s decision was announced, there were a lot of comments, people were upset. ██████████ also stated that at some point in this meeting, “they were saying something about the Instagram, but that part I still don’t understand because they said something – they showed some pictures, and said some things that she does not recall about what some people shown in pictures distributed as part of a packet of papers supposedly wrote. The people shown in the pictures that were included in the packet were on Team Green, and ██████████ ██████████ said the names of “the people who they think it was,” meaning ██████████ ██████████ ██████████ ██████████ and another person whose name she forgot. ██████████ saw ██████████ crying after ██████████ named him, and she saw ██████████ crying, which she did

not like because it broke her heart.

██████████ stated that things “hit her really hard” and she started “bawling” when, after she finished making a statement on the microphone wherein she said that she “know[s] both teams[,] ... love[s] both of them equally[,] ... and [that] we should have communication,” one of the ladies from “██████████” [sic, the ██████████] approached and hugged her, “because it felt real.”

Comments Regarding “All Black Team”

██████████ stated that she has never heard ██████████ make any kind of negative, race-based comment about anybody who is Black and that she never heard him make any comment at all on the fact that Team Elite was marketing itself as “the first all-Black team” of ASO candidates. Likewise, ██████████ stated that she never heard anyone on Team Green commenting about Team Elite being the first all-Black team of ASO candidates, and that she would remember it if she did hear such a thing. However, she did hear Team Elite members talking about “making history” as the first African-American team running for ASO, of which she felt they were rightfully proud.

██████████ specifically denied having ever heard ██████████ make any kind of negative comment about Team Elite. ██████████ also unequivocally denied having ever told ██████████ that she heard ██████████ making a negative reference to, or mocking, Team Elite as being the first all-black team running for ASO.

██████████ stated that she does not know the identity of any of the witnesses who allegedly heard ██████████ comment about Team Elite being the first all-Black team, because they wanted to remain unknown. However, she heard people say that during the portion of the May 2nd meeting that she missed, ██████████ was named as a witness and had an incident of crying in relation thereto.

ASO Issues

Attendance Rules

The ASO Constitution and the rules and expectations for things including attending meetings and reporting absences are reviewed with new ASO senators and officers when they come into office. In order to be excused from attending a meeting of the senate, an ASO member would need to speak with the ██████████ (then ██████████ or ██████████ the ██████████). If one needed to miss a meeting of a committee that they were on, they would need to tell their committee chair.

UMOJA and B2LA Fall 2018 Requests for Funds

██████████ attended most meetings of the full ASO senate during the Fall 2018 semester because she was required to do so. She believes that she attended the Fall 2018 senate meetings at which the senate addressed B²LA’s and UMOJA’s requests for funding to attend the UMOJA conference.

██████████ does not remember much of the discussions other than that she saw the voting and remembers that both groups’ funding requests were approved.

When asked if there was anything unusual or negative about the discussion of either group's funding request, ██████████ stated that because B²LA and UMOJA "literally have like the same members," someone asked if they were seeking funds for the same event. The information provided was that although there were two requests for funds to attend the same event, the requests were submitted by two different groups. She emphasized that the question arose because "the groups have some of the same members."

Racist Statements and Conduct in ASO

██████████ stated that she has experienced racism in the past, but not in the ASO. She stated that she never heard any racist statements during any ASO meeting, and that if anyone perceived any statements during an ASO meeting as being racist, she had not understood the comment as being racist.

20) ██████████ ██████████

Student ██████████ was interviewed on May 23, 2019 at District offices. She has been a student at the College for three years, and she is studying psychology. After the Spring 2019 semester she transferred to the ██████████.

Club Affiliations and ASO Involvement

██████████ stated that she served in the ASO as a Senator throughout the 2018-2019 academic year. She identified her closest friends on the ASO as ██████████ ██████████ ██████████ ██████████ ██████████ and ██████████ and stated that these are the friends who she hangs out with on the weekends.

██████████ identified ██████████ as the only person in ASO with whom she does not get along. When asked what happened between her and ██████████ ██████████ stated that they were friends at one point, but:

as I started to get to really know [██████████] I noticed that she mainly likes power. She's very elitist. Um, she liked to control me and boss me around. She liked to do that to people. She always likes to make sure she's right and other people are wrong.

██████████ stated that other than ██████████ nobody in ASO wanted to be friends with ██████████ for the same reasons that ██████████ was not friends with her. ██████████ indicated that ██████████ behavior changed in February 2019, when she got the Executive Secretary position, because ██████████ was "on a power trip" based on her new position. By "power trip," ██████████ explained that she meant that ██████████ asserted her power frequently and insisted on being right, so nobody in ASO wanted to be friends with her anymore. However, she indicated, since ██████████ "wasn't really there to see it" when this change occurred in February, ██████████ clung to ██████████ as her last friend in ASO.

Regarding her friendship with ██████████ ██████████ stated that since the elections, "It's been a little rocky because I'm friends with ██████████ and I don't think she wants to communicate with me right now."

ASO Rules for Reporting Absences

████████ stated that if an ASO senator becomes unavailable for one or more Senate meetings or Committee meetings, they must advise the chairman of those meetings in advance that they will be absent. She further indicated that if a Senator does not make that report to the chairperson, s/he gets an unexcused absence, and that any Senator who misses two or more meetings in a row can be put up for removal from office.

████████ indicated that she believed that during the 2018-2019 academic year, some people left ASO and never came back, but she does not think that any members were actually “removed” from their office. One such person in the 2018-2019 academic year was ██████████ whom ██████████ indicated ██████████ because ██████████ ostracized her.

████████ also indicated that a total of ██████████ were put up for removal during the Spring 2019 semester, including ██████████ and ██████████ ██████████ stated that all of the persons put up for removal that year r ██████████, except for ██████████ To the contrary, ██████████ explained that she had a medical appointment and that she had Black History Months events going on that month, so the ASO voted and unanimously decided to keep her even though ██████████ had not followed the rule about informing one’s chairperson before being absent. The entire discussion and vote took ten minutes or less.

████████ recalled that another senator, ██████████ spoke on ██████████ behalf and said that she did not attend because she was hosting events for black History Month. ██████████ stated that she should be excused from the meeting because she was the only person [from ASO] attending those events so should not be penalized. ██████████ recalled that ██████████ spoke because his Constitution committee was one of the things that ██████████ repeatedly missed with no prior notice to him. She described ██████████ report as being very factual and providing the dates on which she missed a meeting, stated whether or not she told him she would be absent, and the impact of her absence (i.e., if the meeting was voice for lack of a quorum). ██████████ also spoke, solely to identify the dates on which ██████████ was absent. She also recalled that ██████████ herself spoke, to say that she did not tell anyone that she was going to be absent and to apologize for being absent without telling anyone. However, ██████████ did not say that she had been unaware that she was supposed to report the absence.

Witness Demeanor and Credibility

████████ was admittedly friends with ██████████ and to not friendly with ██████████ Additionally, ██████████ accused ██████████ and ██████████ of being the people in the cubicle with ██████████ when he made his alleged race-based, discriminatory comment toward Team Elite. This witness was a member of the ASO, and she was friendly with both ██████████ and ██████████ until the Grievance was filed against him. ██████████ is likely to be found to be a credible witness.

[Intentionally left blank.]

21) [REDACTED]

Student [REDACTED] was interviewed¹⁹ on July 9, 2019 at District offices. [REDACTED] also provided information to some follow up questions. He was prompt and forthcoming in his responses to follow up requests.

[REDACTED]
[REDACTED]
[REDACTED]

Friends and Acquaintances on ASO

[REDACTED] stated that he is not on the ASO but that he knows some people who are, from Puente, including [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. When asked, he stated that he does not do things with any of them outside of school but that they have told him about what is going on.

[REDACTED] stated that he has attended one ASO meeting, a March 2019 Ways and Means Committee meeting, because he was interested in whether Puente's request for funds to pay for its trip to visit UC campuses in Northern California would be funded.

Students Making Fun of Team Elite

When asked whether he ever heard anybody make reference to or make fun of Team Elite running as an "all-Black" team, [REDACTED] immediate response was to seek assurance that what he says will be confidential. This Investigator reminded [REDACTED] of the explanation provided before he began answering questions, wherein the Investigator explained that there is no confidentiality at all between the witness and the Investigator, and that any information provided to the Investigator may be reported out by the Investigator to the District.

When asked whom he heard talking about Team Elite, [REDACTED] provided the following information. [REDACTED] indicated that on April 30, 2019,²⁰ he attended the last portion of the Candidates' Forum, where he met up with some members of Team Green and walked with them to the cubicles area of the ASO Building, conversing along the way. [REDACTED] indicated that as they walked to the cubicles, [REDACTED] [REDACTED] stated:

These guys aren't going to win. They didn't answer all these questions and stuff [i.e., during the Candidates' Forum]. They kind of bull-shitted their way though.

[REDACTED] indicated that after they arrived at the cubicles area, he went to the Puente Club's

¹⁹ This Investigator interviewed student [REDACTED] because [REDACTED] the owner of the Instagram Account at issue, identified him as being the student who told him that something was going on regarding the *swcharterinsomaliland* Instagram Account. In addition, [REDACTED] indicated from his first interview that [REDACTED] had asked questions about Team Elite's name.

²⁰ There were two Candidates Forums during April 2019, and [REDACTED] indicated that he did not know which forum this occurred after. However, the first forum occurred on April 25, 2019, while [REDACTED] and [REDACTED] were out of town on a Puente trip. Thus, [REDACTED] recollection of events is that this conversation must have occurred on Tuesday, April 30, 2019.

cubicle and while he was there on this occasion, he participated in a conversation with [REDACTED] [REDACTED] the [REDACTED] [REDACTED] but whose name [REDACTED] could not remember, and possibly one or two people who were not on Team Green.

[REDACTED] indicated that during that conversation, the other people speaking:

... were making fun of ...the name of their group, Team Elite – of how it sounded, like, they were trying to be the superior, um, party of the whole entire school, even. [¶] And they said, uh, I think some statistic of how um many African American students are at Southwestern College compared to the Latino, um, White, um, Asian students are there compared to the Black students which was like 5% towards everyone else. Something like that. [¶] And, like ...they were saying, “There’s no way they’re going to win. I mean even if they get all the... Black people to vote for them, there’s still a big majority population [that] is not Black.” [¶] So they were saying that, and that the ... name Team Elite was kind of degrading towards everyone because they’re saying they’re the *elite* team, that they’re the *elite* class and stuff. ... I also heard that, um, there was – yeah that – it was just saying, ‘Yeah, they’re an all-Black team. They’re not going to win....’”

[REDACTED] indicated that [REDACTED] said the part about Team Elite’s name being degrading to others directly to him in this conversation, but that other people were present for the conversation and should have heard it too. He also indicated that the comment by Mr. [REDACTED] was made in the context of discussing what Team Elite was doing in the way of actual campaigning for the election, and that it related to Mr. [REDACTED] belief that Team Elite seemed to be trying to make race the only issue instead of addressing other / substantive issues, which Mr. [REDACTED] thought was not a winning strategy for Team Elite.

[REDACTED] indicated that what he took as “making fun of” Team Elite had to do with **(a)** the team name and how it was degrading to everyone else, and **(b)** the idea that Team Elite could win given how they were running their campaign [i.e., focusing only on race instead of using the Candidates’ Forum to address other substantive topics of interest to the general student population], especially given the small percentage of Black students on campus.

[REDACTED] indicated that this conversation lasted for not more than five minutes before someone changed the subject, and that it was the only time that he heard anyone make fun of Team Elite in relation to the race of its members. He stated that the point during this conversation at which he “chuckled” was when Mr. [REDACTED] asked, “and, like, how do they expect that they’re going to win ... if they’re not going to the point of what the people want?” to which [REDACTED] indicated he replied, “Oh, I don’t know man. Like if they win, that’s on them you know,” and then gave a little chuckle. [REDACTED] stated that Mr. [REDACTED] replied, “We’re going to win. Ha ha ha.” From there, [REDACTED] said, he went to do homework.

At some point, [REDACTED] used the phrase “it was mocking in a way,” which led to the following exchange:

[REDACTED] What was it “mocking?”

²¹ The SWC student who wears an empty holster and associates with the witnesses interviewed in the instant investigation is known to this Investigator as [REDACTED]

AT: How they were um just throwing the name Team Elite out there. Like “oh yeah they’re not going to win. I mean they’re all like Black. Like what makes them think they’re going to win if the whole -- almost the whole entire school is Latino, or white, Asian?” So that was what was said.

█ Okay and did somebody actually say words to that effect?

AT: Yeah. Yeah.

█ indicated that he was *not sure* whether █ or █ were present in this conversation; he *believed* that █ was not present; that he *was sure* that █ and █ were not present; and that he did not remember which of those present made the “mocking” statement. █ also indicated that he did not know who █ was.

Team Green Group Chat

After disclosing the information above concerning █ and Mr. █ █ indicated that he was worried about people finding out that he shared that information. In the same breath, however, he volunteered, “I know another thing as well: they have a group chat, Team Green.” █ indicated that he knew about the group chat because he saw it on Mr. █ phone on the same day as the conversation described in the preceding section. █ described this group chat as follows: “I saw some stuff that didn’t look right, like, about them saying, “Hey, don’t say this,” and stuff, and then they said it. I don’t know who that was. But it there was an “n” word in there....”

Regarding how he gained access to see that chat, █ stated:

We [he and █ were just going through it and then they [in the chat] were saying, “Yo, don’t say this,” and stuff. “That’s not cool,” like some stuff like that. You know ... it was really very deviant how it looked, like how it was phrased. It was um, I think, with the number 1. Like N-1-G-G-E-R.

█ indicated that Mr. █ was just scrolling toward the bottom of the text chain when he saw the “n-word” in the text. █ indicated that he thought this “group chat” was housed on Facebook, and that all the Team’s members were in the chat, but he was not sure of either thing.

Protest on May 1, 2019

█ indicated that he was at the protest of May 1, 2019, and that it was all about how there is institutionalized racism at the College. █ indicated that while there, he heard █ talking about “how the whole entire school’s going up against them [i.e., Team Elite] and how it affects her life and the others around her.”

Election Board Meeting on May 2, 2019

█ indicated that he attended the last 10-15 minutes of the election board meeting of May 2, 2019, because he was “being nosey.”

█ indicated that he entered the meeting after █ arrived, and that he saw █ “bawling, in tears.” █ also stated that he observed Team Elite “saying

stuff that they ... felt attacked and threatened because there was a police presence in the room” and that “everyone was ganging up on them.”

██████████ indicated that he saw ██████████ leave the room, crying, and then he heard ██████████ still crying, repeating “I’m not a racist. I’m not a racist,” as ██████████ stood outside of the meeting room holding a sign.

██████████ also indicated that “they” thought that someone who was running in the election made an Instagram Account, “they” were looking for who did it (indicating the Instagram Account), and that he heard ██████████ say something to the effect that the District was going to find out who did this.

Immediately After Election Board Meeting on May 2, 2019

██████████ indicated that after the meeting ended, he talked with a lot of his friends, and that he noticed that some of the people had packets of papers, so he got one and looked through it. As ██████████ described it, the papers contained “evidence of an Instagram page that had a picture of the protest from May 1st ... saying stuff about um ‘beheading the white extremist’ and ‘making the black panther rise,’ and I was like, ‘Whoa, what is that?’” and it was a Southwestern page.”

██████████ who Followed the Instagram Account

When asked if he knows anyone named ██████████ ██████████ stated that he met a ██████████ in his ██████████. He then said, “Yeah, I forgot about that part,” and provided the following information.

██████████ indicated that while looking at the page that showed the Instagram Account’s followers, he saw that someone he knew named ██████████ was a follower of the account. ██████████ indicated that he saw ██████████ nearby so he approached him and exchanged the following words:

- Do you know about this? Yo, there was some racist stuff there, and you’re following it?
- What? I thought it was like a meme page or, like, a joke or something until I saw that.
- Alright maybe it’s just a joke but ... yeah, like, dude, uh, you’re on that thing. You should uh...
- Wow, I am? Wow. Oh thanks for asking -- thanks for telling me.

██████████ indicated that the conversation ended there, that he is not friends with ██████████ and that he did not talk with ██████████ again after that conversation. When specifically asked, ██████████ indicated that he did not say anything to ██████████ about an investigation or about anyone looking for who created the Instagram Post, who owned the Instagram Account, etc.

Desire for Anonymity and Fear of Retaliation

██████████ indicated multiple times that he would prefer anonymity in his statement provided to this Investigator. He also used some language that echoed some of what was contained in the

statement of “Anonymous #2,”²² who -- after initially sending an anonymous email to [REDACTED] alerting her to comments made in the cubicles area about Team Green -- had allowed his/her statement to be withdrawn as evidence in Team Elite’s Grievance rather than to have his/her identity disclosed.

[REDACTED] indicated more than once that he was fearful of repercussions from other students for telling the Investigator “the truth.” The Investigator informed him of the District’s anti-retaliation policy, indicated that someone merely asking him a question is probably not going to constitute retaliation, and informed him that he should report to [REDACTED] the [REDACTED], [REDACTED], anything that might occur that makes him feel uncomfortable in relation to his having provided information to the Investigator, regardless of whether he thinks that others would view whatever happened as retaliation.

22) [REDACTED]

Student [REDACTED] was interviewed at District offices on May 13, 2019. [REDACTED] stated that he is [REDACTED]. He appeared to have a good, clear recall of events and to respond to questions without evasion or stalling tactics.

Club Affiliations and ASO Involvement

[REDACTED] stated that he is an [REDACTED] [REDACTED] with Team Green in the Spring 2019 ASO elections.

[REDACTED] and [REDACTED] Had Hard Feelings Against [REDACTED]

Mr. Loa indicated that when teams were forming for Spring 2019 elections, then-Senator [REDACTED] asked him to join her team but he had to decline because he had already accepted [REDACTED] invitation to join Team Green. [REDACTED] indicated that although [REDACTED] said it was “fine” that he would be running with the other team, he got the feeling that she was not happy about it and that he would need to be careful with what he says around her.

According to [REDACTED] [REDACTED] who then was ASO Executive Secretary, is [REDACTED] “great friend.” [REDACTED] indicated that he can tell from the way that [REDACTED] treats him, that she dislikes him since at least Fall 2018, but that he does not really know why. For example, [REDACTED] indicated that [REDACTED] recently walked up to him (in ASO) after he voted on Executive of the Year and announced to him – without any prior discussion or inquiry – that he cannot vote on Executive of the Year because he was late to the meeting.

Regardless of [REDACTED] conduct toward him, indicated [REDACTED] he is always cordial toward her. When asked who on ASO – other than [REDACTED] – is friends with [REDACTED] [REDACTED] could not think of anyone.

²² Even so, [REDACTED] could not be the second anonymous witness who contacted [REDACTED] on April 25, 2019 to report “mocking” statements regarding Team Elite because the statements that he reported to the Investigator all were alleged to have occurred four days after Team Green filed its Grievance.

Mandatory / Meeting for All ASO Candidates on April 11, 2019

█████ attended the mandatory meeting for all ASO Candidates and election officials/ personnel on April 11, 2019. During this meeting, indicated █████ the candidates met each other and the Election Board, received and reviewed the Constitution and Bylaws, and went through “a lot of rules” with █████ █████ the █████

According to █████ much of the information covered in this meeting was focused on what the teams could and could not do on social media. The social media rules discussed at the April 11th meeting that he still remembered when interviewed were that (1) the teams were not allowed to post any of their campaign materials on any social media outlet, including their personal social media accounts / pages like Instagram or Facebook; (2) the only thing that candidates were permitted to post on their personal social media page that linked to their team’s social media page was a very basic bit of text (i.e., “@swcteamgreen”) and tell people to follow it, “that’s it.” The teams were told they could not post any other campaigning materials from their personal web sites.

█████ also indicated that there was discussion of where campaign posters can be placed, and that █████ █████ said the teams could bring their campaign posters in for approval as early as 8:00 a.m. the next morning. The teams also were told that they had to provide financial statements even if they were not able to get any money to spend on the elections and

Once the April 11th meeting concluded, Team Green congregated at █████ home to form an action plan, got supplies, and then made a number of large campaign posters to hang the next day.

Campaigning Activities

█████ indicated that Team Green stayed up all night on April 11th making campaign posters at his house, and that the next morning that a teammate dropped them off to █████ office for approval at approximately 8:00 a.m. █████ indicated that at about noon on April 12th, he checked on whether their posters had been reviewed and approved for posting yet, but the posters still had not been approved.

When the posters finally were approved that afternoon between 2:00 – 3:00 p.m., █████ █████ let █████ know and he helped put them up. █████ indicated that Team Green went to his house and again made campaign posters throughout much of the weekend, which were submitted for approval on Monday April 15, 2019.

█████ indicated that, beginning on Monday, April 15, 2019, he began going to classes to campaign, in which manner they distributed about 300 fliers over a period of about 10-12 days. █████ further indicated that whenever he gave a verbal “pitch” for his own team, he also pitched for the other team which included providing both Teams’ Instagram handles and inviting the listeners to learn about both teams.

█████ stated that there were two election forums²³ wherein the candidates were able to speak directly to the public, in front of the ASO amphitheater. He indicated that he was part of the first such forum but that nobody from Team Elite showed up that day to discuss their own positions on the issues.

²³ These “Candidates Forums” were held on Thursday, April 25, 2019 and on Tuesday, April 30, 2019.

Grievances

█████ stated that he knew that some grievances were filed, but he did not keep track of them. He indicated that during the campaigning season, he was very busy with distributing campaign materials when not in class, at work, or keeping other commitments.

Team Elite Grievance Alleging Team Green “Mocked” Team Elite

When asked what happened on Monday, April 29, 2019, █████ stated, “the 29th was just a change of a lifetime.” That morning, he indicated, the election polls opened and he received from █████ an email containing Team Elite’s grievance against him. █████ said that he felt sad and really disappointed when he read the Grievance because he knew that he had not done anything wrong. In response to receiving that email, █████ requested to take off work and then headed to the emergency election board meeting.

█████ indicated that he remembered that after █████ introduced the Grievance, █████ who was the Student Trustee and also Team Green’s “campaign manager,” “intervened” by saying that the meeting was “illegal” under the ASO Constitution (or under the Brown Act), because whichever rule applied required that an Agenda be posted at least 24 hours before the meeting’s scheduled start time.

█████ recalled that, in response, █████ █████ indicated that because it was a “very sensitive issue,” the meeting was going to proceed, regardless, and that any repercussions from proceeding would fall on him.

█████ indicated that the presentation of the Grievance by █████ resumed, followed by about five minutes of talking by █████ to explain the Grievance content, which he generally understood at the time as alleging that he said “some derogatory things.” █████ indicated that he knows that other Team Elite members and at least one person from Team Green also spoke during the April 29th meeting, but that he had no idea what they said or even which people spoke because he was so stunned by the allegations being made against him.

Eventually █████ spoke on his own behalf, at which point he explained to the Election Board that he did not make whatever statements were being alleged against him, and that he indicated that it could not have been him because he was in class at the times that the unspecified statements allegedly were made (i.e., not in the ASO cubicles). █████ further indicated that he was appalled that they were trying to pin him down on something that he knew he did not say, and that he was sorry they felt how they felt but that he was not going to apologize for something that he did not do. Regarding the two anonymous witnesses, █████ indicated that he also asked that their identities be revealed to him, but that he was told no.

When asked by this Investigator █████ indicated that he never made any kind of a joke / making fun of anything having to do with Team Elite being an all-Black group or anything having to do with the race of the members of Team Green, nor did he hear anyone else doing such a thing.

█████ indicated to this Investigator that during the April 29th meeting he felt “really hurt,” and very confused because there was never any explanation of what exactly he was being accused of saying. Even so, he indicated, █████ felt pretty secure because he knew that he had not said or done anything racist to anyone.

Perceived Bias by [REDACTED]

[REDACTED] indicated that [REDACTED] behavior during the election board meeting of April 29, 2019, left him feeling that [REDACTED] was biased against him and in favor of Team Elite.

Advisor Took Over the Meeting

For one, [REDACTED] indicated that even though the election board meetings are supposed to be run by students, [REDACTED] “was the main talker the whole time.” In addition, the lack of any specificity in the allegations against him, [REDACTED] indicated that [REDACTED] action of basically taking over the meeting was confusing to him, as far as who was the chairperson and who would be making the decisions. [REDACTED] conduct in this area indicated to [REDACTED] that [REDACTED] was taking over both roles.

Advisor Refused to Identify or Produce the Witnesses

[REDACTED] indicated that he and/or others on Team Green asked that the witnesses be identified and produced in the election board meeting, but that request was not granted.

From [REDACTED] perspective, he recalled, it just “felt like [REDACTED] didn’t want to see our point of view.” He stated, “Throughout that whole meeting, they were all talking about the witnesses, and I felt like they cared more about the witnesses, ... than [they cared about] me, who they’re accusing.”

Advisor Refused [REDACTED] Offer of Alibi Evidence

[REDACTED] indicated that one of the main things that led him to believe that [REDACTED] was biased against him was [REDACTED] refusal to accept [REDACTED] evidence of where he was when the race-based comment allegedly was made.

[REDACTED] indicated that his best understanding of Anonymous #1’s statement was that it claiming that he made *some kind* of race-based comment about Team Elite in the cubicles area of the ASO building at about 4:30 on a Monday or a Wednesday during April 2019. However, [REDACTED] indicated [REDACTED] he told the Election Board during the meeting that he had class from 2:55 to 4:30 on Mondays and Wednesdays – meaning that he would have been in class on the dates and times when the things stated in the Grievance allegedly occurred in the ASO cubicles and therefore could not have done them – and that he offered to get proof of his attendance from his professor.

[REDACTED] indicated that [REDACTED] immediately responded, “You can’t use that as an alibi!” or words to that effect. He felt that [REDACTED] response to his offer of evidence demonstrated his bias. [REDACTED] also indicated, when interviewed, that there were only about 35 students in his class and that his seat was in the front row, so the professor would know if he was present or not.

Ulterior Motive: Desire to Disqualify [REDACTED]

Mr. Loa also indicated that when the Election Board asked Team Elite what they wanted to get out of this meeting as far as resolution of the Grievance, either [REDACTED] or [REDACTED] said that they wanted him to be disqualified from running in the election. [REDACTED] indicated that when this information came out, he realized that this whole thing was really about trying to get him disqualified from running, not about any race issue.

When asked whether he knew or had any ideas of who the Anonymous witnesses were, ██████ said that when the first witness statement said something to the effect that he knows to be careful what he says around her, he got a feeling that it might be ██████. When asked why he felt she might say such things about him, ██████ stated, "Because I – I know the girl don't like me. But I'm always cordial with her. And I know that she is supporting Team Elite," because ██████ told him that she was doing so. He also pointed out that ██████ is "a really good friend of" ██████.

In summary, ██████ felt that ██████ was biased against him / in favor of Team Elite because ██████ (1) stepped in and basically took over the election board meeting, inserting himself into the process and making decisions when it was not his proper role to do so, (2) declared that ██████ could not use his class attendance as an alibi for where he was at the time of the alleged incident, which also was not his role, and (3) denied ██████ his rights when he declined ██████ request to identify and produce the anonymous witnesses.

████████████████████

████████ stated that shortly after the election board meeting of April 29, 2019, his fellow Senator ██████ approached him and said to him, "I believe I heard something that you said and remember I told you, 'Why would you say that, ██████'." ██████ indicated that he replied by asking if she remembered what he said that led her to make that statement, to which ██████ replied that she did not remember what he said; she could only remember what she said.

████████ indicated that he told ██████ (1) that he did not remember either [i.e., he did not remember a conversation where ██████ said to him, "Why would you say that, ██████"]; (2) that he knows that he wouldn't say such a thing [as what Team Elite was alleging against him]; and that he was going to "stand my truth [because] I know I that I didn't say anything bad towards Team Elite."

████████ stated that the next day, May 1, 2019, ██████ approached him again, this time while he was sitting at the SAGA [performing arts club] cubicle, sort of continuing what she was telling him the day before, and she asked ██████ if they were still going to be friends.

████████ stated that he replied to her, "You know ██████ ...at the end of the day you'll always be my good friend. If that's what you feel, and if that's what you think you heard, you know the choice is all up to you. But I will always stand on my truth which I know I didn't do anything wrong."

████████ Began to Feel "Unsafe"

████████ also indicated when interviewed that he "did not feel safe" on campus after the April 29, 2019 meeting, so he went home.

Regarding why and in what way he did not feel safe, ██████ indicated essentially that (A) if Team Elite, or perhaps the two anonymous witnesses, would make up what he knew to be totally false accusations against him, and (B) the Election Board would take the accusations seriously despite the fact that (C) one could not even tell what he was being accused of and (D) none of the witnesses were identified or produced for questioning, then who knows what else might happen to him, which made him feel very "concerned."

Protest on May 1, 2019

████████ further indicated that he did not go to classes at all on May 1, as he was in a state of upset and agitation.

████████ indicated that he attended five to ten minutes of the protest on May 1, during which he was with other members of Team Green, that at least one of his friends present (████████) was crying, and that he heard ██████████ saying that their school was “racist” and asking “why we [indicating Black students] put up with this.”

After observing all that in those few minutes, indicated ██████████ he “just went inside to Assessment, where I work, and I just cried.” When asked why he cried, ██████████ responded, “I felt hurt. I felt like nobody’s on my side. I felt like nobody believes me and who’s going to vindicate me and fight for ... me to ... clear my name of such accusations that are not true?”²⁴ ██████████ also stated that the whole situation was sad – being accused of something and then there being a related protest.

Election Board Meeting on May 2, 2019

████████ stated that he wore a suit to the election board meeting of May 2, 2019, and that he brought some people²⁵ with him “for support, because I didn’t want to be there all alone.” He stated that he also had a few people come to serve as character witnesses but that he was never given any opportunity to say anything or call any witnesses or during that meeting.

████████ indicated that after ██████████ statement was read aloud, there was a long break in the meeting for the Election Board’s deliberations, and then everyone returned to the room to hear what the decision was. ██████████ described the Election Board’s decision as being that he was not going to be disqualified, but that he needed to do a public apology and to facilitate an event to bring the two communities together.

████████ indicated that ██████████ got mad and started crying in response to the Election Board’s decision, and that “the whole Team Elite, like, they just started standing up because they were outraged” that the Election had not punished him more severely.

████████ specifically stated that the Agenda did not contain an item for “Public Comment” after the announcement of the Election Board’s decision, but that the next Agenda item was ██████████. However, he indicated, ██████████ asked for a public comment, “now,” at which point he indicated that she took the microphone and started talking. He stated, “I know that they were very mad, and angry. And [she] said that a public apology is not enough” and that they were “very disappointed,” but then ██████████ went on to something new. ██████████ described what happened next as “chaos.” He indicated that ██████████ “stood up and

²⁴ ██████████ also indicated as a basis for his belief that ██████████ was biased in favor of Team Elite his belief that Team Green previously submitted grievances concerning Team Elite’s conduct regarding which they were not provided a hearing on them. However, he also indicated that he was not really focused on his team’s grievances because his efforts and attention were riveted to the campaigning side of things. As Team Green did receive a hearing on the one formal grievance it filed, the Investigator has omitted this issue from ██████████ asserted grounds for a finding of bias on ██████████ part.

²⁵ ██████████ stated that that he had asked his ██████████, ██████████, ██████████ and two of his family members all to be with him in the meeting, and they did attend.

said, "This is the Instagram Post," and she started passing out packets of papers and telling people to look at them, "See this? This!" to which people present began responding audibly. At this point, ██████ said, "The Election Board is no longer the chair anymore. ██████ took over, the facilitators that were there," and that he was asking himself, "What's going on?"

██████ indicated that ██████ began talking angrily about the Instagram Post and accusing Team Green. When asked if he had ever seen or heard of any of the materials on the packet that ██████ was distributing in the meeting, ██████ said, "We had no idea what it was. It was our first time seeing it," but that the candidate pictures had been taken from Team Green's campaign page. ██████ described ██████ and Team Elite as "pointing their fingers at us and saying that we were the ones who did that" and then ██████ asked ██████ [██████ something. ██████ indicated, "they were scared. ██████ [██████ said that she couldn't sleep, worrying about that somebody might come in here and do harm to her students...." He also stated that ██████ is the "advisor for the Black Alliance."

After that ... it became chaos. Everybody was speaking It was just so much... I just wanted to get out of there. But [then] ██████ [██████ pointed at me and said, "What are we going to do about ██████ racist comments?" That was a bit scary...

██████ indicated that the remainder of the meeting "was a lot," and that eventually ██████ came in and stopped the meeting, then Team Elite stood up and walked out of the meeting. He said, "They were very disrespectful."

Miscellaneous

██████ indicated that based on what he saw in the election board meeting of May 2, 2019, he thinks that ██████ was helping Team Elite. However, nobody but the students helped Team Green.

When asked, ██████ indicated that he does not know anyone at the College named ██████ However, he had a teammate named ██████

Admissions / Corrections Made During Interview

When interviewed, ██████ initially indicated that he attended his afternoon psychology class on all scheduled sessions in April 2019 and he suggested that we could get his attendance records from the professor. However, after some discussion during his interview, ██████ realized that there was one Wednesday afternoon in April when he did not attend that class because he had another (likely campaign-related) commitment to attend. In his interview, ██████ therefore stated that it is possible that he was in the cubicle area on one Wednesday afternoon during the two weeks preceding the week of April 29th, to do some work on the campaign.

When interviewed, ██████ also directly denied having said anything that mocked or made fun of Team Elite for being the first all-Black team of ASO candidates, nor did he say anything about Team Elite positioning or marketing itself as the first all-Black team. He also denied having heard anyone else say anything like did you ever hear anybody say anything like "Oh yeah right, like Team Elite is really going to win," or use sarcasm, or anything like that. On the contrary, he stated that his team "knew that Team Elite was who was saying that they are the first Black / African-American students running for the election, and we applaud that for them." Likewise, he indicated, nobody ever raised that issue with him concerning Team Elite. ██████ also referred to the lack

occurred, and that she thinks if her teammates were going to say something like that, they probably wouldn't say it in front of her.

24) [REDACTED]

[REDACTED] who ran unopposed as Team Green's candidate for Student Trustee, was interviewed on May 14, 2019 at District offices. The information that he provided generally tracked and substantiated the major events described by other witnesses affiliated with Team Green. Other items of note addressed by [REDACTED] included the following.

Regarding the ASO allegedly "interrogating" UMOJA and B2LA in relation to their Fall 2018 requests for ASO funds to attend the UMOJA conference, [REDACTED] explained that the Ways and Means Committee and/or the Senate typically asks questions about fundraising efforts, costs, and other potential methods of funding in conjunction with voting on a Request for Funds.

[REDACTED] recollection of events regarding UMOJA's and B2LA's funding requests were as follows. For the first request [made by B2LA] for \$5,000.00, the requesting party "just explained what the event was going to be about and [then] the Senate "immediately approved" the funding request. However, he indicated that some confusion arose when, at the very next Senate meeting, a different organization [i.e., the UMOJA Learning Community] also submitted a Request for Funds seeking money to attend the very same UMOJA conference. He elaborated:

The following senate meeting we see almost the exact same members asking for funds for the exact same event and the Senate was, like, kind of confused. We were asking questions like, um, "What's B2LA?" "What's UMOJA?" and "What's a learning community?" Most of us were new senators back then and we had no idea what was the difference between a learning community and a club

But there was never a mention of "oh we're not going to fund this," or "We dislike African Americans." It was never any racial bias in the decision. It was just normal questions we would ask any club, especially if we saw the same members coming in requesting money for the same event.

[REDACTED] also stated that many of the people who attended the ASO meeting in support of the second group's request for funds were the exactly the same members of both organizations same people who attended the preceding meetings at which the first group's funding request to attend the UMOJA conference was approved. [REDACTED] indicated that he knew it was some of the same people were in both groups who were making the funding requests because he had attended some of both groups' events and activities.

[REDACTED] indicated that initially, in November or December 2018, he agreed when [REDACTED] asked him to run for office as part of her team of candidates, as did and [REDACTED] [REDACTED]. But, when he observed that [REDACTED] did not prioritize attending ASO events over other things during the spring of 2019, he changed his mind. He indicated that he did not want to run with her any longer because it seemed to him that she did not take her responsibilities in ASO seriously enough.

[REDACTED] stated that the ASO has a rule that any officer or senator who is absent from committee meetings or senate meetings must be put up for removal from office. He indicated that the maximum number of absences allowed is four, except that those who inform the chair of the

meeting in advance can be excused for “half” of the meeting, depending on the situation. Under that rule, he indicated, ██████████ and another senator were put up for removal from the ASO due to their absences at the ASO meeting on March 21, 2019. ██████████ indicated that at that ASO meeting, ██████████ apologized to the chair of the Constitution committee for not informing him about her absences; she said that she had been “having therapy” due to some “personal problems” and that the therapy was at the exact same time as the Constitution committee meeting; she indicated that she also had many events to attend for UMOJA and other learning communities; and she promised that she would not be absent anymore.

██████████ indicated that after receiving that information from ██████████ “every single member of the ASO senate voted “no” on her removal from office. He indicated that no vote was taken to remove other senator, Vanessa Fregoso, because she resigned from ASO.

██████████ indicated that he was surprised by ██████████ allegations that the ASO is “racist” because:

... if the ASO, um, is racist or prejudiced against African-Americans, uh, if that would have been true, [the mandatory motion to remove ██████████ from office due to her excessive absences] would have been a perfect opportunity for us to remove a member who was African-American, but ... not a single person voted “yes” on her removal. Everyone voted “no.”

██████████ provided a copy of the Minutes of the March 21, 2019, ASO meeting at which the potential removal of ██████████ from office was addressed; a copy of the minutes from the ASO meetings at which the ASO approved expending approximately \$750.00 in ASO funds to purchase the coffeemaker and microwave for ASO use; copies of the minutes from the ASO meetings at which the ASO approved the Requests for Funds submitted to the ASO by B2LA and UMOJA as well as copies of several Resolutions – including those through which ASO approved UMOJA’s and B2LA’s funding requests during Fall 2018.

██████████ also indicated that he heard ██████████ say several things that were untrue during Team Elite’s protest on May 1, 2019. One example he offered was a statement by ██████████ during the protest to the effect that “the ASO was inequitable and discriminatory toward African-Americans because it spent \$6,000.00 on a coffeemaker and microwave for the ASO but would not spend \$5,000.00 on an event for African-American students.” However, he indicated, the actual amount of money spent was closer to \$750.00.

██████████ said that he never told ██████████ that she was lazy, nor did he hear anyone else communicate that idea to her. He did, however, believe that her priorities had changed, and that her passion was not focused on the ASO. In his opinion, “if you want to be running as ASO president, uh, you at least have to show that you’re capable of running meetings, of being in meetings, of doing resolutions, of meeting with senators, and I never saw that level of commitment in her in the ASO.” ██████████ also stated:

It’s very painful that, um, ██████████ is doing all this because I actually -- I would say I actually once considered her a friend of mine, and these declarations coming from her are shocking. They are very hurtful um they’re very slanderous in a sense ... I really don’t care about the ASO elections at this point ... I mean, this is now an attack on people’s characters and people’s integrity, and I thin that’s way more important than an ASO election.

Regarding faculty involvement in the election, ██████████ stated, "something I do find very, very concerning is this was a student election and a student process and I did see faculty, and when I mean faculty I mean ██████████"

25) ██████████

Student ██████████ ██████████ ██████████ was the ██████████ during the 2018-2019 academic year and a declared campaign staffer for Team Green. He was interviewed on May 21, 2019 at District offices. The information that he provided generally tracked and substantiated the major events described by other witnesses affiliated with Team Green. Other items of note addressed by ██████████ included the following.

██████████ described himself as the only Team Green candidate or campaign staff who was not accused of some wrongdoing.

26) ██████████

Student ██████████ a member of Team Green, was interviewed on May 23, 2019 at District offices. The information that he provided generally tracked and substantiated the major events described by other witnesses affiliated with Team-Green. Other items of note addressed by ██████████ included the following.

██████████ began attending SWC in the Spring of 2016. He was on the ██████████ ██████████ ██████████. He stated that he was very sad about the events of the ASO election because it essentially broke up ASO relationships, which he did not like. He stated, "When you're ██████████ It's a feeling that is really, really hard to explain."

██████████ confirmed that ██████████ approached him to run for office on her team, that he and his ██████████ ██████████ had agreed to part of her team but later they both declined due to a feeling that ██████████ was not fully dedicated to ASO. For example, ██████████ stated that he wrote 33% of the ██████████ but ██████████ drafted only one of the 72 Resolutions passed this year. He also indicated that some people on Team Green had told her that they thought that if he ran with ██████████ he would not win a position due to ██████████ ██████████, He was not sure that he wanted to run on Team Green with ██████████ ██████████ because he himself had wanted that position, but eventually he came around and committed to Team Green.

██████████ said that he felt bad for ██████████ when he left her team, so he convinced the other members of Team Green to invite her to join their slate. According to ██████████ he did convince the team and they did invite ██████████ to join their slate, but as their candidate for a different executive officer position, since they were already committed to having ██████████ as Team Green's ██████████. ██████████ was already committed to her own team.

██████████ confirmed that He and ██████████ were on campus with Team Green's posters at 8:00 a.m. on Friday, April 12, 2019 to get them approved. He stated that even though ██████████ was present on campus all day, he made Team Green wait approximately eight hours to get their posters approved to be posted.

██████████ indicated that nobody from Team Green approached ██████████ before filing a grievance on social media issues because they all wanted to follow the rules, which was how they had been taught to do things in ASO.

██████████ admitted that he posted a screenshot of his Web Advisor (which students use to vote) on his Instagram Story, but said that was not against the rules because “the rule says that you cannot use your own social media to promote yourself [and] I was posting where you can vote. I wasn’t saying “vote for me.” I wasn’t saying I’m running. I was just posting, ‘I can’t [fucking] wait for elections to start...’” However, he indicated that he felt that Team Elite did violate the rules governing the use of social media in campaigning because they posted their campaign materials to their personal Instagram Accounts with a link to their online accounts.

██████████ stated that with regard to Team Elite’s Grievance concerning ██████████ everyone on Team Green thought that the “anonymous” witnesses were fictional. Further, he indicated, ██████████ said that it was not important for the accused to know who their accusers were, and when Team Green members pointed out that the April 29, 2019 meeting was illegal due to the failure to give 24-hours’ notice, ██████████ indicated that did not matter either because he felt that the situation was really important and needed to be addressed immediately.

Regarding the Fall 2018 vote in the Senate to approve the Requests for Funds submitted by B2LA and UMOJA, ██████████ indicated that most of the senators that semester was new, and there was some confusion caused by two groups requesting funds for the same exact event. He also indicated that ██████████ attended one of those meetings and when one ██████████ voted against funding one of the requests, ██████████ “called out” the student Senator. According to ██████████ ██████████ “yelled, ‘Oh, can I see the records of all her votes? Because she said something like, ‘Oh, I don’t think we should fund trips for club...’”

Regarding the meeting of May 2, 2019, ██████████ indicated that members of Team Elite threw the packets of paper at members of Team Green.

██████████ also corroborated that members of Team Green met with ██████████ for the first time on May 6, 2019, because one of Team Green’s members who worked in ██████████ office set up a meeting. Prior to that time, he indicated, he had a “really bad start with ██████████ because in SAGA they hate her.”

██████████ indicated that [after the election board meeting on May 2, 2019], he posted a picture on Instagram with a caption that read and that was directed at Team Elite:

Real leaders work hard to achieve their goals and the greater good at the same time. Parasites just complain and come up with lies to try to put other people down. Now I’m sorry your skin color doesn’t justify your mediocrity. Now I’m sorry your sexual orientation does not justify your stupidity. We as minorities are [not] entitled to anything and we need to work sometimes twice as hard. And I expect no less from everybody else.

When asked why he posted that item, ██████████ stated that he posted it that day after the teams learned the elections had been cancelled, to vent his frustrations on his private page, because:

I felt like ... because they [Team Elite] didn’t do anything during the whole campaigning part. Like, we [Team Green] were making posters, we were going to

clubs, we were doing [stutters], and they didn't do anything! And then, at the very end, they made all this noise. I felt like they were just waiting to do that. Like they ... weren't worrying about it because they were just waiting to pull out the race card at the end and then disqualify us and win by default.

██████████ stated that ██████████ commented to him, "Good to know you're both mediocre and stupid by your own accord." Due to her comment, ██████████ indicated that he thought "Oh, damn, so this is going to be misinterpreted," so he deleted the caption.

27) ██████████

Mr. ██████████ was interviewed on May 21, 2019, during which time he presented as a mild-mannered and affable individual who was biased at least to some degree in favor of Team Elite. Items of note addressed by ██████████ included the following.

██████████ is supervised by ██████████. He indicated that he is not familiar with the ASO Constitution because it is not under his job responsibility. On Fridays, including Friday, April 12, 2019, ██████████ ██████████ ██████████. However, he stated that he did not remember whether any posters had been dropped off at the ASO office for approval in the morning of April 12, 2019.

██████████ indicated that he did not attend any of the election board meetings during the Spring 2019 election. He indicated that his role in the ASO elections is ██████████ ██████████ ██████████. Additionally, he indicated, "students talk to me all the time about what they're feeling."

Regarding the short videos that ASO is supposed to record and post for each candidate, ██████████ indicated that ██████████ is responsible for ensuring that they are posted online. He also stated that ██████████ told him that the ASO office staff who was supposed to prepare those introductory videos had not been very available.

██████████ said that a student who was not Black and whose identity he does not remember asked him something about Team Elite running as an all-Black team, which he took to be negative. He indicated that he replied something to the effect of, "Yeah, what of it?" or, "What are you trying to say?" after which the student clarified that their question was "Why can't we all work together" rather than have separate teams? ██████████ indicated that he asked ██████████ about that, and the information he received in return was that "they didn't want to work with her, so she formed her own team." ██████████ indicated that he told ██████████ about this situation and told ██████████ to talk to ██████████ about it.

██████████ described himself as being ██████████. He indicated that 66% of the students on campus are Hispanic, predominantly due to being so close to the border with Mexico. He indicated that he is a ██████████

██████████ stated that he attended Team Elite's protest on May 1, 2019. While there, he indicated, he heard Team Green students' "complainants" alleging that Team Elite violating the rules and slandering their names. Everything he heard Team Elite saying, however, was that they wanted equal treatment on campus. "Then Team Elite was stating to promote themselves but they were again told to stop by ██████████" ██████████ stated that he knew she said this to ██████████.

██████████ because she had asked him if she “could tell them to stop doing that,” and that he said yes.

28) ██████████ ██████████

██████████ was interviewed at District offices on May 16 and 17, 2019, in the presence of his ██████████ ██████████ ██████████. ██████████ also provided information to a number of follow up questions via email. He was prompt and forthcoming in his responses to follow up requests. ██████████ described himself as being a lighthearted, fun person who easily gets along with and gains the trust of others.

██████████ indicated that he has been the ██████████ ██████████. Before joining the College’s staff, ██████████ indicated, he was the ██████████. In that role his big responsibility was the club system, which included more than 300 clubs. ██████████ indicated that while he was at ██████████ he also did some work involving Associated Student Organization (“ASO”) issues.

Associations and Affiliations

██████████ stated that he is not in any clubs and that he is not the advisor of any student club or organization because only faculty are allowed to be advisors. However, ██████████ indicated that he has been a member of the Black Alliance for about two and a half of his four years at SWC. ██████████ indicated that the Alliance is a club for faculty and staff and that although he currently does not hold a leadership position, he previously was Secretary for the Alliance.

According to ██████████ the Black Alliance “is a collection of Black faculty and staff on campus that are ... here as a support for our Black students on campus.” The Black Alliance, he indicated, used to be called the African American Alliance, until the name changed to the Black Alliance sometime in 2016. Since 2016, he indicated, the Alliance was “re-vamped” and some new members have joined, which is the new generation of members. The Alliance’s membership includes at least two members who are not Black. One thing that the Alliance does is provide scholarships to students.

Role with ASO

██████████ indicated that, as the District’s Student Activities Coordinator, his main role is to serve as the advisor for the ASO, which includes attending all ASO meetings, helping the ASO leadership plan ASO events and manage their money, and coordinating all of the moving parts that are needed for any ASO activities, such as guest speakers, buying food, giveaways, plane tickets, or supplies for ASO meetings, advocacy efforts, travel, or other ASO activities. ██████████ indicated that he also assists in putting on and/or participates in retreats for the ASO leaders throughout the year, which have Student Learning Outcomes that should be achieved through the retreats and trainings. In short, ██████████ stated, the students are supposed to actually do the work and he is supposed to oversee them to make sure their actions are done according to the applicable rules. He estimated that 75% of his time is spent in contact with students. Regarding ASO financial matters, ██████████ indicated that he is responsible for helping the ASO leadership manage their money from the standpoint of knowing what their budget is and keeping their expenditures within budgetary limitations. He further indicated that he is responsible for tracking the money spent by the ASO but that he does not sign checks or use a District credit card.

In addition to his responsibilities concerning the ASO, ██████████ indicated that he also oversees the student club process and all student clubs. Currently there are nearly 70 student clubs. Although the ASO used to be involved in approving and guiding student clubs on campus, there are now so many clubs that the ASO is no longer involved and ██████████ and others in the student activities office handle the clubs and all associated paperwork.

When asked what role ██████████ ██████████ plays in the ASO, ██████████ indicated that ██████████ oversees ASO as one chunk of his various District responsibilities. In that role, he indicated, ██████████ attends some ASO meetings at which he sometimes offers an opinion, but that he meets weekly with four of the ASO officers (the ██████████ ██████████ the Executive Vice President, the Vice President of Finance, and the Executive Secretary), and he signs off on all of the ASO's financial transactions. In addition to his responsibilities concerning the ASO, ██████████ also oversees the District's health services and personal wellness divisions, the latter of which is SWC's psychological services program for students.

When asked how he typically deals with conflict in ASO meetings, ██████████ indicated that he tries to redirect students, but that he is only an advisor to the ASO so he cannot make the students do anything.

Notice and Agenda Requirement for ASO Meetings and Meetings of the Election Board

██████████ indicated that regular meetings of the ASO senate, its committees, and its executive council all are subject to the Brown Act, with the result that for each, an Agenda must be posted at least **72** hours before a meeting of any of those bodies begins, as "the overarching rule ... [is that] any meeting of the ASO is open to the public." However, ██████████ indicated that meetings of the ASO Election Board are not subject to the Brown Act because the Election Board only exists and acts during the few weeks of the ASO elections each year.

██████████ also indicated that the ASO Constitution requires all meetings of the Election Board to be noticed by posting an agenda at least **24** hours before the meeting's scheduled start time.

ASO Elections Process, Overview

██████████ indicated that typically, the annual spring semester ASO election process begins in early March and the election itself occurs in April or May. Candidates typically have three to four weeks to get the required number of signatures and submit their application to run for office. Applications are usually due in early April. Each year the ██████████ selects an ██████████ ██████████ who is not part of ASO and whose role is to help oversee the Election Board in putting on the election. According to ██████████ the Senate votes to confirm the President's nominee. In some years, ██████████ has been approached by a student who has indicated that they were interested in being the election coordinator for that year's election. ██████████ indicated that he was approached in this way concerning the spring 2019 election, so he directed that person to the ██████████ and she was appointed to be the ██████████ From there, the ██████████ chose the members of the Election Board. If those individuals meet the qualification requirements.

Pursuant to the regular order of things, a spring 2019 ASO election starts with a mandatory meeting for all the candidates in early to mid-April. ██████████ indicated that during this initial meeting, they review all of the rules and regulations that apply to the election, including

campaigning, and all candidates are given a copy of the Election Code. (See Exhibit 14, PowerPoint Presentation.) Campaigning begins the day after the mandatory meeting.

During the ensuing two-week campaigning period, there are two candidates' forums at which the candidates get the opportunity to publicly state their positions on issues and to answer the voters' questions about what they would do, if elected. Thereafter there is a four-day voting period, where votes are cast via "Web Advisor," the District's online portal system. ██████████ indicated that, to vote, each student logs on to their "My SWC" page, then they click on the words/link "ASO Elections click here," which takes them to the page where they cast their vote. Once the polls close, the candidates have one final hour in which to assert any complaints, grievances, questions, etc. Once those problems, if any, have been addressed, the election results typically are announced.

██████████ indicated that each candidate also is allowed by rule to create and post a candidate's statement video²⁶ (using District resources), beginning in the spring 2019 election.

In contrast to the annual spring semester elections, the elections held in the fall semester are "in-house elections," in which any vacant senator positions are filled through a vote among the existing ASO senators. Any vacancies among the eight executive officer positions are filled through appointment by the ██████████ ratified by the Senate.

ASO Elections Grievance Process

██████████ indicated that once appointed by the ██████████ the Election Board oversees the election process and ensures that the candidates and the campaigns all follow the rules. If someone thinks that a candidate has broken a rule, they can submit a "grievance." Typically, a grievance goes first to the ██████████ and, if it is something that s/he can resolve directly within 24 hours, the ██████████ does so.

If either of the parties is not satisfied with the grievance resolution proposed by the ██████████ ██████████ that party can take the matter to the Election Board for a decision. ██████████ explained that in such a case, both sides "present their case and whatever evidence or information they have," to the Election Board, after which the Election Board kindly asks those present to leave the room so it can deliberate privately (but the Election Board cannot make anyone leave the room because it is not a closed session meeting). Ultimately, explained ██████████ the Election Board makes a decision on whether any rule governing the elections was broken, and if one was broken then the Election Board determines what sanctions are appropriate.

When asked, "So, people can't complain about something is not part of the rules conducting the election?" ██████████ replied, "Right."

When asked whether a candidate who is offended by something another candidate has done in the course of campaigning is supposed to approach the alleged offender and address the matter directly versus whether that party may take the matter to the Elections Board through a grievance, ██████████ stated that it depends on the circumstances.

²⁶ ██████████ indicated that although these videos were made in the spring 2019 election, they "never quite made it to the internet" because it was their first time offering this video service and they just "ran out of time" to post them.

ASO Elections Rules Concerning the Use of Social Media

██████████ indicated that the allowable use of social media (such as Instagram) in the course of ASO elections has been an evolving issue over time. He further indicated that while the topic is addressed to some degree in the Board Bylaws or Election Code, some parts of the language seem vague and the rule seems to be somewhat behind the current trends for using social media.

Regarding how the social media application Instagram works, ██████████ indicated that in order to publish text on Instagram, the text must be a caption for a picture that is being posted. He explained further that a post on a person's Instagram "page" remains up until taken down by the person who posted it, but a post to a person's Instagram "story" only remains up for 24 hours before it automatically "disappears."

██████████ explained that in an effort to make the playing field equal for all candidates, the rules for using social media during an ASO election include a rule that the only thing having to do with an ASO election that any candidate can post to their personal social media, such as Instagram, is a link to their "vote for me page"²⁷. He also indicated that a link to a candidate's vote for me page "is the only thing regarding elections ... that should be seen on [a candidate's] own (personal) social media page(s)."

Regarding what text was permissible as an introduction for the link from one's personal social media page to one's "vote for me page," ██████████ stated, "It's like, 'Hey, go click on this page and find out more about me and why I'm running for this election.'" In the same vein, ██████████ stated that it was not permissible to post a link to your social media page(s) from your "vote for me" web page.

Training Provided to ██████████ ██████████ and Election Board

██████████ indicated that he has not received any formal training in conflict resolution but that he feels he has sufficient knowledge on the topic to do this part of his job. He also indicated that he has not received any training concerning the ASO Constitution, its Bylaws, or the Election Code, but that he has reviewed those documents himself and learned them sufficiently over time as he used them.

Regarding training that he provided to the ██████████ in spring 2019, ██████████ indicated that each year after the ██████████ is appointed, he spends two to three hours with them to review the ASO Constitution and the election process, as a form of training. ██████████ indicated that in reviewing the election process with the ██████████ he goes over the timeline of the election cycle and describes how the various steps work, starting with the application process. He also stated that they "dig into the ... Election Code itself [to] review all of [its] ... nuances, the do's and don'ts as far as campaigning goes, and the grievance process, [including] show[ing] them copies of the forms."

When asked whether he trained the spring 2019 ██████████ on the requirement to post an agenda at least 24 hours before each election board meeting, ██████████ initially stated that he covers that topic in the training he gives the ██████████ then he stated that he did not remember whether he addressed the topic with ██████████ and he later stated that if the

²⁷ A "vote for me page" is an official social media page of a candidate that was created for the ASO election and registered with the ██████████ for the purpose of being the repository of all of that candidate's campaign materials on social media.

topic of posting the agenda 24 hours in advance of any election board meeting is addressed in the ASO Constitution sections that govern the elections, then he more likely than not did address the topic with [REDACTED] [REDACTED] also indicated that once the election season begins, he meets with the [REDACTED] once a week or more, depending on their needs.

As to the Election Board members, [REDACTED] indicated that the [REDACTED] generally provides the Election Board members the same training that he provided to the Coordinator, but that the Coordinator does so on an as-needed basis as things arise in the course of the election. [REDACTED] further indicated that typically three Election Board meetings are scheduled in the midst of any election: one before the all-candidates' meeting and two in the course of the election.

The Spring 2019 ASO Election Began with a Meeting on April 11, 2019

Regarding the spring 2019 election, [REDACTED] indicated that a mandatory meeting of the candidates occurred in the evening of Thursday, April 11, 2019, and campaigning began the next morning. [REDACTED] indicated that during that meeting, [REDACTED] [REDACTED] reviewed with the candidates the ASO constitution provisions that related to elections. [REDACTED] [REDACTED] indicated that the largest chunk of time in the April 11, 2019 meeting was spent discussing the rules governing candidates posting their posters and fliers, and that much discussion was had concerning the proper use of social media during the ASO elections.

Regarding the permissible use of and linking to candidates' personal social media pages, [REDACTED] [REDACTED] stated that it was "clearly stated" during the April 11, 2019 meeting that the only thing regarding the elections that could be posted on a candidate's social media page was the link to their "vote for me page." [REDACTED] described that during this meeting the candidates were instructed that they could to place a link from their personal social media page(s) to their "vote for me page," but that they could not place a link from their "vote for me page" to any of their personal social media pages.

In the course of his interview, [REDACTED] made contradictory statements regarding what text the candidates were told may accompany or preface any link to their "vote for me page" that they placed on their personal social media page(s). At different points in his interview, [REDACTED] indicated that the only permissible type of introductory or explanatory text for the link was:

- (A) none at all;
- (B) "'Hey here's -- elections are coming up, vote,' 'Click on this link, that will take you over -- to find out about -- more about why we're running,' things like that;" and
- (C) a "very minimal" introduction, like: "Oh hey, click here," or "ASO elections coming up, click here."

Furthermore, [REDACTED] stated, in an apparent effort to clarify, that "to try to keep it equitable, we say that ... if it's in regard to elections and about ... what you plan to do if elected or why you're running, anything like that, [it] has to be on your 'vote for me page,' and that's it."

[REDACTED] indicated that other topics addressed in the meeting of April 11, 2019, included the requirements for those who wanted to run as part of a team (specifically that team declarations must be submitted that night), the \$100 per-person spending cap, the requirement to declare in writing persons helping a team or candidate as campaign staff, and the related required financial disclosure – which financial requirements were designed to ensure equity in campaigning among

the candidates.

Team Green Submitted Campaign Posters for Approval on April 12, 2019

██████████ indicated that Team Green's candidate for President, ██████████ submitted some posters for approval on the first day of the campaigning period, Friday, April 12, 2019. He also indicated that he did not have a clear memory regarding them because he was busy in meetings and other responsibilities that day. ██████████ also indicated that although he did not remember what time the posters were dropped off on April 12, 2019, he did remember ██████████ telling him that his team had dropped off some posters for approval, to which ██████████ replied that he was on his way to a meeting or another task so he would review the posters later. ██████████ also indicated that he came back a couple of hours later, signed the posters, and returned them to ██████████

Regarding the duties he performed that caused the delay in approving Team Green's posters on April 12, 2019, ██████████ indicated that not everything he does makes it onto his calendar, but that he would provide a print out of his Outlook calendar for that day. (Exhibit 19, April 12, 2019 Outlook Calendar Printout for ██████████) Upon review, ██████████ calendar for April 12, 2019 showed meetings or activities scheduled from 9:00 a.m. through 1:30 p.m. However, the calendar did not indicate which of those meetings or activities ██████████ was required to attend, other than a 1-hour "Advisor Orientation" in his own office at 10:15 a.m.

Team Green Filed a Grievance on April 17, 2019

Mr. Ebert stated "technically, only two grievances were officially filed" during the spring 2019 ASO elections. The first grievance was filed by ██████████ on April 17, 2019, regarding members of Team Elite allegedly posting campaign materials on the story within their individual Instagram Accounts. More specifically, he indicated, ██████████ "had screen shots showing that [Team Elite members] posted ... things on their own individual pages on the[ir] individual stories ... that referenced, 'Oh vote for us, ... we're running for these positions'."

██████████ indicated that ██████████ Shar ██████████ approached Team Elite concerning Team Green's Grievance, to see if the matter could be resolved without involving the Election Board. ██████████ indicated that understood that (1) the posts at issue had already been off the responding parties' Instagram stories for a number of days, (2) Team Elite offered to take down any remaining impermissible posts, and (3) Team Elite's explanation for how the posts got onto their personal accounts was that when they posted the materials, they tried to post them to their official swc.teamelite Instagram account, but since they were already Instagram users who regularly posted to their personal accounts through their phones, when they tried to post to Team Elite's official campaign Instagram account, the phones automatically (and accidentally) posted the items to the Team Elite members' own personal Instagram accounts.

Regarding notice of this meeting, ██████████ indicated that all the candidates were notified of the meeting at least 24 hours before it began, but that the agenda was not publicly posted before the meeting began. When asked why the agenda had not been publicly posted, ██████████ indicated that "they" had been focused on getting the two parties together to discuss the grievance as soon as possible, and that not posting the agenda was "just an oversight."

██████████ indicated that ██████████ felt that the proposed resolution of Team Green's Grievance (a warning) was not sufficient, so he wanted to proceed with taking the matter to the Election Board. ██████████ indicated that the grievance process concluded ended when the

Election Board met on April 23, 2019, with Team Elite being instructed to take down all offending material and being “warned” against similar posts. He also indicated that by the time of that hearing on Team Green’s Grievance, the offending material had already been off of Instagram for several days because it had been on Team Elite members’ “story” pages only, not their Instagram Pages.

The Election Board Meet Concerning Team Green’s Grievance on April 23, 2019

██████████ indicated that although an agenda was not publicly posted as required, “we” sent a copy of Team Green’s Grievance to all of the candidates and invited both teams to the April 23, 2019, so that they each could explain what happened in relation to the events underlying Team Green’s Grievance. He recalled that when the meeting began, they reviewed the grievance itself and the grievance process to refresh recollections about how the process worked.

██████████ described ██████████ as “the primary speaker” in this election board meeting, and indicated that was the case in most of the election board meetings during the 2019 election season. He described his own role as “chiming in with ... advice or ... clarifications” while ██████████ ran the meeting.

██████████ indicated that ██████████ made a statement to the effect that Team Elite should receive sanctions beyond just having to take down their social media posts that broke the rules because the candidates were told explicitly during the meeting on April 11, 2019, that posts such as the ones at issue in Team Green’s Grievance were not allowed. ██████████ allegedly recommended that a more appropriate consequence for Team Elite would be for them to be banned from using social media as a campaign tool for a certain amount of time.

When asked whether Team Elite’s Instagram posts to their stories broke the rules concerning social media use in the election, ██████████ stated, “Technically, yes.” However, ██████████ indicated that he believed that Team Elite’s posting of the campaign materials on their individual Instagram stories had been an “honest mistake,” which led him to feel that consequence proposed by ██████████ would be “a little harsh” for the offense and “overkill,” especially considering that the offending posts were already offline. He also indicated that he could tell that ██████████ believed that Team Elite purposely posted campaign materials to their personal Instagram stories, based on a belief that since the posts would be gone in 24 hours, nobody would know that they did it. However, he believed that there was no evidence of that intent.

██████████ also indicated that during the election board meeting of April 23, 2019, Team Elite raised the issue of ██████████ posting something on his own personal Instagram page or story that related to the ASO elections and indicated that his post was roughly equivalent to their own. ██████████ confirmed that Team Elite members had posted their actual campaign materials to their Instagram stories, and that ██████████ had posted a screenshot of his Web Advisor page with a caption of “I can’t fucking wait!” but without mentioning anything about himself being a candidate. Regarding ██████████ post to his story, ██████████ stated, “it was easy for all the students to kind of put two and two together that he’s basically saying that ‘I can’t wait, you know, until elections are here because I’m excited that I may get voted in and that I’m a candidate.’”

When asked whether ██████████ Instagram story post violated the rule on social media posting, ██████████ replied that no official grievance had been filed. When asked whether his post was nevertheless a violation, ██████████ indicated that it probably did not violate the rule regarding social media posts but that if a grievance had been filed on it, ██████████ probably

would have been warned and told not to do it again.

Although he did not answer the question on whether the Election Board took a vote regarding the outcome of Team Green's Grievance, ██████████ stated that the Election Board "essentially upheld Shar's decision" that the Grievance should be resolved by giving Team Elite a warning, with no further sanctions. In describing why the Election Board came to that conclusion, ██████████ stated that ██████████ had posted something on his own Instagram story that "was a little more ambiguous, but it was still the idea of like he posted ... something in relation to elections on his own page," so [Team Elite]'s position was that they had made an honest mistake and "look, even other people [██████████] have done it too," and "that's where the election Board was just kind of like, 'OK, you know what, just a warning.'"

██████████ indicated that he believed the Election Board's decision to uphold ██████████ recommendation to only issue a warning to Team Elite was influenced by the following factors: Team Elite's multiple posts to their individual Instagram stories had been an "honest mistake;" [he thought] the Election Board felt like there was no "malicious intent" behind Team Elite's posts; the posts at issue had already been off their Instagram stories for several days; that probably not many people saw the Instagram posts at issue; and that in prior elections the only time where heavier sanctions (beyond a warning) were upheld was where there were repeat offenses. ██████████ further indicated that he had seen an election board bar a candidate or team of candidates from posting on social media for a period of time in a prior election, but there had been repeat offenses. Likewise, he indicated, approximately two years previously, an election board disqualified a candidate from running because the candidate repeatedly violated a particular rule.

██████████ indicated that this meeting was not a contentious one because it was only attended by ██████████ ██████████ the Election Board, and a handful of other people.

Team Elite Filed a Grievance on April 26, 2019

██████████ indicated that ██████████ emailed him and ██████████ Shar ██████████ on Friday, April 26, 2019, indicating that two of her friends²⁸ contacted her to tell her that "members of the Green Team had ... made ... racially based comments about us in the cubicle in the ASO office cubicle area," and she included screen shots of the two friends' messages. He further indicated that ██████████ came to his office that day and they read through those materials together. ██████████ stated that, based on what he read, he told ██████████ "... this is obviously something serious. Let's ... get the Election Board together on Monday to find out when everybody is available on Monday and let's try to find a time where everybody is available to meet on that Monday."

██████████ indicated that he told ██████████ to ask ██████████ to get additional information from her witnesses, such as dates, times, and the content of ██████████ alleged statement(s), which ██████████ emailed to him and ██████████ on Sunday, April 28, 2019. He further indicated that those emails from ██████████ led to the next morning's election board meeting.

When asked to identify which Constitutional Rule, Bylaw, or other rule the conduct attributed to ██████████ by ██████████ related to, ██████████ stated, "... obviously there's no rule that says, you know, 'can't make racist comment ... but it does say that ... campaigning ... can't be any kind

²⁸ The two witnesses asked to be anonymous, which the Election Board allowed.

of slanderous or ... detrimental to any other candidate²⁹.” He continued, stating, “... we do have ... an ASO kind of honor code^{30 31} that ... talks about respect and um talks about ... appropriate behavior and appropriate language ... of all ASO officers....”

██████████ also stated, “... this was obviously – we knew from the beginning that this was not just an Election Code violation, this was obviously ... bigger ... [a] code of conduct type of issue ... [that] just happened to be happening in the context of the election.” ██████████ also indicated that the Code of conduct was relevant to the election because one must be in good standing with the college as far as the code of conduct in order to be allowed to run³² for ASO office.

Election Board Meeting on April 29, 2019

██████████ stated that “we,” notified “both candidates,” meaning ██████████ and ██████████ of the election board meeting to begin at 10:00 a.m. on Monday, April 29, 2019. He also indicated that he created and posted the agenda for this meeting of the Election Board on Monday morning, April 29, 2019, so he knew that the agenda was not posted at least 24 hours before the beginning of the meeting, as required. ██████████ then stated that upon reviewing ██████████ email and its attachments,

- ██████████ We felt like this kind of issue ... was important that we still try to move forward with it, so they went ahead and still held the meeting – still went ahead and called the meeting.
- ██████████ Whose decision was that?
- ██████████ Um ... it was a mutual decision, I would say, between ██████████. I think it was a mutual decision that we said you know, “Let’s at least try to get everybody in a room, let’s talk about this as soon as possible.”

²⁹ Paragraph 9 of Section 6 (entitled “Telecommunications & Social Media Policy”) of Article VI (entitled “Election Code”) of the ASO Constitution states in pertinent part: “Campaigning shall not be abusive, libelous / slanderous, or in any way deleterious to competitors, competitors campaign members, or any other person or organization.”

³⁰ Principal 4 of the ASO Code of Ethics, which comprises Article XII of the Bylaws to the ASO Constitution, states: “We, the voting members of the ASO recognize that being a member of this organization involves participating in an environment in which freedom of expression is of paramount importance to ensure total student input on policy development and the free exchange of ideas. We also recognize the need to demonstrate respect for our fellow ASO Officers as well as the students of this community college District when making public comments about colleagues and students.”

³¹ Paragraph C of Section IX (entitled “General Rules”) of the ASO’s “House Rules,” which are published with the Constitution but as a separate document, states in full: “All persons attending a meeting shall conduct themselves in a respectful manner, and will refrain from any insulting, obscene, and/or offensive verbal and/or nonverbal behavior, and shall refrain from posting and/or passing obscene and/or offensive materials.”

³² Clause 4 of Section 2 (entitled “Qualifications for Office”) of ASO Constitution Article III (entitled “Nominations and Qualifications requires all ASO officers and Senators, and all candidates for those offices, to be “in a non-probationary status (academic or disciplinary) as determined by College Policy.” The College’s Standards for Student Conduct, located in Administrative Procedure 5500 (12) identifies “engaging in harassing or discriminatory behavior based on ... race or ethnicity ... or any other status protected by law” as being “good cause” for imposing discipline on a SWC student.

██████████ stated that he missed the first 90 seconds of the election board meeting of April 29, 2019, because he had stepped out to the restroom, and that when he re-entered the room former ██████████ was saying that the agenda for the meeting had not been posted at least 24 hours in advance. From there, indicated ██████████ ██████████ “chimed in about that same issue,” so the conversation turned to the Constitutional requirements for noticing the meeting and people in attendance were checking their Constitutions. ██████████ ██████████ estimated that about five minutes was spent on the notice and constitutionality of proceeding with the Election Board meeting, after which he spoke as the Advisor, saying:

I understand ... the concerns, and I get that you know technically we are operating outside of the Constitution. But this is an important issue, this is a serious issue and this is obviously something that we've never really dealt with. We need to --- this is something that needs immediate attention, concerning the allegations....

██████████ stated that he told the meeting attendees as a group that he thought the meeting should proceed, then asked the group generally how they felt about doing so. At that point, he indicated, either ██████████ or ██████████ said that they needed to “take the pulse of the room” on whether to proceed with the meeting but that in the end, those present wanted to proceed with the meeting at that time because they were already there. After a few minutes, he indicated, everyone, including Team Green, had agreed that the meeting should proceed despite the lack of Notice.

██████████ indicated that ██████████ was present in the meeting and engaged with the discussion, so if he did not want the meeting to proceed due to the lack of posting the agenda 24 hours in advance, he could have stepped in at any time. But he did not do so.

From there, indicated ██████████ the ██████████ read the Grievance and the two anonymous witness statements aloud, followed by ██████████ the grievant, speaking. He recalled that ██████████ spoke for just a couple of minutes, generally “rehashing” what had already been said but also describing how she felt and expressing that “something needs to be done” about this “important issue” because the fact that Team Elite was “the first all-black team ... should be celebrated ... [and] should not be a source of insult or mocking,” and that the Board needed to decide the matter and to do something to show that this kind of conduct would not be tolerated. When asked what evidence was presented of the actual statement attributed to ██████████ ██████████ indicated that information came out sometime between the meetings held on April 29, 2019 and on May 2, 2019.

After ██████████ spoke, indicated ██████████ ██████████ opened up the meeting for anyone on Team Green to speak. ██████████ indicated that ██████████ spoke the most on Team Green’s behalf, but mostly in defense of himself. He recalled ██████████ denying the allegations that one of ██████████ anonymous witnesses made against him (i.e., allegedly listening to ██████████ comment in the cubicles, without curtailing him); talking about how he would never do what he was accused of because his children and some of his family are Black; asserting essentially that it was unfair to use anonymous witnesses due to the inability to test their allegations to see if they were true; and asserting the vagueness of the allegations as to time and location made them fatally uncertain as it would not allow for the accused persons to establish where they were at the time.

██████████ stated that ██████████ ██████████ Student Trustee ██████████ and possibly Team Green candidate ██████████ ██████████ also spoke during this meeting. Mr.

██████████ indicated that he generally remembered that ██████████ and ██████████ were talking about the need for the witnesses to be identified and questioned, because people have the right to face their accusers, and:

they were throwing out kind of legal jargon about like reasonable doubt, and in a court of law you have to do this, this, and that – you know. [So] I, kind of polite, I said, “Mr. President, you know this isn’t a court of law. This isn’t a court; those are different rules that apply for that.” ██████████ was talking about witnesses, like, “Witnesses need to come forward, otherwise, you know You can’t take anonymous witness statements, and you have to be able to prove beyond a reasonable doubt. There’s not enough evidence here. How do we know these witnesses are real? They have to come forward....”

In summary, Team Green felt that it was critical for the witnesses against them / ██████████ to be identified and to come forward, and they felt that there was not enough evidence in the record to warrant any action.

When asked about ██████████ contributions to the meeting, ██████████ indicated that he really had not said anything, which was usually the case in Election Board meetings because:

...[There’s] not really much for us to say typically. Like, usually it’s just something that they talk about amongst themselves and we’re there to kind of offer ... advice or ... just make sure the meetings are flowing and are not getting off track, and things like that...”

When asked how he knew that he should speak up and address the comments by members of Team Green like ██████████ as opposed to waiting so that his boss ██████████ / the ██████████ ██████████ could direct the situation, ██████████ said:

I don’t know. I don’t think it was a conscious decision. I just feel like in that moment ... they needed to have an adult in the ... somebody that [could] be kind of ... a voice of reason.

When asked about the Election Board’s actions, ██████████ indicated that they asked a couple of questions, they requested more information and more time, and they asked Team Elite what they thought would be an appropriate punishment. Thereafter, the Election Board asked the attendees to leave the room so that they could deliberate, and all but a few did so. The Election Board deliberated for about ten minutes before announcing that their decision was that additional information was needed before it would reconvene to make a decision. ██████████ indicated that the Election Board asked ██████████ to get additional information regarding: what was said, who the witnesses were, the witness’ credibility, and the timing of the alleged incident. He also indicated that the members of Team Green specifically asked for the witnesses to be identified, so the Election Board asked ██████████ to contact the witnesses and ask if they are willing to attend a future meeting to provide information in person.

██████████ recalled that when ██████████ announced the Election Board’s decision,

I remember Green Team – I could – you could – I remember – I remember thinking that – that you could tell that they weren’t happy with that, they felt like -- because they -- from the beginning they felt that there wasn’t enough evidence here to make -- they felt like it should have been thrown out because there wasn’t enough

evidence here to even move forward.

██████████ stated that because the Green Team “were just harping on the witnesses,” he suggested to everyone that perhaps he or ██████████ or both of them, could speak with the individual witnesses as advisors, if they continued to insist on anonymity. However, he stated, Team Green was “not on board with that.” Regardless of Team Green continuing to challenge the issue of anonymous witnesses, the Election board asked ██████████ to pursue the option of the witnesses speaking to the advisors, if they continued to insist on anonymity.

At this point, indicated ██████████ the meeting concluded with an announcement that they were going to reconvene the meeting the next day (April 30, 2019) at 11:45 a.m., “because that was the time they were already scheduled to meet regardless.”

Events of April 30, 2019

Early on Monday evening, April 29, 2019, there was a Governing Board workshop with the Southwestern Black Alliance, of which ██████████ is a member, and ██████████ ██████████ indicated that the subject of this workshop was “anti-Blackness on campus,” what the District needs to do to address inclusion and equity on campus, etc. He recalled that ██████████ a number of Team Elite members, ██████████ ██████████ all were present, and that he thought that ██████████ Team Green candidate ██████████ and Student Trustee ██████████ but that they may have been late.

At about 6:30 or 7:00 in the evening on April 29, 2019, ██████████ recalled, ██████████ called him on his cell phone and stated that she had talked with both of the anonymous witnesses, that one was still insisting on anonymity but the other one was willing to talk with him, and that a third witness had approached her, current ASO officer ██████████ ██████████ recalled that ██████████ put ██████████ on the phone, and that she said that her memory had been jogged by that morning’s election board meeting, which reminded her that she previously heard “... ██████████ make a comment about ... something about ... the elections and ... going against an all-Black team,” but that she did not remember in more detail what ██████████ statement was. ██████████ indicated that he asked ██████████ to take some time that night to write down anything that she could remember about the day, the time, and what was said, to which ██████████ agreed. ██████████ also indicated that ██████████ who is a DSS student and a member of the ABLE (Abilities Beyond Limitation through Education) club, reminded him that her memory “is not the greatest,” and he stated that she has “some mental disabilities that she has been open about and worked through.”

Later still in the evening of April 29, 2019, indicated ██████████ ASO Executive Secretary ██████████ called him on his cell phone, told him that she was one of the witnesses, and agreed to meet him the next morning.

██████████ indicated that, in the morning on April 30, 2019, ██████████ ██████████ and he met with ██████████ in ██████████ conference room. During that meeting, he indicated, ██████████ stated that she did not remember exactly what ██████████ said, but that she remembered overhearing him say, as she walked past the cubicles in the ASO building, “something about, ‘oh, we’re going against the first all-Black team,’ [and she said that] the way he said it ... was [a] very sarcastic, very condescending type of tone.” According to ██████████ ██████████ still did not remember the date or day of the week on which she heard ██████████ comment, but he indicated that she narrowed the general timeframe down to the statement having occurred after a class that ██████████ and ██████████ both attended on Tuesdays and Thursdays.

██████████ indicated that the group pressed ██████████ for information on who else she saw or heard in the area or talking with ██████████ during the alleged incident, but that she said she did not have such information. ██████████ indicated that the group asked ██████████ “if she would be comfortable coming forward,” but that she told them “ ‘no,’ because she felt like if people knew it was her ... she could be ostracized or ... ridiculed ... [and] she felt like people may think she was a traitor or things like that.” When asked what he or the group did to explore for bias with ██████████ ██████████ indicated that he had asked her if she had any relationships with people on Team Elite, to which ██████████ responded, “Only ██████████” When they asked why she was still seeking anonymity, ██████████ also stated that she still had relationships with the Green Team members, particularly ██████████ because they had classes together, they continued to be in ASO together, and they, as well as several other ASO members, were in Phi Theta Kappa / the honors society together, so disclosing her identity would make things “uncomfortable.”

When asked whether the comment that ██████████ attributed to ██████████ (i.e., “We’re running against the first all-Black team”) would have been “slanderous” if ██████████ did say it, ██████████ stated, “in the context of how it was said ... you know, using a sarcastic tone and laughing afterwards ... I think there was enough there that ... people felt like ... that could be considered condescending ... and then that could easily be considered ... slanderous.” ██████████ continued his explanation, stating that the underlying issue was that “Team Elite shouldn’t be the butt of a joke and “the fact that we’re an all-Black team shouldn’t, in and of itself, elicit laughter.” He continued, “It was the idea that the mere fact that ‘we’re running against an all-Black team’ means that [the all-Black team is] less than, [and that as a result the election] was going to be [an] easier road for us, so that’s a joke that they’re running against the first all-Black team.”

██████████ stated that after interviewing ██████████ he, ██████████ and ██████████ remained in ██████████ conference room and talked for a few minutes. During that discussion, he indicated, both ██████████ and ██████████ communicated that they felt that disqualification was not warranted and that there was not enough evidence to support disqualifying him. In contrast, ██████████ recalled that he told them that even though “some of the evidence here is circumstantial,” the appropriate remedy was to disqualify ██████████ because they needed to set a precedent that the ASO will not condone this type of behavior. More specifically, ██████████ indicated that in his view, if the ASO was going to “talk the talk” about equity, inclusion, and diversity, then it needed to “walk the walk” by demonstrating, through disqualifying ██████████ that these kinds of things are not going to be tolerated in any form and that there is no room in the ASO for saying these kinds of things, even as a “joke.”

When asked, ██████████ indicated that he did not check with his supervisor or anyone else about whether it was permissible under the rules applicable to ASO elections to use anonymous witnesses in the grievance process.

Scheduling Part Two of the Election Board Meeting on Team Elite’s Grievance

Regarding scheduling the next election board meeting, ██████████ indicated the original plan was to hold it at 11:45 on April 30, 2019, despite the fact that a “candidates forum” was already scheduled for that time slot. However, he indicated, the meeting was delayed because “enough candidates came forward” asking to move it to a different time because they wanted to attend both the candidates’ forum and the second part of the election board meeting concerning Team Elite’s Grievance. As a result, ██████████ worked to coordinate a meeting time of 10:00 a.m. the following morning, May 1, 2019. By the time everyone responded to her, however, again there was not enough time to post an agenda 24-hours before the meeting’s start time.

██████████ then indicated that he knew that there was not enough time to give 24-hours' notice if the Election Board meeting was scheduled to begin at 10:00 a.m. May 1, 2019, but that he decided to proceed with holding the meeting then anyway. Within a couple of hours, however, ██████████ supervisor, ██████████ told him that ██████████ had raised the issue of another violation of the 24-hour notice rule with District Superintendent / ██████████ so that notice rule could not be "bent" again. ██████████ said that the meeting needed to be moved to a date and time for which an agenda could be posted at least 24 hours before its start time. Therefore, he indicated, ██████████ contacted ██████████ who then arranged for the meeting to occur on May 2, 2019.

██████████ indicated that during the night on either April 30 or May 1, 2019, he sent an email to the candidates, the Election Board, ██████████ ██████████ and possibly others, explaining what happened that caused the election board meeting to be moved from April 30, 2019 to May 2, 2019. When asked, he stated that his purpose in sending that email was to clear up the confusion that had been caused by rescheduling it so many times, and that he felt that the email was a neutral, just-the-facts kind of communication. He stated that he did not mention things that either team did, but that he did mention some things that the Student Trustee did. When asked if he had considered the possibility that the people on Team Green might view his email as taking sides because it mentioned someone who was on their campaign staff (██████████ ██████████ ██████████) indicated that possibility did not cross his mind. He stated that he did not receive any responses or reactions to this email, and that nobody approached him about it.

██████████ indicated that early the next morning, Wednesday, May 1, 2019, he received a screenshot of a post that demonstrated "that Team Elite was upset and felt their voices weren't being heard, and that they were going to hold a protest on Wednesday" because the election board meeting had been rescheduled, again. He indicated that he then met with Director Robertson and ██████████ to inform them of Team Elite's upcoming protest. After discussing that they could not stop it, indicated ██████████ the decision was that they would try to meet with the leaders of Team Green (██████████) and Team Elite (██████████) before the protest's start time, in order to get some clarification on what Team Elite was protesting and to see if it was possible to find a resolution.

██████████ stated that both ██████████ and ██████████ agreed to meet before the May 1st protest, but ██████████ did not show up to the meeting. ██████████ indicated that after waiting for about fifteen minutes, he sent a text message to ██████████ asking if she was still coming to meet with them and she replied either, "No, I was instructed not to come," or "No, I was advised that I shouldn't come."

Team Elite Protest on May 1, 2019

██████████ indicated that Team Elite engaged in a protest on May 1, 2019, in front of the Student Center building, in the grassy area where there are a number of cement benches. He recalled that they had a megaphone and that ██████████ was the main speaker. ██████████ indicated that the only other person who spoke during this protest was Team Elite's ██████████ ██████████ but his voice was so deep that he could not be heard over the megaphone. ██████████ estimated that there were about a dozen faculty and staff members present at the protest, some of whom were members of the Southwestern Black Alliance. When asked if he could remember any SWC employee who was present at the protest and who was not a member of the Black Alliance, ██████████ said that he did not remember any.

██████████ recalled that, during the protest, ██████████ expressed her frustrations regarding: the entire election process, part two of the election board meeting on her grievance being pushed back, her feeling that the voices of Team Elite’s members were being silenced, and a generalized feeling that the grievance process and the standard of proof that she thought Team Elite was being held to (i.e., “beyond a reasonable doubt”) was unfair. He also indicated that ██████████ alleged that Black students comprise five percent of the College’s student population but did not receive a proportionate percentage of the scholarships awarded, that the College has a history of racism, and that the ASO has a history of bias. ██████████ further recalled that ██████████ generally expressed her anger, frustration, and upset arising from her belief that Team Elite had been insulted for being an all-Black team of candidates rather than being celebrated for having that status. Finally, he recalled that ██████████ referred to a fall 2018 situation wherein she alleged the Black students felt that they received more scrutiny when they sought money from the ASO to attend a conference than other student groups have received when they requested similar amounts of money or resources.

██████████ initially denied that, during the protest, ██████████ said “vote for me” or talked at all about the fact that she was running for office in the ASO election. However, he later stated that ██████████ “did mention ‘Team Elite’ and kind of referenced the elections in general, but she wasn’t necessarily campaigning.” When asked whether saying “vote for me” constitutes campaigning, ██████████ did not answer the question. Instead, he offered that he did not remember ██████████ “saying explicitly, ‘vote for me,’” but that he remembered her saying something to the effect that Team elite is here to change things, and that she indicated that she was part of Team Elite.

Regarding the conduct of Team Green during the protest, ██████████ stated that he could see, based on their body language, that members of Team Green who were present felt that ██████████ was talking specifically to them and that some of the things she was saying “were personal” to them.

██████████ indicated that he remembered hearing some members of Team Green making comments along the lines of, “Can she do this? Is this considered campaigning? Is this legal? Is this against the rules?” He indicated that those comments led him to tell the Team Green members that theirs “is a free speech campus, they [Team Elite] can do that ... [and] even if it was campaigning, that wouldn’t have been against the rules. They weren’t there to campaign, but even if they did, it wouldn’t ... have been against the rules,” because if one is running for office and they want to stand on the quad and yell, “vote for me! Vote for me!” nobody can stop them since in student elections they are allowed to campaign until the polls close.

When asked what else he remembered about the protest, ██████████ volunteered the following, regarding his conversing with Student Trustee ██████████

I believe ██████████ [██████████] had mentioned it [impartiality] to him [██████████] before that, she had, you know, she calmly called him over and she was just, like, “Hey Rudolph, you know, can I give you a piece of advice?” And she said, you know, “Hey, you know, I think you as the Student Trustee, you’re supposed to represent all students and by you kind of sitting with one team and being a part of their campaign staff, you know, that can send the wrong message, you know, to students.”

██████████ indicated that after ██████████ walked away, he continued to discuss the issue with ██████████ for about ten minutes, during which he suggested that ██████████ might

want to consider the optics of being campaign staff for Team Green and what it looks like to students to see the Student Trustee – who is supposed to represent the interests of all students – standing with the opposing team of candidates for office during Team Elite’s protest. In contrast, ██████ kept talking about his right to do what he was doing. ██████ stated that they were not arguing, but they were verbally disagreeing on what ██████ role should be.

██████ also remembered that at one point during the protest, someone asked ██████ what time the Election Board meeting would occur the following day but she did not know. ██████ stated that he himself “called out to” ██████ telling her the meeting time, which she then repeated to the crowd through the megaphone. He did not indicate that anyone asked him for that information.

Election Board Meeting, Part One, on May 2, 2019

██████ indicated that the meeting room was full when he entered the room for this meeting of the Election Board, at which it “was supposed to ... come to some resolution regarding the ... insulting, mocking, ah, comments that were made by, um, a member of the Green Team in reference to Team Elite.” All 30 of the chairs around the conference table were filled, as were the ten chairs in the gallery, he estimated that about 70 people were in attendance, with many of them sitting on the floor or just standing. ██████ indicated that the room was filled with students, faculty, staff, and the [District’s student] newspaper, The Sun. It did not appear to ██████ that any faculty or staff were present in support of the Green Team, as none were sitting next to them at the conference table.³³

Once ██████ called the meeting to order, indicated ██████ she “rehashed” or recapped the allegations in Team Elite’s Grievance and the written statements of Anonymous #1 and Anonymous #2, including putting them on the [overhead] screen for all to see. Then ██████ verbally introduced his typed notes of the previous day’s meeting between Anonymous #1, himself, ██████ and ██████

██████ indicated that he then named ██████ as a third witness and invited her to make a verbal statement, but ██████ became upset, said that she thought ██████ was going to read her written statement aloud, and asked him to read it before she “broke down a little bit.” According to ██████ ██████ and at least one other faculty or staff member went to ██████ to help and “console her,” which included taking her outside of the meeting room.

██████ indicated that when he spoke with ██████ the preceding night, they had discussed that she would attend this meeting, that he would call her up to tell what happened, and that she would be asked some questions. ██████ stated in pertinent part, “I wanted her – give her an opportunity³⁴ to kind of share her thoughts without ... it being filtered through me. I wanted her to be able to share it, but she didn’t feel comfortable with that...”

██████ indicated that after ██████ broke down during the meeting on May 2, 2019, he read aloud her written statement, except for the medical information and her discussion of a situation in her high school years that was unrelated to the students involved in the grievance.

³³ ██████ was seated with Team Elite on Team Elite’s side of the conference table.

³⁴ This statement indicated to the Investigator that ██████ reason for asking ██████ to attend and speak during the meeting on May 2, 2019, was unrelated to the ASO Constitution’s requirement for witnesses to appear in support of a grievance brought before the Election Board.

He stated that he did not read those parts aloud because he felt both of those issues were “kind of immaterial” to the grievance allegations. He also indicated that he did not show [REDACTED] statement on the overhead as had been done with the other witness statements because [REDACTED] had included some of her own medical information in her written statement, including prescription medication that she was taking.

[REDACTED] indicated that he never checked with anyone, including [REDACTED] to find out whether any of the disabilities or the prescriptions that she disclosed in her written statement would affect her ability to observe events, to form memories of them, and/or to retain those memories. However, he indicated, [REDACTED] raised the issue in her statement by making a comment to the effect that due to “some of her disabilities, [her] memory isn’t the greatest...” [REDACTED] stated that her medical condition and medication use were immaterial because he did not think that they had any impact on her credibility.

When asked whether the reason he had asked [REDACTED] to be at the election board meeting on May 2, 2019, was so that Team Green would have an opportunity to question her, [REDACTED] indicated that was correct. When asked whether anything was done to counteract the fact that [REDACTED] left the meeting without providing a live statement or being available for questions by [REDACTED] or Team Green, [REDACTED] stated that nothing had been done to address that concern.

When asked for a copy of [REDACTED] written statement, [REDACTED] indicated that he would provide one, but ultimately, he did not do so. The Investigator understood from a later communication³⁵ from [REDACTED] that he was unable to locate that written statement.

[REDACTED] indicated that after he read aloud portions of [REDACTED] written statement, both teams were given the opportunity to speak and that they did so through their candidates for president, [REDACTED] and [REDACTED]. [REDACTED] indicated that [REDACTED] did most of the talking during this part of the meeting, in which she “recapped everything” and said that Team Elite felt that [REDACTED] “should be disqualified” for making the comment attributed to him.

[REDACTED] further indicated that [REDACTED] stated that there was not enough evidence before the Election Board for it to make a decision to disqualify [REDACTED] from the spring 2019 ASO election, that Team Green “vetted” all of its candidates before the election began, and that Team Green “runs a clean campaign.” [REDACTED] indicated that [REDACTED] made a very short comment, in which he communicated that “he did not remember saying” the things that were attributed to him in Team Elite’s Grievance, and that he does not talk that way.

According to [REDACTED] “most of the information already (sic) been presented, um, so [the] only thing[s] ‘new’ was (sic) just the kind of follow up with the second [Anonymous] witness, which was [REDACTED] and then the – um, [REDACTED]’s statements,” which “were the only new pieces of information that were presented between the Monday [4/29/19] and Thursday [5/2/19] meetings.” He also stated that “because ... by then, they [the Election Board members] kind of had all the information they were going to get, they didn’t really ask too many questions.”

³⁵ [REDACTED] later contacted the Investigator asking if he had given her the original of [REDACTED] statement, but he had not done so. Therefore, the Investigator never received a copy of her written statement. However, the Investigator listened to [REDACTED] reading of portions of [REDACTED] statement in the recording of the election board meeting of May 2 2019.

When asked who did most of the speaking during the May 2, 2019 meeting, ██████████ stated that “Shar was doing most of the speaking,” and “I spoke here and there, I chimed in on a few things,” and that “Brett [Robertson] didn’t really speak at all at the meeting.” He indicated that someone “respectfully asked for folks to clear the room while the Election Board deliberated,” and that about 90% of those present in the room left. However, indicated ██████████ a member of the Jones ... Group³⁶ remained for the deliberations.”

When viewing the May 2, 2019 meeting as a three-part meeting (with the divisions being *before*, *during*, and *after* Board’s deliberations), ██████████ indicated that *before* the meeting broke for deliberations the ██████████ personnel did nothing but observe. *During* the deliberations portion of the meeting, ██████████ indicated that ██████████ became faint or otherwise ill, which “sort of derailed” deliberations, and that one of the two ██████████ representatives present escorted her to student services. Once the two left the conference room, he indicated, the Election Board continued deliberations, with the other ██████████ member, ██████████ present. Regarding the particulars of their deliberations, ██████████ stated:

[Y]ou could tell that they ... didn’t know what to – you know, they could tell that they were – you know, this was ... a lot of people watching them and kind of waiting on their decisions – so you could tell that they were not quite sure where to go.

So ... ██████████ from the ██████████ ... was helping them kind of, you know, formulate some ideas on ... what are potential punishments, sanctions, consequences that they could levy ... with ██████████ Because they all did come to the agreement that ... he said something, he said something that was ... at least inappropriate, at worse (sic) full-blown racist.

So ... they all agreed ... that something was said, you know, you have three different witnesses that all agreed that they heard him say something that was inappropriate ... so they had agreed that there should be some kind of sanctions....

██████████ explained that when the Election Board was deliberating on what punishment should be imposed on ██████████ the Election Board members “talked about potential disqualification, but you could tell ... they didn’t feel comfortable with that ... they talked about it for a little while, but then there was some that felt like that maybe we should, other ones felt like, ‘No, it’s not enough here,’ so they kind of backed off of that.”

According to ██████████ after the Election Board decided against disqualifying ██████████ Dr. Brown “took the lead” on asking the Board members questions to help them identify potential sanctions short of disqualification. For example, he remembered her asking the Election Board members to “think about restorative justice,” and he recalled her saying things to the effect of:

If you’re going to issue some kind of sanctions, what are ways that ██████████ could help restore the community that was hurt? Or what are ways that he could help ... be a part of the solution and be a part of the ... the healing process when it comes to these students that ... are feeling ... so denigrated, ... dismissed and unheard...?

³⁶ ██████████ referred here to Dr. ██████████ of the ██████████ which he described as a “consulting firm” that works in the area of anti-bias ... working with schools and organizations about ... systematic racism and working through biases and uncovering ... some of those kind of ... stuff.”

██████████ estimated that the entire deliberations period took approximately 45 to 50 minutes, roughly ten minutes of which was spent addressing the issue of the ██████████ becoming ill. ██████████ stated that Dr. Brown talked for “the majority” of the remaining 35 to 40 minutes of the deliberations period.

██████████ indicated that the Election board members “eventually” took a vote and that they “came up with ... three sanctions” for ██████████ which were “that he had to issue ... a written and published apology with an action plan on how he planned to restore ... the community that was hurt;” [2] “he also had to help plan a retreat ... over the summer with all the candidates ... with the Jones people, to ... deal with some of these issues to help them address some of the underlying biases and things that have been on campus...,” and [3] one other action that he could not recall. He also indicated that all of the Election Board members agreed to these three sanctions by a vote taken by the raising of hands. ██████████ stated that he remembered writing down the sanctions on something during the meeting but that he did not recall typing them up. He also indicated that there were no minutes of the election board meeting of May 2, 2019, other than what ██████████ would have written on the back of the grievance form to summarize the sanction imposed.

Election Board Meeting, Part 2 on May 2, 2019: Board’s Decision on Grievance

██████████ indicated that after the Election Board unanimously voted to approve the three sanctions discussed, everyone was called back into the room. Although ██████████ had returned to the meeting room, indicated ██████████ “she was still a little out of it,” so Election Board member Athina [██████████] announced the Board’s decision. In so doing, he indicated, ██████████ identified the three individual sanctions being imposed and she specified that they were against ██████████ only, because he was the only person explicitly referenced in the witness statements. Although ██████████ also was named in at least one of the witness statements, ██████████ indicated that the statement only indicated that he was in the area or vicinity and did not allege that ██████████ made any statements regarding Team Elite.

██████████ indicated, when asked, that he never heard ██████████ make any rude reference to Team Elite being the first all-Black team, or to Team Elite marketing itself as such. However, ██████████ stated that, in his opinion, based on the evidence that was presented to the Election Board, ██████████ did “say something” about Team Elite and its status as the first all-Black team of ASO candidates, but that he does not know precisely what ██████████ said.

Election Board Meeting, Part 3 on May 2, 2019: Post-Decision Meeting Activity

██████████ indicated that after the decision was announced, one side was happy and the other side “obviously” was not, to the extent that ██████████ was “visibly upset.” ██████████ stated that he remembered after the announcement ██████████ commented to the Election Board members, “Are you happy for failing us?” and that [██████████] Terry [Conklin], another Team Elite member, tried to quiet and calm her. Regarding the response of others in the room, ██████████ stated that on the Team Elite side there were a lot of heads down, shoulder shrugging, and upset, frustrated faces but on Team Green’s side the faces seemed to be showing relief. The next item on the agenda was public comment.

██████████ indicated that several people raised their hand to speak when public comment was called for in the meeting. From that point, ██████████ indicated, the meeting became “a blur” because “a lot was happening” and there was “a lot of emotion in the room.” However, he remembered that ██████████ and ██████████ were two who initially raised their hands

to speak.

Regarding ██████ comments, ██████ recalled that ██████ referenced that she was upset and disappointed in the Election Board's decision, and that ██████ said that she wished there was a different outcome, because she cares for those students, who "already have to deal with enough."

██████ indicated that ██████ then said that "the reason we take this stuff so serious (sic) is because of things like this," at which point she **"pulled out the [packets of] screen shots of the Instagram posts and things,"** indicating Exhibit 45, and she **"threw them on the table..."** ██████ stated that he "had no idea" what the packets contained when she referenced them, that somehow "four or five" copies of the packet were circulated around the meeting room, and that he did not see a packet until after the meeting concluded. ██████ stated, "I had no idea that she was going to present this [Instagram material and allegations] at the meeting...."

██████ indicated that "people were kind of, you know thrown aback" because ██████ said something like, "This is why we take this so seriously, because you know people are posting these kind of things on Instagram," and, "This is why you know people don't feel safe." ██████ indicated that ██████ also referenced the Student Trustee in her comments, saying to the effect that he should have stayed neutral in the election instead of being campaign staff for Team Green. He also stated that he thought that ██████ either asked the Student Trustee to, or said something to the effect that the Student Trustee should, step down or resign because "he wasn't doing his duties and he should be neutral in ... representing all students and that he was being biased ... toward Team Green."

He also remembered student ██████ speaking and expressing his opinion that it had taken far too long for the hearing on Team Elite's Grievance to conclude, and that the matter would have been treated differently if it was "a case about a woman potentially being raped, or ... an issue about a hate crime or these other things," in which case "we wouldn't be questioning the victims" or something along those lines.

██████ stated that by this point in time, Dr. ██████ of the ██████ had stepped in and began trying to act as a master of ceremonies of sorts (with the microphone), but that the meeting had "kind of deteriorated by that point, ... [I]ike nobody's paying attention to the clock anymore, nobody's paying attention to ... we're not [addressing] any kind of [agenda] item at that point now, it's just ... people commenting and ... there's things being thrown back and forth."

██████ recalled that the microphone "kind of made its way around the room" and eventually arrived at ██████ the Student Trustee, who said that it was not illegal for him to be part of any team and literally asked ██████ to confirm whether or not it was "legal" for the Student Trustee to be campaign staff for a team of candidates. ██████ stated that his response was that "Technically, by the ruling constitution, it is not illegal for the Student Trustee to – or current officers to be um, campaign staff, for candidates," after which "there was a little back and forth between the Student Trustee and ██████ [██████]" He also stated that the Student Trustee engaged in some "back and forth" with employee ██████ [██████] who commented words to the effect of, "Rudolph, I spoke with you about this at the protest and I told you, like, how that – the optics of that could look bad," among other things. At this point, said ██████ "it wasn't even ... about the decision per se any more... it was just these ... Instagram posts that's (sic) being floated around and then the whole kind of comments between ... some of the students and ██████ and ██████ with the Student Trustee, ... saying that ... he's being

biased ... so there was some back and forth between them ... [that lasted] a few minutes.” ██████████ described the behavior of these individuals as being “passionate” on both sides but not arguing, as nobody was yelling, screaming, or “lunging over a table.” He indicated that he did not remember there being any cursing, name-calling, personal insults, et cetera.

██████████ indicated that by this point in the meeting, he had “mentally checked out,” because “there was a lot going on” in the room and it was “obviously very tense.” He recalled that the microphone went around the room “for a few minutes” to “a couple of folks” who said things like, “How did it come to this,” and, “We are all people of color, we shouldn’t be fighting against each other.” Within a few minutes, he indicated, ██████████ entered the room with [SWC Police] Officer Felix, she stopped the meeting, she said that there would be multiple investigations regarding the elections and the Instagram posts, and she said that they had people from the ██████████ present to help students to work through this and debrief – in two separate groups. ██████████ stated that at some point after ██████████ arrived, the Black students, who all were on one side of the room, stood up as if they were going to leave, so he stopped them by interjecting that he thought it was not a good idea to split up the students into separate groups.

██████████ mentioned that ██████████ was already in the room when ██████████ arrived. He stated that he did not know why the police were present but guessed it may have been because ██████████ accidentally set off an alarm in the midst of the public comments by opening a door. ██████████ stated that he believed that Officer Felix accompanied ██████████ to the meeting room because someone had called her and said that there was a problem. After the Black students left the room *en masse*, indicated ██████████ he addressed ██████████ and Officer Felix (in front of the room) and said that, with respect for their duties, he thought that their presence “didn’t help the situation.”

When asked by this Investigator why he felt that way, ██████████ said, “things weren’t to that level yet,” and “just understanding the history of law enforcement and police with, you know, Black and Brown communities, um, I just didn’t think that was a ... good [idea],” and “to have them in the room ... just further kind of exacerbated some of the tensions in the room and I think that was part of the reason why – I didn’t say this but in my head, I was like – part of the reason why, um, half of the room got up and left...” ██████████ indicated that he did not remember much of anything from that point on, and that the “meeting had kind of ... fallen apart.”

██████████ said that after the meeting broke, people started to make their way outside. Once outside himself, he indicated, he spoke with some Team Green students who thanked him for being there and made comments to the effect that they knew it was not an easy position for him to be in, for which comments he thanked them and said that it was tough but they would work through it. ██████████ stated that he then went to the Team Elite students to “kind of check on them and make sure that they were ok, and you know, [to see] if they had comments.”

██████████ stated that he talked with the Team Elite students for five to ten minutes, during which time they shared their thoughts about what happened. He recalled that the students felt “that justice wasn’t served,” and that he, as the ██████████ “could have done more or could have done something else to kind of help with the situation or keep it from getting to the place where things ended up. After ██████████ indicated that in hindsight there were things that he could have said or done, this Investigator asked what those things were. ██████████ asked to return to that topic later. He then stated that some of the Black Alliance members were outside mingling with the students, “trying to check in with folks about the situation,” and that the conversation centered around people expressing disbelief at events and stating that they “hate to see our students feeling this way” and “our students going through these kinds of things,” wishing

they could have kept it from getting to that point, and mentioning that it feels like something like this happens or “bubbles to the surface” once or twice a year and that they keep dealing with the same things, over and over. He also indicated that the [REDACTED] members and [REDACTED] were trying to get some groups organized to assist the students in processing the events.

[REDACTED] stated that after speaking with “a couple of different students and staff,” he walked [REDACTED] over to her classroom in order to check on her and make sure that she was okay. He stated that he also asked her about the Instagram posts because he had not seen them before, so at that point she gave him some insight on the Instagram situation. Although he was on the text chain through which [REDACTED] had sent the *swccharterinsomaliland* Instagram posts on the night of May 1, 2019, [REDACTED] stated that he only saw the first screen shot on top and that after looking at the material he thought that it was someone “trolling” the Black students by saying something “outlandish” in hopes of getting a rise out of one of the Black students or something to that effect. He stated that he had not seen the rest of the materials that were in [REDACTED] packet, so the Instagram issue was essentially new to him in the meeting on May 2, 2019. He also stated that [REDACTED] explained to him that there is an allegation that someone from Team Green changed their name and profile to *swccharterinsomaliland* and then added “these crazy comments” which is how it was made to look like some of the “friends” or people who follow that page [i.e., Black Student Union, B2LA, Team Elite, and [REDACTED] were friends or followers of the page.

Although he initially thought that the author of the *swccharterinsomaliland* Instagram page was just a “troll” who was trying to annoy one or more Black student(s), [REDACTED] stated that after some consideration he believes that the Instagram page and posts were designed “with the intent to make [them] look as if the Black Student Union agrees with this ... comment” on the *swccharterinsomaliland* Instagram Account. He continued, “I’ve also seen a video where you can see that the person – the only – like the angle from which that picture is taken, the only person that was ... in that area could have taken that picture and/or video, um, was a member or members of Team Green.” When asked, [REDACTED] stated his reasoning underlying his position on this point was that “you can see in the video that they’re the only people over there,” and that he thinks the protest video posted on the subject Instagram Account was made at the same time as the screenshot shown on the first page of [REDACTED] packet “because it was all during the protest, so it was all at the same time.” When pressed further for the reason for his belief that the person who took the video posted on the subject Instagram Account “must have been” one or more Team Green members, [REDACTED] admitted that he “guesses” his belief was based on the fact that [REDACTED] was the one who told him that was the case, and that he just took her at her word for it.

[REDACTED] was aware that Team Elite members met with the [REDACTED] on the afternoon of May 2, 2019, but he indicated that he did not know what happened at their meeting or any meeting between Team Green and the [REDACTED]

[REDACTED] indicated that at approximately 6:00 to 6:30 p.m. on May 2, 2019, he and others received an email from [REDACTED] which ended the election, and that the Election Board and ASO thereafter had no further involvement.

Whether Candidate Teams Received Help or Coaching

When asked whether the candidates were allowed to receive assistance in campaigning from any non-students, such as help with strategizing, [REDACTED] indicated that they “try to discourage” it “because we want this to be a student-run process and a student-run government.” However,

he indicated that there is no written rule prohibiting such assistance.

When asked whether he had any reason to think that the students on Team Green were receiving help in their campaign from any adults, ██████████ replied, “I don’t have any evidence of that, uh, any concrete evidence, but I do believe they are.” When asked about the reasons underlying that belief, ██████████ deflected and asked to address the topic later, because “it wasn’t until ... after the Thursday [May 2, 2019] meeting ... [that] it became ... more apparent that ... both sides had ... faculty and staff that were kind of helping them out.”

When asked whether on Wednesday, May 1, 2019, he had any reason to believe that Team Elite was getting help from any adult non-students, ██████████ replied, “Other than just support from the Black Alliance, no.” When asked what “support” the Black Alliance had been providing to Team Elite members at that point in time, ██████████ stated:

I know that the Black – I know some – we did have some staff members that, you know, helped them with, ah, like, what to say on their fifty – on their statements....

██████████ continued, stating, “I think like one of the professors provided, like, a ream of paper to help them print their – you know, stuff like that. It was just kind of support, general support.” ██████████ further stated that he did not think that any Black Alliance member had helped Team Elite with their campaign strategy.

When asked which professors or staff members had been providing the support, he was thinking of to the members of Team Elite, ██████████ identified ██████████ and ██████████ who oversees the UMOJA program. ██████████ later specified that he did not know which professor gave Team Elite the ream of paper but, he said, “you could tell ... they didn’t go to Office Depot and buy one ream of paper, so they got it from somebody, but I don’t remember exactly who.”

When asked which staff member had helped members of Team Elite write their statements or their “fifty-word things,” ██████████ initially said he believed that ██████████ “helped them out,” then said he did not know whether anyone helped anyone on Team Elite, and later he indicated that he thought either ██████████ or ██████████ told him – perhaps in the context of the candidate forums – that ██████████ had been helping ██████████ with “what to say ... or how you should answer certain questions, [or] something like that,” and that ██████████ had been “just kind of helping them craft, like, their – you know, what to say, and what – kind of how to present themselves, that kind of stuff..”

Miscellaneous Information

██████████ indicated that the College’s enrollment ranges from 17,000 to 18,000 students, of whom approximately five percent are Black.

According to ██████████ SWC’s ASO does not have any involvement with approving applications for scholarships or grants. Rather, ASO’s involvement in the arena of scholarships and grants is to donate money to fund some of those scholarships.

██████████ indicated that before the spring 2019 election, he never dealt with a grievance alleging that an ASO officer candidate slandered or denigrated another candidate. Rather, in his experience, election grievances were usually about posters or social media.

When asked whether a sitting [REDACTED] or a sitting Student Trustee is allowed to be on a campaign staff for any ASO election, Mr. Ebert stated, “Technically, yes. There’s no rule prohibiting it.”

[REDACTED] stated that [REDACTED] told him that she did know the names of both of the anonymous witnesses who contacted her with information that led her to file Team Elite’s Grievance, and that she referred to both of them as being her “friends.”

[REDACTED] indicated that he did not know when she did it, but [REDACTED] Shar [REDACTED] created the agenda for the election board meeting of May 2, 2019 and posted it at least 24 hours before the start of the meeting on May 2, 2019. Contrary to previous April 2019 election board meeting agendas, this meeting agenda included an agenda item for “public comment.” [REDACTED] [REDACTED] stated that he and [REDACTED] never discussed whether she should or would add an agenda item for public comment to the agenda for the May 2, 2019, meeting.

When asked what, in retrospect, he believes he could have done differently to prevent the election issues from escalating as they did, [REDACTED] stated,

I don’t think we should have had that decision [on Team Elite’s Grievance] being made by students ... that kind of high level ... type of ... issue ... [involves] nuances [and] a lot of history ..., and to have five, just general students have to make a decision based on ... a topic ... and an issue that ... we as a country haven’t figured out yet, ... I feel like it was unfair to them, in hindsight, [and] that we should have taken that away from them....

[REDACTED] stated that the results of the election are still in the computer program, and that nobody has seen them. [REDACTED] is the person with the password to retrieve the results.

Perceived Racism in the ASO and Elsewhere on Campus

[REDACTED] indicated that he believes that racism has shown itself within the ASO since he has been the College’s [REDACTED] [i.e., within the last four academic years]. When asked for the details of what racism he has observed, [REDACTED] stated, “there’s racism everywhere,” “[racism] is built into our ... higher education system,” and “racism is always going to be a part of any level of any organization, any entity on this campus.”

When asked whether he personally had ever experienced racism at work at SWC, [REDACTED] indicated that he had never experienced anything overt such as name-calling, but that there have been times when he has **received questioning looks**, which seemed to be **asking whether he was supposed to be on campus**, at times when he was on campus early in the morning or leaving campus late at night or when he was on campus during the weekend but wearing casual clothes. He also indicated **that there have been situations during meetings when he** “could tell that [he] **wasn’t being taken as seriously** as other colleagues.” He stated, “some of that may be age, ... being younger than some of the folks in the room, but some of that, I’m sure, was also, um, color-related....”

[REDACTED] stated that there is racism within Puente, UMOJA, and the Southwestern Black Alliance, for example, that it is “inevitable at some level,” and that he was aware of examples of racism occurring on campus during the 2019-2020 school year.

When asked, “Have you ever heard any racist comments during an ASO meeting?” [REDACTED]

replied, “Not to my knowledge, no,” and he said that felt like he would remember it if he heard anything like that in an ASO meeting. ██████████ identified the examples of on-campus racism of which he is aware as being as being the following four situations.

2016-2017 “Push Back” against Black Lives Matter Advocacy Work

During the 2016-2017 academic year, indicated ██████████ there was “push-back from multiple members” in the form of a “mixed reaction” to the suggestion of Mona Dibas, who was then the ██████████ to “do some advocacy work around Black Lives Matter.” ██████████ identified Ms. Dibas as being a Muslim Palestinian student, but he did not state what, if anything, the “push back” had to do with her religion, gender, or national origin.

In summary, Ms. Dibas wanted the ASO to issue a written statement condemning or otherwise disapproving of the actions of the officer(s) involved in a police shooting of a civilian and supporting Black Lives Matter. However, he indicated, some people were “very, very hesitant” to issue such a statement. He stated that “some folks” asked why the ASO would issue such a statement in support of only one community when “all lives matter,” and others asked things like, “What about gay rights?” and other special interest groups. ██████████ volunteered that he believed the reason for their hesitation was “the subject matter in and of itself.” When asked what led him to that conclusion, ██████████ stated that when similar requests for support were proposed on other social issues or tragedies:

... whether it was about ... immigration, or if it was about ... LGBT support, [or] after the Orlando shooting, it was like, “All hands-on deck!” “Gung ho!” [and] everybody was ... fully onboard. We had a candle light vigil, and we had a big sign, a showing, and pictures, and media, and all this stuff. But when it was the Black Lives Matter thing, it was a lot more -- it was a lot more hesitant for folks to jump fully onboard with that.

Ultimately, ██████████ indicated, the ASO did issue the requested written statement but it only occurred because Ms. Dibas continued to push for it, and it “was not an ASO whole-hearted effort by any means.” He stated that this Black Lives Matter statement was issued in the same academic year as the statement in support of the Orlando shooting victims. Additionally, he did not know whether any of the ASO members at that time had any affiliations with law enforcement.

2017-2018 Photographing of Muslim Women on Campus

██████████ also indicated that during the 2017-2018 academic year, photos being taken of some Muslim women without their knowledge, which ██████████ believed meant that they were being profiled or surveilled. He summarized the situation by saying that someone was taking pictures of Muslim women walking around campus and putting them on social media with inappropriate captions such as, “Are you late for the terrorist meeting?” When asked how this related to the ASO, ██████████ said that it did not necessarily have anything to do with ASO, other than that some of the women photographed were ASO members.

██████████ indicated that this matter was investigated, he thought by police, but that he never heard about the outcome of that investigation. He recalled that during public comments, one or more of the photographed students spoke about the situation by describing how they felt unsafe and asking for any support the ASO could provide. ██████████ also indicated that he could not remember anything specific that the people at issue requested in the way of support, but he did remember that while ASO members verbally responded to the speakers indicating that they were

sorry this had happened to them, the ASO did not put on any protest, issue any statement of condemnation, or take similar action regarding these photography / social media incidents..

2017-2018 “Undertones of Racial and Gender Stuff”

Further, ██████████ indicated that in the 2017-2018 academic year, there were undertones of “racial and gender stuff” in the course of disagreements between unidentified person(s) and ██████████ who at the time was the College’s ██████████. ██████████ did not indicate witnessing any such conduct himself, but he stated that ██████████ expressed to him her frustrations and her concerns that people were not taking her seriously. More specifically, ██████████ indicated that ██████████ informed him that she felt that way because when she tried to get things moving to hold an event or to advance a piece of advocacy, her efforts would be met with indifference, dismissal, or delay. He recalled, “She just felt a lot of like people weren’t taking her serious and she felt that a big part of that was her being Black and two, being a woman.” When asked what evidence there was that the behavior at issue was related at all to ██████████ being Black or female, ██████████ stated, “It was just a feeling,” and that she never showed him anything “concrete.”

2018-2019 Handling of Student Groups’ Requests for ASO Funds

Last, ██████████ indicated that during the 2018-2019 academic year, there was a discrepancy in the handling of requests for ASO funds submitted to the ASO by different student clubs. As ██████████ described it, student clubs and other organizations typically approach the ASO seeking funds to pay for things like hosting events, bringing guest speakers to campus, and attending conferences. He stated that during the 2018-2019 academic year, when the UMOJA Learning Community requested “several thousand” dollars to attend the UMOJA conference, “it was apparent that they got a lot more questions and scrutiny ... versus other groups that we funded for similar amounts.” ██████████ indicated that, based on a conversation that he subsequently had with Director Robertson, both men and others present in the meeting had noticed this.

As ██████████ described it, a student named ██████████ who is no longer an ASO senator, led three or maybe four other students in asking questions regarding UMOJA’s funding request, such as: “Well, what about this?” “Why are we giving them so much money?” “What do they plan on doing?” “Did they fundraise beforehand?” “Didn’t we give them money last year?”

██████████ indicated that he understood the questions, which occurred in both the Ways and Means Committee [where preliminary approval of the funding request was requested and approved] and the full Senate meeting [where final approval of the funding request was requested and provided, on October 25, 2018], as “questioning the validity of” the UMOJA conference. ██████████ further stated that when ██████████ listened to the recording of that meeting and timed the discussion of the funding requests presented by UMOJA and by other group(s), she found that there was a “major discrepancy” in the number of questions asked and the amount of time that was taken to discuss UMOJA’s funding request, as compared to “other similar requests even in that same meeting.”³⁷ He indicated that some of the questions asked of UMOJA were the same as were asked to other groups, but some of them were follow up questions that were not posed to other student groups. ██████████ further indicated that this was the first time that UMOJA

³⁷ ██████████ memo documenting her review of the minutes, which is marked as Exhibit 35 to this Report, actually concluded that UMOJA and the Society of Professional Hispanic Engineers (“SHPE”) each received three questions from the Senate concerning their funding requests.

had requested ASO funds to attend the UMOJA conference. He initially stated that “yes, absolutely” other groups requested funds in the 2018-2019 academic year to attend a conference for the first time, then he indicated he did not know but that his office could and would track that information down for both the 2018-2019 and the 2017-2018 academic years.

██████████ indicated that another student club that serves primarily Black students, B2LA (“Black Brotherhood Leadership Association”), approached ASO “a few weeks later,” at which time “they asked for money to go to the same conference.” ██████████ stated that **there was “confusion** in that these were two separate groups that just so happened to be asking for money to go to the same conference.” Due to this confusion, he indicated, there were “a lot of questions,” primarily from ██████████ again, along the lines of: “Wait, we already approved this...,” “Why are we approving this twice?” and “Why are we giving – aren’t these some of ... the same students” [in both clubs]?” Due to that confusion, indicated ██████████ “we had to kind of continue to explain [that] these are two separate groups that just so happen to be asking for money to go to the same conference, but these are two separate entities.” As a result of ██████████ questions, stated ██████████ “a lot of ... the Black students ... felt like ... he was targeting them or ... putting the spotlight on them when ... they [were] just trying to ask for money to go to a conference.” He continued, “it just happened to be coincidentally two separate groups that happen to both be black were asking for [funds for] the same conference, and ... it became ... a thing.”

Witness Demeanor and Credibility

██████████ presented as a likeable witness who was willing to provide information. However, he had some difficulty in delivering information as he tended to speak quickly, perhaps without always thinking his answer through first, and he often spoke in fragments.

To his credit, ██████████ admitted that he made decisions to proceed with election board meetings despite the lack of notice, and he did not appear to intentionally provide any misleading information. However, he did not make admissions regarding the sufficiency of his knowledge about the rules applicable to ASO election board meetings, the sufficiency of the training that he was required to provide to the ██████████ regarding those rules, or the sufficiency of his supervision of the ██████████ activities, particularly with regard to following procedural rules and/or providing training to the members of the election board. The Investigator generally presumed that this witness was generally credible, but she sought to verify his statements when possible and did not find all of his statements to be accurate.

29) ██████████

██████████ the District’s ██████████ was interviewed on Wednesday, May 22, 2019 at District offices in the presence of his labor representative, ██████████ SCCDAA, the Southwestern Community College District Administrative Association. ██████████ is directly supervised by ██████████ ██████████ and he in turn directly supervises ██████████ ██████████

██████████ confirmed that ██████████ is responsible for training the ██████████ ██████████ on her responsibilities, including but not limited to her duty to prepare and timely post Agendas for all election board meetings. He also confirmed that the ██████████ is person responsible for preparing and posting Agendas for the election board meetings.

██████████ indicated that in his role he does attend ASO meetings, and he in so doing over

the past two years he has not heard any “racist” comments in ASO but he has heard some “insensitive” comments, especially by former Senator ██████████

██████████ described ██████████ as being generally hesitant to spend money to support clubs, but indicated that he was even more so with clubs that supported black students. ██████████ confirmed hearing ██████████ refer to some students as a “mob,” which he felt was very insensitive thing to say to any student, and that the statement was very upsetting to ██████████

Mr. ██████████ stated that he and ██████████ interviewed ██████████ During his interview, Mr. ██████████ demonstrated that he was ready and willing to accept responsibility for and to correct his errors and wrongdoings. He also demonstrated that he is able to assign responsibility without having to be unkind to do so.

Mr. ██████████ indicated that he was not informed about the Instagram Posts before the election board meeting on May 2, 2019. He indicated that he thought that this was the kind of thing that ██████████ should have shared with him if he knew about the Post(s) in advance.

Mr. ██████████ recalled that after the Election Board reported out its decision on the Grievance, he heard ██████████ make a comment about “Asian people,” along the lines of, “like, well of course they voted that way, they always go along with the white people.” Note that the Election Board had Asian people on it.

██████████ indicated that he did not remember whether ██████████ threw or tossed any of the packets of Instagram Account materials that she brought to distribute during the election board meeting of May 2, 2019. However, he stated that he remembered ██████████ passing out the packets and saying that as she did so that “it was as Team Green member who did this and we have proof because of the angle ... passed out the packets, doesn’t remember throwing or not doesn’t remember slamming on table. Frankly stated, ██████████ was shocked by ██████████ conduct during this part of the meeting,

When asked “What was shocking about her behavior in the election board meeting, ██████████ replied, “the tone and the anger. Just there was no, you know, no composure it just I -- I would you know expect an employee not to act like that.” When asked to describe her tone, ██████████ stated that it was

Uh just -- well just angry um and ... you know, shouting about,” You know that this is wrong!” And then, again making the comment about the election board [i.e., making its decision because its members were Asian]. And then ... making an allegation in this moment, right in this space, right now.... I didn’t feel that was the right moment to throw another ... [allegation out]. That could’ve been treated as another grievance, right? ... Um, I just didn’t think that was appropriate.

Documents Provided

██████████ provided nine documents, including but not limited to training documents the ASO Action Plan 2018-19, and Spring 2019 brainstorming information on steps to take next to improve the tenor of the ASO.

██████████ provided a copy of a letter that ██████████ wrote to him on behalf of Team Elite, criticizing his conduct and role in the election process, and the responsive letter that he

promptly provided to [REDACTED] [REDACTED] response was thoughtful, caring, and accepted responsibility where it was due.

Witness Demeanor and Credibility

[REDACTED] was a forthright witness. Although he could expose himself to negative consequences, he did not try to dodge responsibility or to avoid identifying the responsible party when it was not himself. [REDACTED] was responsive to questions posed to him, and he was helpful in providing information subsequent to his interview. Moreover, after his interview the issue of the letter that [REDACTED] wrote him arose, and he willingly provided copies of documents.

The documents received indicated that [REDACTED] was thoughtful, direct, and did not feel the need to be right in every situation. He likely will be viewed as a credible witness.

30) [REDACTED] - [REDACTED]

[REDACTED] Ed.D. was interviewed at her own request on June 6, 2019, at District offices. Her union representative [REDACTED] of the Southwestern Community College District Administrators' Association (SCCDAA), also was present. [REDACTED] stated that she expected to be interviewed because she initially was told that she would be interviewed but the interview was taken off calendar; she is [REDACTED] direct supervisor; and she attended the election board meeting of May 2, 2019. Other than that, [REDACTED] stated that she had no direct role in the Spring 2019 ASO election.

Background

[REDACTED] has been a District employee for 21 years. She started as a faculty member in disability support services as a learning disability specialist. In that role [REDACTED] did some counseling, ran some testing concerning learning disabilities, and taught some classes. In 2011, [REDACTED] became the [REDACTED], wherein she oversaw the Disability Support Services office for about five years.

In early 2016, [REDACTED] became the [REDACTED]. In this role, she is primarily responsible for student activities and student development, including the ASO (student government) and the clubs, health services, and personal wellness services (the school's mental health services). Additionally, [REDACTED] is the [REDACTED]r and she is responsible for [REDACTED].

As the [REDACTED] of Student Services, [REDACTED] directly supervises [REDACTED] the [REDACTED] [REDACTED] who in turn directly supervises [REDACTED] [REDACTED]. The [REDACTED] duties include overseeing the ASO, Health Services, and Personal Wellness, as well as performing other administrative duties. The [REDACTED] is the District employee who has regular, day-to-day interactions with students in the ASO.

[REDACTED] stated that as [REDACTED] she spends roughly 15% to 20% of her time interacting directly with students, including meeting with groups of students on special projects such as creating a mentorship program and reinstating study abroad programs. [REDACTED] views part of her job as having relationships with students, so she tries to get to know and work with them. Regarding the ASO, for example, [REDACTED] meets with the ASO president on a monthly basis in order to help him or her understand the ASO's goals and to see how she can help the ASO from the administrative side. [REDACTED] also attends all ASO retreats, where she sometimes gives a

workshop. ██████ does not attend regular ASO meetings.

Regarding the disciplinary aspect of her job, ██████ stated that much of what her office does is “educational first.” Thus, when a complaining student comes in, she generally will talk to them to try to understand the situation and to look at all the available options with the student before an official grievance is filed. Part of that discussion would include: asking the complaining student what they would like to see happen in response to the reported misconduct, possibly intervening, and conducting some informal steps before moving to a formal grievance. The steps that ██████ would follow with regard to student conduct issues are contained in BP 5500, “which is standards of student conduct,” and AP 5520, “which is student discipline procedures.”

Regarding whether any Black students made any complaints to her office alleging race-based discrimination against them during the 2018-2019 academic year, ██████ stated that during the 2018-19 academic year, her office received one such complaint. In that matter, the student alleged that a District employee engaged in race-based discrimination against them. ██████ office provided the requested accommodations to the student, and Human Resources investigated. The matter, which was unrelated to the ASO election, ultimately was resolved.

ASO Training / Retreats

██████ stated that roughly 40% to 60% of the total time allotted for ASO retreats is devoted to educating the participating ASO officers and senators on diversity and equity issues, including conflict resolution. Generally, she stated, there are three ASO retreats each year, being in the late summer, the fall, and the spring. The one-day summer retreat focuses on team-building for the incoming ASO officers. The two-day fall retreat is for all existing ASO members. The two-day spring retreat focuses on club members who are considering running for ASO office in that year’s upcoming Spring ASO Election.

According to ██████ the Senate retreat is in early October, and Inter Club Council retreat is typically in March.

ASO Elections Generally; 24-Hour Notice of Meetings

When asked if the process for ASO elections had changed since she became ██████ of Student Services, ██████ stated that there are changes from year to year with regard to what training and information is provided to students considering running for office, and when that training is provided. For example, during the 2018-2019 academic year, the Spring ASO Retreat included a workshop called “So You Want to Run for the ASO?” In addition, there have been some changes in onboarding, such as providing some additional information about applicable rules during the retreats and creating a binder or folder for each of the executive officer and senator positions.

When asked whether election board meetings are subject to a rule having to do with posting an agenda before a meeting, ██████ stated that she thinks that there is a requirement “to give 24-hour notice,” because the students changed the Constitution to include such a requirement, similar to the Brown Act. ██████ believes that this change was made “just last year” [i.e., the 2017-2018 academic year]. However, ██████ stated she is not an expert in the ASO Constitution, so she would need to look it up to be certain.

██████ remembered that there was some discussion about adding this posting requirement because, she stated, the Election Board is not otherwise covered by the Brown Act and “some individuals were feeling like ... it’s a short period of time, the election [where one must] ... deal

with things when they come up, expeditiously, and if people agree you move forward.” But, she continued, “we have some students who are very process and rule oriented ... [who] tend to be the ones that gravitate toward a Constitution Committee and [who] like to create ... a very structured process.” ██████████ recollection was that the students updated the ASO Constitution to include the 24-hour notice requirement due to a feeling that the ASO “need[s] to let the campus community know” about issues facing the Election Board.

Election-Related Training Provided to Students

██████████ stated that she has not reviewed the training materials that are used to train the Election Board for student ASO elections. She stated that she believes that duty would fall under the ██████████ job description. When asked her opinion of what should be included in such training, ██████████ did not provide a direct response. Instead, she described what she can remember about the existing training that is provided for student candidates, including: that the training is “operational;” that it shows “the dos and don’ts of campaigning,” including use of social media and advertising; and that it tells students what to do if they feel like the other team “is doing something they are not happy with, you know, how to file grievances....”

When asked her opinion of what should be contained in any training for the Election Board, ██████████ stated that she is “not as familiar” with the training that is provided to them, but that the training for them is the ground rules that are given to the students who are running, and that it should include training on whom to go to should they have any questions. When asked specifically whether “how to run a meeting” should be in the training for election board members, ██████████ stated that it “would probably be good in their training, but the [ASO] Advisor would be in all the election board meetings.” When asked whether the training for the Election Board should address the issue of agendas specifically, ██████████ stated that the training should include agendas because the purpose of the training is to educate the participating students about procedures, and posting agendas is part of the procedure. ██████████ also stated, “Everyone ... needs to be trained on ... civility and collegiality,” which the investigator understood as referring to both the candidates and the students on the Election Board.

“Your training would definitely cover the constitution related to elections and election board. Because that’s where your -- your rules are. ... yeah. I mean that’s, that’s the core right there and then the others is, is helpful”

ASO Election - Spring 2019

██████████ involvement in the spring 2019 ASO election was peripheral. Generally, she knew the composition of both teams, she personally knew many of the students who were running for office, and she received updates from the ██████████ and the Director sufficient to be informed of the progress of the election cycle as things moved along.

At one point, the Director and the ██████████ approached ██████████ to make sure she was aware of the racial/ethnic composition of the two teams and how that came about, because it was “unusual.” ██████████ recalled that Team Green was set up as a Latinx and Pacific Islander team, whereas Team Elite “was mostly an African American team because [██████████] had recruited students from the UMOJA program, which is a Learning Community for African American students.

[Intentionally left blank.]

Election Board Meeting of May 2, 2019

Part 1 / Before the Break for Deliberations. ██████ stated that she attended all but the first five to ten minutes of the election board meeting of May 2, 2019. The purpose of that meeting, as she understood it, had been to make public the additional information that was gathered after the prior election board meeting concerning Team Elite's grievance alleging that Team Green member ██████ made a negative race-based statement about Team Elite and then laughed, while in the ASO cubicles one day during April 2019.

██████ described that upon entering the meeting room, she saw the Election Board and its advisors sitting toward one end of the large, hollow, rectangular shaped table. She also saw Team Elite, interspersed with some faculty and staff members, sitting along one of the table's long sides; and she saw Team Green seated along the other long side of the table, across from Team Elite. ██████ recalled that some current ASO members were sitting with Team Green, ██████ stated that the many students, faculty, and staff also in attendance really filled the room, which was full. Two members of ██████ team were in the room throughout the meeting as well, but ██████ did not remember anyone announcing their presence or why they were at the meeting.

██████ also stated that when she entered the room, the agenda for the meeting was projected onto an overhead screen. ██████ seated herself in the audience area at the back of the room, on the same side of the room as Team Elite. In that position ██████ was unable to see the faces of Team Elite members and those sitting with them, unless the person turned his/her face toward her. However, she stated that she was able to hear everything that occurred in the room.

██████ described that ██████ ██████ "ran the meeting," in that he started the meeting, set its tone, and verbally reviewed the agenda before giving the floor to ██████ ██████ ██████) ██████ (██████ also later stated that the meeting had been "jointly" run by ██████ and ██████ ██████ recalled that near the meeting's outset someone verbally summarized the events that led to the election board meeting of May 2, 2019, including a prior meeting of the Election Board at which the Board did not reach any conclusions because it wanted additional information. ██████ also stated that that somebody read a statement from a witness who had been contacted for more information [between the first and second meetings on this issue].

██████ volunteered that "there was a lot of energy in the room." When asked to describe what she meant, she stated "there were people who looked very concerned, people who looked anxious, people who looked angry, and you could just feel the emotion and the tension." ██████ said she observed this high emotional state in staff and students on the Team Elite side of the room, but not on the Team Green side.

Based on the verbal language they used and their body movements, ██████ observed that the District employees who seemed to be having the highest emotions in the room were ██████ ██████ and employee ██████ ██████. The students whom ██████ remembered as being in a highly emotional state were ██████ ██████ and some other male students in the Team Elite area whose names she did not know. (██████ later stated that the very high emotion was not really visible until after the Election Board announced its decision near the outset of Part 3 of this meeting, and that the feeling in the room before the decision announcement was merely "tense.")

At some point, ██████ ██████ asked a student in the audience to make a verbal statement, but the student did not want to do so and she became very upset to the point that ██████ had

to help calm her down. Sometime after that, the Election Board asked for the audience to leave the room.

Regarding the conduct of the first portion of this meeting, ██████ stated that she thought that ██████ ██████ and ██████ ██████ “did a really good job of supporting the Elections Board and keeping some order in the room.” She also stated her belief that the Election Board did a great job of keeping the focus on just the grievance at hand. ██████ did not remember the individuals from ██████ group doing or saying during the first part of the meeting.

Part 2 / During the Break for Deliberations. ██████ recalled that the audience was asked to leave the room and that everyone except for a few students complied. She stated that the two members of ██████ team remained in the room with the Election Board throughout its deliberations / discussion.

During the interim, ██████ went out to the lobby, where she circulated and made small talk with students for the thirty to sixty minutes that they all were excluded from the meeting room. She recalled having approached student ██████ to make sure she was okay [after she became so upset when asked to speak in the meeting], that she talked with ██████ and with ██████ “to check in,” and that she spoke with Student Trustee ██████ ██████ stated that this situation was “very hard” for the students, and that there were some students from the audience and from the campaigning teams who looked “concerned.”

Seeing that ██████ and some other students were still in the room during the Election Board’s deliberations, ██████ opened the door and said to him, “The Election Board asked everyone to leave,” to which ██████ replied, “No, they made a request, and that’s that,” Eventually, however, ██████ exited the meeting room as the Election Board continued deliberating.

From ██████ perspective, students who were already on the ASO were hurting and experiencing difficulty because they had friends on both sides of the grievance issue, including student ██████ and ██████ who she believes was the anonymous witness who did not want to come forward or to be identified in the hearing.

The only conversation that ██████ remembered in detail from Part 2 of the election board meeting of May 2, 2019, was when the Student Trustee, ██████ approached her and:

...[he] wanted to engage with me about the process and the procedures, and whether this was a correct meeting and all that. And I just told him, “You know, you just need to stop. There’s people here that are in pain that are hurting, anxious, and you just – you just need to stop that for now and just let the Election Board do their job, and be conscious of the emotion ... and the people in the room.

██████ did not see any commotion while outside of the room during the Election Board’s deliberations. Rather, she saw people having discussions while gathered in pockets and groups, both in and around the student center.

Part 3 / After the Break for Deliberations. ██████ was not sure of what happened first after she returned to her seat for the third part of the election board meeting of May 2, 2019, but she stated that she thinks that the ██████ ██████ “got really upset and ... had to be taken out” of the meeting. ██████ thought that ██████ had some sort of panic attack

or breakdown, but she did not observe that herself because her attention was directed elsewhere. [REDACTED] [REDACTED] was out of the room for part of the time, with [REDACTED]

In [REDACTED] absence, someone else announced the Election Board's decision [concerning Team Elite's grievance] as soon as the attendees had returned from the break, and then the speaker explained the Board's process in reaching that decision.

[REDACTED] recalled that the decision required student [REDACTED] to make a public apology, to "write something," and "to put on some kind of equity kind of training." "At this time," stated [REDACTED] "there was [sic] audible gasps from the Team Elite side," and "things kind of just fell apart" in the meeting at that point. [REDACTED] stated that there were "audible cries from ... I don't know about all of Team Elite, but definitely from [REDACTED] ... [who] turned and sobbed, or cried, or cried out, [and] turned into [REDACTED] [REDACTED] and was definitely and visibly upset." [REDACTED] demonstrated the gasping sounds that she heard in the room, and stated, "The emotion really came out" after the Election Board delivered its decision on Team Elite's grievance. [REDACTED] "looked very distraught and upset, and [he put his] head down." There also was a lot of "murmuring" and "tension" in the room at this point.

In [REDACTED] view, the Board's decision "was educational," meaning that she believed the decision was based on [supporting the responding student's] learning rather than just imposing consequences on him, as the consequences-only approach would not have any definitive learning attached to it.

[REDACTED] stated that she "see(s) both sides" of the issue. She stated that Team Elite's argument had been that [REDACTED] "needed to be disqualified [as a candidate] because we need to show zero tolerance ... for any kind of perceived ... or any kind of racial insensitivity, discrimination, [or] prejudice." On the other hand, she stated, "there were others that felt like, 'Okay, they're students; we're here in student development ... you know, we work with students, and we need to develop our students'," indicating that the student(s) involved in making the alleged race-based comment needed to be educated on the issue more than punished.

Shortly after the Election Board announced its decision concerning Team Elite's grievance and while the room was in some state of emotional upheaval described by [REDACTED] [REDACTED] brought up the social media posting (discussed below). From there, one of the [REDACTED] team members *tried* to moderate the room.

Allegations by [REDACTED] Regarding Social Media

[REDACTED] recalled that After [REDACTED] cried out and turned to [REDACTED] [REDACTED] got out some papers and started talking about a social media posting. [REDACTED] recalled that [REDACTED] must have read some of the social media posting, because she herself remembers hearing what the posting said. Although she does not remember the exact words that [REDACTED] read and otherwise spoke, [REDACTED] stated:

I want to be really clear that there was an accusation that there was ... anti-Blackness, and [that] people were out to harm the Black students and Team Elite, and that this post [which [REDACTED] read aloud] was evidence of that.

[REDACTED] identified [REDACTED] as having made the above-stated accusation. [REDACTED] did not remember any person(s) having been accused, during the election board meeting of May 2, 2019, of making the [Instagram] post at issue.

████████ stated that after ██████████ made this accusation, she observed “remember[s] ██████████ [████████] yelling at the Student Trustee.” ██████████ “was obviously really upset,” and she was saying things to the Student Trustee such as: “Do you want me to tell everybody here what you said?” and “Do you want me to expose you?”

████████ stated that in the midst of ██████████ yelling at the Student Trustee, a person from ██████████ team grabbed the microphone and tried to calm things down by talking about her role and by explaining that there were sessions planned for people to talk. However, people were talking all over the room and regardless of how hard she tried, the person from ██████████ team was not able to bring the room or the attendees back to order.

████████ recalled that student ██████████ had the microphone at one point, and that other students wanted to talk as well. She also stated that the role of the Jones team members present was to moderate the discussion and keep it moving forward, but they “never got a hold of it.”

From this point, ██████████ stated that her focus was on trying to help the students who were visibly distraught and crying. The next thing she recalled was Superintendent / ██████████ entering the room and stopping the meeting. After that, the meeting disbursed, and ██████████ did not hang around outside the meeting area.

When asked whether there had been any issue(s) involving the police during the election board meeting of May 2, 2019, ██████████ stated that, at one point toward the end of the meeting when things “got more heated,” the police came into the room but ██████████ [████████] made a statement that he didn’t think it was in the best interest to have the police in the room.”

Later the same day, recalled ██████████ ██████████ came to me with a group of Black students to talk ... and I learned from ██████████ that she had asked the police to be in the room the whole time, and [the police] had decided that wasn’t a good idea.” This difference in perspective on having a police presence in the room was interesting to [and therefore noted by] ██████████

Conversation with ██████████ ██████████ and Students on May 2, 2019

████████ stated that in the afternoon hours of May 2, 2019, ██████████ ██████████ and two or three students came to her as a group to talk. She recalled that one of the students in the group told her that “they thought they knew the student that had done it, [i.e., made the Instagram post as alleged by ██████████ and that [the student] was a member of Team Green.”

Also during this meeting, someone said that the UMOJA class was scheduled for the same time as the Puente class, that a lot of the Team Green was in Puente, that “they were concerned about possible safety,” and that someone therefore asked ██████████ to move UMOJA’s classroom. ██████████ stated that her response was to tell them that the police were gathering information on the post and that she would look into their safety concerns. However, ██████████ stated, she also told the group that she “respectfully ask[ed] that [they] ... be mindful about putting information out there that would implicate another student until we know everything, so please just be mindful of that.” Nobody in the room acknowledged ██████████ request to refrain from implicating any students or agreed to refrain from doing so.

Thereafter, ██████████ consulted her supervisor, V ██████████ ██████████ ██████████ ██████████ ██████████ and the ██████████ ██████████

██████████. Other conversations occurred among District leadership and ██████████ that ██████████ was not part of. She understood that as a result of those discussions a decision was made that “the direction we want to go in is healing and reconciliation,” and that moving classes “would not move us in that direction.” Ultimately, the decision made by someone other than ██████████ to not move the UMOJA classroom but instead to assure that there would be increased awareness, a police presence, and purposeful watchfulness.

Letter from Team Elite Member to ██████████

The list of reasons that ██████████ offered in support of why she wanted to be interviewed included the fact that she is ██████████ direct supervisor. When asked what she wanted me to know concerning ██████████ ██████████ stated that ██████████ a member of Team Green, sent an angry letter to ██████████ which she thought ██████████ handled very well. (Exhibit 56, Email from B. Chibweth to B. Robertson; Exhibit 59, B. Robertson email to B. Chibweth.)

In his letter, ██████████ recalled, ██████████ described his perception that ██████████ “didn’t care and didn’t do anything,” in regard to the perceived improper conduct of Team Green, as evidenced by the facts that ██████████ did not attend Team Elite’s protest of May 1, 2019, and that he was not present for some parts of the third segment of the election board meeting of May 2, 2019.

██████████ informed his supervisor about ██████████ concerns, and he copied her on his response to ██████████ ██████████ recalled that in his response to this very upset student, ██████████ acknowledged that “he comes from a place of White privilege,” and revealed that he himself is a member of a marginalized group so he understands what it can feel like. ██████████ went on to explain that the reason he did not attend the protest was that, as an administrator, it was important to avoid looking like he supported one team over the other. Additionally, ██████████ explained that the reason he was outside of the room for part of the election board meeting of May 2, 2019, was that he was attending to the Election Chairperson (who became ill during the meeting). Finally, ██████████ invited ██████████ to come in and talk with him. ██████████ characterized ██████████ response as being done “in a way that I would want an administrator to respond, very respectful of the student’s feelings,” and in a way that “encourages student development.”

██████████ stated that ██████████ ██████████ is not an administrator. When asked whether it was okay for ██████████ to attend Team Elite’s protest, ██████████ stated,

I guess so. I mean ... I guess ... it’s their preference. ... I know I try to be very mindful of perceptions ... because we’re here ... to work with and represent and help all students....

Use of District Materials in a Student Protest

When asked whether students who want to put on a protest are allowed to use District property to do so (i.e., a microphone and speakers), ██████████ stated that they are allowed to do so because “it’s free speech up on campus,” but some rules apply. For example, she believes that the student would need to complete a request form to use the District resources (i.e., speakers) which would be required for any type of student activity, and that the protest would need to occur during “college hour” to have any kind of amplified sound. Requests for the use of District property would be submitted in writing to ██████████ in the student activities office.

Potential for Student Discipline

As noted above, ██████ handles student discipline for the District. When asked whether she has spent any time thinking about whether the statement attributed to ██████ would be something for which a student would be subject to discipline under the District's standards for student conduct, ██████ stated that was a good question and she had not yet considered it. Regarding whether the District's Student Conduct Code prohibits District students from harassing or otherwise discriminating against others, ██████ initially said that she was not sure without looking at it, but she later she stated that the SCC "contains language about bullying, ... so there is stuff in there."

██████ stated that as the student conduct officer, it typically is her job to gather the evidence for matters involving potential student discipline, except for matters that include allegations of discrimination, harassment, or any other Title IX issue – which are investigated through the District's Human Resources office. In order to discipline a student for violation the SCC, she stated, the District would need to show by a preponderance of the evidence that the alleged violation occurred. If an investigation by Human Resources concludes that there is evidence that a student violated the Student Conduct Code and there is a subsequent finding that the student was responsible, the matter then would go to ██████ for the imposition of sanctions.

██████ stated that she was aware of Team Elite's allegation of a race-based comment by ██████ before the election board meeting of May 2, 2019, because she attended an earlier election board meeting [April 29, 2019] at which the issue was discussed. ██████ knew to attend that election board meeting of April 29, 2019, because either ██████ or ██████ told her in advance that there were allegations of some kind of a "snide" or "snarky comment." More specifically, ██████ had been told that "there was an allegation that ... [██████] laughed about an all-Black team."

When asked whether there is any reason that an investigation would need to nail down the specific content of the alleged comment in this type of case, ██████ stated that it would be necessary to do so because, "like you're doing right now, you have to have all the information to make a reasonable decision."

When asked whether, if that allegation was true, such conduct would constitute a violation of the District's Student Conduct Code, ██████ stated, "I think with that information, no. You'd have to do more investigation." Regarding what would need to be investigated, ██████ stated there would need to be an investigation to gather witness statements in order to see if there is a policy violation. When asked whether there is a policy that prohibits snarky comments, ██████ stated, "Probably not. No."

When ██████ was asked whether she thinks the behavior attributed to ██████ is addressed in the Student Conduct Code, her association representative interjected by asking ██████ before she answered the question, "Are you okay with the time, or do you need a break?" ██████ stated that she was "okay," and, "it's taking a lot longer than I thought it was," before she explained that "if a student came to me in my office and somebody [made] a snarky comment like that," the complaining student could file a grievance, and if it looked like any kind of harassment or discrimination she would send it to Human Resources for investigation.

[Intentionally left blank.]

Subsequent to the Election Board Meeting of May 2, 2019

A lot of the candidates spoke to ██████ about the ASO election issues after the election board meeting of May 2, 2019, was over, including ██████ and ██████ ██████ on Team Green, Team Elite ██████ ██████ and B2LA member ██████ ██████

██████ stated that ██████ is interesting, and that she likes him. She recalled that sometime after the election board meeting of May 2, 2019, she and ██████ discussed how to bring people together within the ASO, including at retreats. She recalled how she pointed out to ██████ that at ASO retreats, the students interact with different racial groups while doing training activities, but when it is time to eat all of the African American students sit together at one table, away from the other groups of students present – Hispanic / Latinx and Pacific Islander groups, and she said that the students need to mix up instead of sitting in their groups, in order to get to know others.

In this conversation ██████ asked ██████ to tell her about why the Black students separated themselves from the other students at the retreat. In reply, ██████ stated that the Black students all know each other from UMOJA so they are friends, but also that “they don’t feel included,” and that they “feel safer together.” When ██████ asked if it would be OK for a white woman such as herself to join the group of Black students at their table, and whether it would feel like an intrusion if she did so, ██████ stated, “No, no! We want people to come talk,” and “Come over and join us. We always want people to join us, we just – it feels more comfortable when we’re together but no it’s not closed and we want people – so it was just”

Issues between the ASO and Black Students

At the request of her supervisor, ██████ reviewed the recordings of several Fall 2018 ASO meetings. She prepared first a brief email to ██████ addressing the issues she noticed therein, and then a longer, memo addressing the issues in detail and making recommendation for change. (Exhibit 8, Email from ██████ dated February 13, 2019; Exhibit 35, Document by ██████ dated April 29, 2019.)

██████ stated that while attending the last ASO meeting of the spring 2019 semester, she personally observed that ██████ President of a student club called B2LA and one of the District’s Black students, “was not in agreement with several of the ASO officers and how to do things.” As she described the situation, the ASO was discussing (1) whether the ASO was going to raise the student activity fee and (2) whether the ASO was going to pay its officers and the senators for their time spent and services rendered in performing their duties as ASO officers and senators. ██████ was against both of those proposed changes. As ██████ did not talk to her about that or any other problems having to do with the ASO during the 2018-2019 academic year, that is the extent of ██████ knowledge on that topic

██████ did not know ██████ during the 2018-19 academic year and did not talk with her at all. But, while at a Senate retreat during the 2018-19 academic year, ██████ observed that ██████ “was very much in with the group,” “she talked a lot about herself,” and the team she was on seemed to be cohesive. But, when exposed to the larger group, ██████ disengaged from the team she had been working with and instead went to be with UMOJA students and other Black students.

At the March 2019 ICC Retreat, ██████ noticed that ██████ a Black student, did not

hang out with the senate group; rather she hung out with the UMOJA group. This made [REDACTED] wonder whether there had been some bad experience.

Miscellaneous Issues

In response to the investigator's request for some photos³⁸ of students, [REDACTED] stated that the school has a photo of all of its students, and that if the investigator would email her a list of student names, she would provide a picture of each of them.

31) [REDACTED] IZÁBAL

Student [REDACTED] Izábal ([REDACTED] was interviewed on May 21, 2019 at District offices and, briefly for follow up questions on August 7, 2019. [REDACTED] described himself as being [REDACTED] and [REDACTED]. He is studying business administration and he wears glasses.

[REDACTED] began attending Southwestern College in the fall of 2018, studying business administration. He was the Secretary of the Puente³⁹ club during his first two semesters at Southwestern College. Similar to the UMOJA Learning Community's function for Black students, the Puente Learning Community focuses on improving the college's rate of transferring Latinx students to 4-year colleges and universities, and it includes instruction that focuses on Latinx authors and addresses issues that affect the Hispanic / Latinx community. Puente's assigned advisors are [REDACTED]

Involvement with ASO and Decision to Run in Spring 2019

[REDACTED] indicated that he was not an ASO member during the 2018-2019 academic year, but he knew some people who were members and he attended parts of some ASO meetings to get a feel for how they work. Although he did not recall what was discussed during the ASO meetings he attended, [REDACTED] indicated that B²LA's and UMOJA's requests for funding to attend the UMOJA Conference were not discussed on those occasions.

[REDACTED] indicated that he decided during the spring of 2019 to run for ASO office. Although he initially thought of running for a [REDACTED], [REDACTED] and [REDACTED] suggested that he run for ASO [REDACTED] as part of their team, Team Green. [REDACTED] indicated that he knew a number of people on Team Green because they also participated in or were even officers in the Puente Learning Community.

On the other hand, [REDACTED] indicated that the members of Team Elite were "complete strangers" to him, except for [REDACTED] whom he met during the Inter Club Counsel ("ICC") / ASO retreat. Nobody from Team Elite invited [REDACTED] to run for ASO office with them.

³⁸ Once received, these photos were successfully used to create a photo array of students for review by the student who created the Instagram Account in order to identify the student who told him, after the election board meeting of May 2, 2019, that the Instagram Account was being investigated.

³⁹ Pursuant to the College's web site, Puente is a SWC Learning Community that is designed to improve the college-going rate of educationally disadvantaged students. Originally founded at Chabot College in Hayward, California, Puente's mission was to increase the number of Mexican-American/Latino students transferring to four-year colleges and universities." PUENTE has expanded to 57 of California's 73 community college districts. (<https://www.swccd.edu/student-life/learning-communities/index.aspx>)

██████████ stated that he felt “kind of excited” at the beginning of the election cycle because it was his first ASO experience. But, he indicated, as the weeks passed and grievances were filed, ██████████ said he felt less excited. When the first grievance(s) were filed, said ██████████ he was “okay with those, but the last week of elections, and after [the] May 2nd [meeting] ... it just went downhill ... from ... a good election to kind of enemies. And I don’t like that.”

Problems During Spring 2019 ASO Election Season

██████████ indicated that there were some problems during the Spring 2019 ASO election, in the form of grievances filed by Team Elite against Team Green. He remembered a grievance concerning social media and another accused Team Green members ██████████ someone named ██████████ and ██████████ of “saying racist stuff.”

First Grievance(s), Regarding Social Media

██████████ stated that the things that led to the first grievance(s) regarding the use of social media started coming up at the end of the first full week of the election. ██████████ was not involved with preparing or filing that grievance.

██████████ stated that he attended the April 11, 2019 mandatory meeting for all candidates, during which there was a lot of discussion about the use of social media and what was (and was not) allowed. ██████████ stated that during that initial meeting, ██████████ asked a lot of very specific questions about the use of social media because Team Green was, at the time, “thinking of promoting ourselves through social media, at once” and the team wanted to make sure that in doing so they would not do anything that could lead to a grievance.

██████████ explained that, on Instagram, a “post” to an account-holder’s “Story” is automatically deleted after 24 hours, but a “post” to an account-holder’s Instagram “Page” “is permanent” until it is taken down by the account holder. ██████████ remembered Team Elite’s first question being about whether they could make posts to their Story, as opposed to their Page, and that they had been told “No,” they could not post on their Story.

██████████ indicated that he did not remember much about the April 23, 2019 meeting concerning the social media grievance(s).

Election Board Meeting of April 29, 2019 – Grievance Alleging Racist Comment(s)

██████████ stated that Monday April 29, 2019, was the first day of voting. On that day he had just returned to school from the prior week’s Puente trip to visit U.C. campuses in northern California, so he and ██████████ were at school by about 8:00 “to start getting the votes.” ██████████ indicated that he thought he went to the April 29th election board meeting and that during that meeting ██████████ ██████████” and ██████████ were accused for the first time in a grievance of saying “racist” things or making “racist jokes.”

When asked in his initial interview⁴⁰ whether “ever heard anyone at all say anything [that was] making a joke out of, or referencing that it was funny, that Team Elite was running as the first all-Black Team,” ██████████ stated that he had not heard anything along those lines. However, ██████████ indicated that one of his friends, ██████████ had asked him why Team Elite was billing

⁴⁰ Transcript, p. 21-22 et seq.

itself as the first all-Black team [running for ASO leadership positions] when only a small portion of the student population is Black, but he did not say it that way. As reported by ██████████ the gist of ██████████ question had been something to the effect of, “Why are they running as an all-Black team when this is not a majority-Black school?” ██████████ recalled having replied, “I don’t know, that’s their thing,” or words to that effect. ██████████ clarified that the discussion ran along the lines of ██████████ asking him something like:

- **Why are they an “all-Black” team, but you guys have like, I guess, Puente, PTK, and then aren’t four of your members gay?**
- **Uh, yeah, that’s true.**
- **Well, that looks more, I guess, ethnic variable or more variety than “all-Black,” because that looks like they’re, like, ethnocentric.**
- **Oh, okay. That’s pretty good. I didn’t see it that way.**

██████████ stated that he did not have any conversations with anyone else like that. When asked to describe his relationship with ██████████ ██████████ indicated ██████████ was part of Puente but that he was not affiliated with Team Green, and he stated, “He’s my friend and I kind of tell him what’s going on.”

██████████ indicated that he did not know of his teammates receiving similar questioning from other members of the student body, as none of them mentioned anything like that to him. However, he indicated that he told his teammate ██████████ about it and her response was, “Oh yeah, good point.”

When, during his follow up interview, ██████████ was asked when exactly ██████████ initiated this questioning, ██████████ indicated that it was on the day of the protest of May 1, 2019.⁴¹ See discussion below.

Candidates’ Forum on April 30, 2019

██████████ indicated that he participated in the April 30, 2019 Candidates’ Forum because he was on the Puente trip to visit U.C. schools during the first Candidates’ Forum the preceding week. He indicated that he did not remember what he did after that event.

Protest on May 1, 2019

██████████ indicated that he attended Team Elite’s entire protest of May 1, 2019, and that he recorded about ten minutes of it on his phone in a single / continuous recording, which he gave to the District’s police department. ██████████ indicated that during the protest, he was standing with ██████████ ██████████ and ██████████ (not ██████████ who in the spring of 2019 was an ██████████ but not affiliated with Team Green. He continued:

My friend Adrian [Torres] was there [standing with us] at the protest as well, and

⁴¹ ██████████ also described this verbal exchange, but ██████████ indicated that it had occurred the preceding day, in or near the Puente cubicle in the ASO building, and that he had been a listener but didn’t exactly remember if ██████████ or maybe someone else was asking the questions / making the comments in the discussion.

he wanted to ask a question as to why they were “all-Black,” and he didn’t get the opportunity to ask them.

██████████ indicated that his primary recollection of what Team Elite was saying at its protest was that the ASO is racist and that everyone at Southwestern is kind of racist.

██████████ further indicated that ██████████ had asked for the Black people in the audience to raise their hands, then to keep it up if you applied for a scholarship, and finally to leave it up if you actually received a scholarship – at which point there were no more hands raised, so ██████████ said something like, “You see?” and something indicating that there is something wrong with that. He also stated that he had applied for two scholarships himself and had not received either one, not even a response letter of acknowledgement of his application.

When asked who in his group was looking at the Constitution during the protest, ██████████ responded, “That is stupid. Uh, the Constitution?” and then clarified that he did not know of anyone in his group reviewing the Constitution during the protest. ██████████ indicated that ██████████ was near ██████████ during the protest, and that he did not remember anyone saying anything in particular to ██████████ to “egg her on” as she was talking, except maybe her teammates rooting for her.

██████████ Questions Team Elite’s Campaign / Marketing Strategy During Protest on May 1, 2019

When asked when his friend, ██████████ brought up the question of why Team Elite was focusing so much on or marketing itself so intensely as an all-Black team, since Southwestern College is not a majority Black school, ██████████ indicated that he raised the issue on the day of Team Elite’s protest. When asked for more details on that, ██████████ said that ██████████ was asking about it during Team Elite’s protest of May 1, 2019, and that it probably can be heard on the recording that he made of part of that protest.

██████████ pulled out his phone and located, within the protest footage that he shot, the point at which ██████████ is heard⁴² saying, “Should I ask Team Elite [inaudible],” after which ██████████ walked up toward the last row of seats facing the ongoing protest. After several minutes, ██████████ retreated from that position, without asking his question. ██████████ explained that the questions ██████████ had indicated that he wanted to ask Team Elite during the protest were why they chose the name “Team Elite,” and what had motivated their Team members’ to run or what were their reason(s) for running for office.

Election Board Meeting on May 2, 2019: Part 1

██████████ attended the election board meeting of May 2, 2019, the purpose of which was for the Election Board to decide whether ██████████ would be disqualified from running in the election. The Election Board’s decision was that ██████████ would not be disqualified from running, which Team Elite did not like.

⁴² ██████████ is heard asking, “Should I ask Team Elite [inaudible]...” at approximately 6:40 into the 10:49-long audio/video recording, after which ██████████ is shown walking forward and ██████████ until approximately 9:25, when another ██████████ top, sits down front of where ██████████ was standing. ██████████ is the ██████████ at left of the recording’s foreground.

Election Board Meeting on May 2, 2019: Part 2 (Deliberations on Grievance Concerning ██████████)

While the Election Board was deliberating, ██████████ and others waited outside of the ASO conference room. ██████████ described that during this time he felt “not nervous, but ... I was feeling ... like I had to do something impulsive ... it was like I could not stand still.” So he talked to many different people, including ██████████ his advisors, Puente members, and even some strangers, briefing them, because “nobody knew what was going on.” To ██████████ it was somewhat overwhelming. His thought was, “Wow ... this is big.”

Election Board Meeting on May 2, 2019: Part 3 (Instagram Account Allegations)

██████████ indicated that when the teams were called back into the room, he returned to his seat with ██████████ on one side and ██████████ on the other. He indicated that he remembered that after the Election Board announced its decision ██████████ started cursing and asking, “Do you think this is right?” and things like that, so ██████████ Terry put his hand over her mouth. And from there, “things started to get heated emotionally” for Team Elite to the point that he felt “shocked.” He remembered Team Green’s side of the room as remaining quiet and calm, that there was no clapping or anything.

After the Election Board announced its decision concerning Team Elite’s grievance concerning ██████████ Team Elite “brought up the packet talking about me, ██████████ [and] ██████████ and accused them all, but especially himself, of having created the Instagram Account that was shown in the packet of materials (i.e., *swccharterinisomaliland*).” ██████████ described that when ██████████ was talking on the microphone, she started doing some sort of body movement where she was moving from side to side, sort of sizing everyone up like maybe a hunter would do, or to make sure that everyone was listening – not aggressive, but controlling. He continued, stating: “and then from there that’s when, I guess ██████████ ... speaks real loud out of nowhere and then she like pulls out like – like the packets. ... [and] the raise in their tone of her voice” startled him. He continued:

HM: ... then she started talking about the packet. And then she was saying how in the packet ... the Instagram post was inciting hate against Team Elite. She was ... talking about it, and at some point, I was like, “Wow! What happened?” [and] I was like interested as to what happened. And then ... that’s when she ... gave the mic to another student ██████████ ... and she – she forcibly told the student to – to call out the names of the students who were, I guess, involved in making the Instagram post. And ...he said out my name, [and] ██████████ uh, ██████████ and ██████████ ... [and] from there ... I’m like full ... on attention, and I’m like “Okay, what happened, I hear my name. And then like as – as they started giving out the packets, they were – I don’t [inaudible] as they hand them out, throw them to the people...

██████████ Who threw them?

HI: Oh ██████████ and then like uh from people – ██████████ was like saying how one of the students threw it – threw it like at her like not even...

██████████ Did you see that yourself?

HI: I didn't see it, but that's what she told me. Ah –

■ But I want to know what you saw. Did you see anybody throwing packets?

HI: At first, yes. Uh, at first, uh ■ like uh – like she had like a lot. Uh and like she started throwing them to the sides...

■ then demonstrated ■ “throwing” the packets, stated that ■ “threw” the first [set of] packet(s) which a Team Elite student [■ started handing out, and then indicated that ■ then “tossed” packets, but still hard enough that they slid down the table. ■ stated that he was really “glad [that] ... nothing bad happened ... because ... at some point ... I felt like ... something [a physical altercation] was going to break out sooner or later. And I was waiting for that to happen.”

■ indicated that when he got a copy of one of the packets, he read what it said about “chopping off the heads of our Eurocentrist white supremacist Mexicans on the campus” and laughed internally because he thought it funny, at first, because it was just so ridiculous that anyone would accuse him of creating that material and accuse him of something that he did not do. When asked whether the wording about the “Eurocentrist Mexicans” made sense to him, ■ stated that he guessed that maybe it was referring to himself. The following conversation ensued:

■ Are you a person who's Mexican?

■: Oh, yes.

■ Okay. You're not American, too?

■: Yes. I was—I was born here, yes.

■ Uh huh. Yeah. So that's your heritage, but you're actually American because you were born here, right?

■: Oh, yes. Oh, God damn! That's true! I never thought of that. Okay, that's true.

■ explained that once he read the packet, he really paid more attention to what was going on. He stated:

I still remain[ed] silent. I have nothing to say, but at all times ... when ■ was accusing me, I made sure I made eye contact with her, for ... a very long time. ... I don't know why, but ... [from] the moment she ... started ... reading the quote, and then she explained as to why she's getting in involved – because she ... cares for “her” students ... and ... for their safety. Uh, and after that ... she said like, “Think about that.” And ... I just looked away.

When asked what allegation was made against him, ■ stated that the allegation was that he, ■ and ■ were the ones who made the Instagram Account. When asked whether he considered saying anything during the meeting to respond to that allegation, such as, “What are you talking about? I never did that,” ■ stated that he did not, because

█: I – I didn't need to. Like I didn't want to talk to them. I didn't want to have to put up a fight in a place where I know I'm going to lose.

█ Okay. Why did you feel like you would have lost?

█: Because I – I feel like in that meeting like even if anyone from our team spoke, we would have just been attacked. If ... for any reason we would have spoken, I feel like we would have just been attacked.

█ Kind of like what happened to uh the Trustee?

█: Yes. And especially when ... Team Elite was like getting all agitated They were ... standing up in the meeting, as they were talking and, like, walking around behind the chairs to their side, as ... if like they want to do something and ... it didn't make me feel comfortable at first, but I didn't mind it because I know we are in a space where stuff – like things can go down uh as – as punishment... if they ... started a fight with us....

█ indicated that █ wanted to say something but did not get to finish, and that the speakers were accusing Rudolph of doing something wrong by being on Team Green's side because he is the Student Trustee and so should not "take sides." He further indicated that █ got the microphone at some point or points to respond, but he never got to retain the microphone long enough to actually reply to what was being said about him.

█ knew that he had not created the Instagram Account, so he was confused about why he was being accused of doing so. When asked, he stated that he had never seen that Instagram Post or heard of the swccharterinsomaliland Instagram Account before █ distributed the packets in the meeting.

█ stated that he was not "scared" of anything for himself, but he was concerned for his teammates, because once █ arrived and stopped things, █ "literally broke down in – in tears," and then █ from outside of the meeting room, held up a poster for him and Team Green (not the audience) to see – which made █ cry even more. He indicated that █ also stepped out of the meeting at one point, to get away from what was happening.

Ultimately, █ indicated that he believes that Team Elite probably made up the accusations against █ and himself as some sort of tactic in an effort to win the election by getting some or all of Team Green's members disqualified from running, so that they would be elected unopposed. He said:

It was not right of [█] to even get involved [in the situation] because the ASO is run by students. The meeting was supposed to be student-held. [And] she was there attacking students.

█ indicated that he was not mad, sad, or disappointed in the election process, but he still was feeling very confused as to why Team Elite would make the allegations against him and the others. He stated that he has been "attacked, yes, but emotionally, I'm perfectly fine" because he knows that all of the allegations against Team Green, are untrue so there is nothing to worry about. He indicated that he is calm because he has not done anything wrong, and he will follow

the process provided by the District.

Approached

stated that at about 6:00 p.m. on May 2, 2019, he was inside the ASO Building, in the cubicles area, when came up to him and said to him, "I would like to have a word with you," but he replied, "No. I don't have nothing to say." However, he indicated, Team Green's leader saw that, so he went to and said, "What are you doing man? Let's go talk to her!" indicated that he still did not want to go but that talked him into it.

Thus, indicated he went outside the ASO Building with and to talk to who was with and when they approached. According to said that she wanted to check up on him, about how he was feeling, but that was not something that he wanted to discuss with her, so he just told her that he was feeling OK.

recalled that told him that she wanted him to know that what she's doing is for the students, because she cares for her students and is scared that one of her students is going to get hurt. He indicated that she stated that the Instagram posts like that incite hate toward her students and make her worry, so she wants to protect her students as much as she can.

At this point, indicated that did not ask him if he did it, so he asked her, "Do you believe I made that Instagram Account?" to which she replied, "Yes," then said that she was like 98% sure that he did it "because I'm a scientist." indicated that he had wanted to laugh at her when she said that because she was 100% wrong, but he did not. Instead he told her that he did not do it, to which she replied words to the effect of, "You don't need to... the whole investigation will ... prove it." also said that she was "positive" that he did create the Instagram Account but that if later it turns out that he did not do it then she would publicly apologize to him and to .

Instagram Account and Post

stated that he spoke with in the District police department, told him that he had not created the Instagram Account or posted any material there, and gave him a copy of the video that he recorded. According to already told him that "there's no possible way my video could be the one ... posted on Instagram, whoever posted it." So, knew that the College knew that he was innocent of this allegation.

indicated that he has carried on normally since the events of May 2nd. The only thing he really had to do, he said, was to explain what happened to his entire communications class, who he also told that he did not do it. Their response, indicated, was to jokingly say, "Aww, you racist," which he thinks is going to be a label (whether joke or not) that is going to stick with him for a while.

Meetings (or Not) After Election Board Meeting of May 2, 2019

stated that since the election board meeting of May 2, 2019, there is an uncomfortable feeling among the students that they do not want to talk about. He continued, "I would like to talk about it [at some point], but at the moment I think it's best to just ... give each other time to heal. ... That's what we all need, it's not only me." He also indicated that he believed, at the time of his

interviewed, that it was necessary for the candidates to turn their attention to their education, given that finals were approaching and because ASO, which was not their job, would always be there but the studying needed their attention immediately. “Even though the semester is about to end, I think our education should always go first.”

██████████ further said that he would be okay with talking with other candidates about what happened on a one-on-one basis, if they approach him, but that he wouldn’t approach another person about it because he is shy. He also stated that he would not go looking for a Team Elite candidate and try to “talk about this forcibly. That’s not right.”

Regarding meeting with ██████████ ██████████ stated that he attended a meeting during which they discussed the possibility of shutting down the entire ASO if the race problem cannot be solved. He also indicated that ██████████ wanted to know how Team Green would feel should the elections be entirely cancelled and that people – including himself – said things to the effect that they would be heartbroken.

Miscellaneous Points

██████████ indicated that he knew that several specific Team Green members had been interviewed for the investigation, but that they had not discussed anything about questions they were asked or answers they gave.

At one point, ██████████ indicated that he tends to prefer to be alone and that he usually does not get that close to his friends, but that he feels like going through these events have brought him pretty close to the other members of Team Green, and said, “Like, I even care about their feelings, that’s how bad it is.”

When asked, “OK, what about Team Elite? Do you care about how any of them feel?” ██████████ replied:

I guess the only times they’ve ever expressed how they feel is during those meetings where they’re just yelling at us. [¶] Other than that, I don’t know how they feel personally or emotionally because anyone could be a different person, like, in public. [¶] Like, in the meeting, they could be like how they are – hostile, aggressive – however they are. But in person, I guess, more like one on one, it could be like a much different story. Like they may not be – they may not be as aggressive, as confident, or

██████████ indicated that he did believe the Team Elite members, with regard to their feelings being hurt. When asked specifically whether some of the behavior he saw from Team Elite may have been exaggerated, or not really true – sort of more of a performance for the public?” ██████████ stated:

I don’t think it’s a performance for the public, or for entertainment purposes. But I feel that the information they are using, it’s not credible enough for the show they’re putting up to be believable⁴³ [indicating confusion as to why they would be relying on this in-credible information to raise all these race allegations].

⁴³ This was one of the areas where ██████████ really struggled with finding the words to express his thoughts, but he persisted and came up with this. We both verbally acknowledged, in a light/joking manner, that there was more he wanted to communicate, but this was the best he could do.

... I feel like the information that they're using against us, yes, it may be fake ... and I don't know if they even believe we did that – that Instagram Post. I don't know if they ... [actually] believe that we did that ... or if they're faking it...

When asked whether he would be able to work with members of Team Elite if the election results were released and the elected candidates ended up being a mix between the teams, ██████████ said that he would stay on as Secretary, if he won, and that it would “make things interesting” because it would “build transparency and honesty from both sides.”

Advisors; ██████████

When asked who Team Green's advisors were, ██████████ stated that the team did not have any non-students helping them. When asked specifically about Team Green's interactions with ██████████ ██████████ indicated that they started talking to her “way after” the election board meeting of May 2, 2019, and that the only reason she started talking to them was that one of their team members, ██████████ worked in the Dreamers' Center. ██████████ stated that he “had no idea that she existed” before they went to hang out in the Dreamers' Center, after the whole election thing was over.

The only thing I guess ██████████ has, like, done for us is just give us ... an environment to like – like, a space to, to feel safe and comfortable in. She literally provided a space like this, this room ... with like a big table with coffee, donuts. And we just talked about I guess the meeting. She – she started talking about like our feelings, how we were all feeling. Uh, she – she just wanted to – to look out for us.

██████████ indicated that when the team went to the Dreamers' Center that day, ██████████ “just wanted to comfort us;” that people were talking about their feelings, and that ██████████ “was expressing his emotions,” but that he himself did not say much, as he was not as emotionally impacted as some of the others, “maybe because I know that nothing bad is going to happen to me.”

When asked whether ██████████ did the same for anyone on Team Elite, ██████████ indicated that he did not know.

Credibility Assessment

██████████ ██████████ was clear and consistent when interviewed. He occasionally had difficulty with finding the words to express a thought or idea, but that appeared to be based on his being multi-lingual and did not have a negative impact on this analysis. ██████████ viewed himself as a jokester. This Investigator observed him as protecting himself. He did not seem to exaggerate. Although witness ██████████ alleged that ██████████ and ██████████ made comments about Team Elite in the cubicles on April 30, 2019, this investigator believes it is more likely that ██████████ is the person who was making the comments.

32) ██████████

Student ██████████ was interviewed on May 8, 2019 at District offices. ██████████ provided information that corresponded to and corroborated information provided by ██████████ and Mr.

██████████ He indicated that he was very seriously affected by ██████████ and ██████████ conduct toward him in relation to accusing him of making the Instagram post.

██████████ was not a witness who tended to exaggerate or to minimize or deflect. He makes a credible witness.

33) ██████████

Professor ██████████ was interviewed on June 24, 2019, at the request of ██████████. He appeared without a labor representative.

██████████ was a pleasant and friendly interview subject, but the information that he offered was not helpful to the investigation. He described ██████████ voice as being “very measured, not agitated” in the May 2nd meeting, which was true occasionally but not consistently, based on the statements of other witnesses and this Investigator’s review of the audio recording of the election board meeting of May 2, 2019.

The thrust of the information that ██████████ sought to provide was his opinion that the situation was bad, and very stressful for the students, and that when he observed ██████████ speaking with some Team Green students at some point after the election board meeting of May 2, 2019, it seemed to him like they were having a good conversation. Students were crying. Team Green looked confused, upset. ██████████ “was literally shaking, and crying, and very upset, saying ‘I can’t take it!’” He offered his opinion that if he did not do it, he would say so immediately.

It was apparent to this Investigator that ██████████ made a positive or complimentary comment to ██████████ so she wanted the Investigator to speak with him to hear someone saying positive things about her, regardless of how full a picture the witness had of the situation. The investigator therefore believed this witness to be biased in her favor and did not find him to be very credible.

34) ██████████

██████████ has been the District’s ██████████ for seven years. The Investigator offered but ██████████ declined the opportunity to have an association representative with her for the interview. She was interviewed at District offices on June 10, 2019.

When interviewed ██████████ provided requested written information with verbal explanation regarding (1) the process used by the District regarding student scholarships and (2) the outcome of scholarships awarded to District students in the 2018-2019 academic year. The written material received from ██████████ is attached as Exhibit 64 to this report.

██████████ indicated about two and a half years ago, the process for handling scholarships changed, and her office now works with the District’s foundation concerning scholarships for District students. Under this relatively new arrangement for splitting the work, the Foundation handles all of the work with the donors and development, meaning generating the money that will be awarded out through the scholarships, and the Financial Aid office handles the application process and the evaluation of scholarship applications.

[Intentionally left blank.]

Process for Applying and Method of Evaluating Scholarship Applications

The District has two scholarship application periods each academic year: one in fall and another in spring. It is necessary to split in this way because, as a community college district, the student population changes much more frequently and with less advance notice than occurs at a typical four-year college. Scholarships awarded in the fall are intended to be used in that same fall semester; likewise, for the spring semester.

██████████ indicated that students typically have four to five weeks to complete an electronic application packet each semester, through the “Academic Works” program. The scholarship application typically is a written statement containing information on the applicant’s career goals, the challenges that they have faced when coming to school, what they want to do with their life and why they need this scholarship. Some scholarships also require a longer essay.

When the time for submitting applications closes, the application packets are evaluated. Typically, the District allows applicants a couple of extra days to submit their packets if they tell Financial Aid that they need the time. In the 2018-2019 academic year, no potential applicant for scholarships was denied requested extra time to submit a scholarship application.

The software used for the application packet does not include the applicant’s race, gender, or even his/her name. Rather, the system imposes a new identification number for the Financial Aid Department’s internal use. In the past the District did have some specially designated scholarships that took the applicant’s race into account, but those scholarships are no longer offered due to the need to comply with state and federal laws.

Once the applications are all in, the District gets “readers” from the campus community, which is a volunteer force and can include employees, staff, faculty, donors, etc. Those volunteers are required to go through training, where they are provided a rubric and taught how to use it in evaluating the scholarship applications. Application packets are assigned to readers randomly online, and Readers must read the entire scholarship package. In this way, Readers do not get to choose which applications they read, nor which types of scholarships they read applications for, and the applications for the same scholarships are read by the same persons to ensure uniformity in scoring the applications. Additionally, each of the applications for each individual scholarship is read by at least two people, in order to make sure that there is no scoring enhancement, depletion, or bias. All scores given to an application are averaged.

Once a scholarship is assigned to a Reader, s/he has about two weeks to read the packets. Once all the packets have been reviewed, each individual’s packet will have a score. Before getting to the point of looking at student names, the Financial Aid department looks at the top scores and, if there is a top score for a scholarship then that person gets the award. If there is a tie, then the tied scores are assigned to another reader who will read all of the tied ones and score them again, using the rubric.

Types of Awards

Currently there are two types of awards. One is the Student of Distinction Award, awarded by the ASO, which is the campus’ largest scholarship provider on campus, and the other is scholarships awarded through the Financial Aid office. The ASO typically provides anywhere from \$20,000 to \$40,000 in scholarship awards annually.

Beginning in the 2018-2019 academic year, the District put a cap on the number of scholarship

awards that students could get because they found that a lot of students who were involved in the ASO were getting multiple awards. So, now there is an award cap of three scholarships per student.

Another recent change, put in place in the spring of 2019, is that whereas scholarships used to be evaluated solely on the essay, now scholarship application packets are evaluated based on three components: the essay / writing, financial need, and challenges that the student has faced in their academic and community “careers.” The same range of points is available for each component (i.e., on a scale of 0.5 to 5.0), so a 3.0 under the writing column is equal in impact to a 3.0 that is awarded under the “financial need” or the “challenges faced” column.

Types of Scholarships

There are two different types of scholarships: external and institutional.

External scholarships are those that are handled outside of Southwestern College, such as an application to the Ford Foundation, the Rotary Club, AARP, etc. There are literally thousands of scholarships available that are external to the College. Generally speaking, the District does not focus on directing its students to those external scholarships. When external groups award scholarships, they typically send the scholarship to the College and the student gets to access that money through the College, for books, or tuition, etc.

Internal scholarships are facilitated by the District’s Foundation, which means that these awards are funded through money that comes to the District for scholarship purposes through its foundation/private donors, through the ASO, etc. During the 2018-2019 academic year, there was a total of about \$150,000.00 available through internal scholarships. That money is not split evenly between the two semesters though; the lion’s share of the available scholarship money is awarded during spring semester each year.

Most of the scholarships are handled through the Financial Aid office, but the College’s “Student of Distinction” Awards are handled by the ASO. ██████████ indicated that ASO typically makes approximately 25 annual scholarship awards of roughly \$1,000.00 each. She indicated that ASO uses a manual process for processing the scholarship applications that that they fund, but they still have readers who are trained, the same as occurs for evaluating scholarship packets for that run directly through the Financial Aid. To be considered for a “Student of Distinction” scholarship, the applicant must be nominated by a member of the faculty or staff, which essentially means that the person making the recommendation makes sure that the student meets the other qualifications (i.e., grade point average and number of units completed) and then the faculty/staff member writes the essay explaining why the student should receive a Student of Distinction Award.

Whether the District Awarded Internal Scholarships to Its Black / African-American Student Population in the 2018-2019 Year

██████████ provided information on 2018-2019 applications and awards of Institutional scholarships, as requested. This information is provided in chart for on the last page of the materials that ██████████ assembled per the Investigator’s request. (See Exhibit 64, 6/10/18 Scholarship Evaluation and Awards in 2018-2019.)

As can be seen in the fourth page of this Exhibit, there is much more money available to be awarded through scholarships during the spring semester (approximately \$120,000) than during

the fall semester (approximately \$30,000).

Likewise, it shows that during the 2018-2019 academic year, of the 426 total students who applied for scholarships, 44 actually received a scholarship, in the cumulative amount of \$31,000. Of the 426 total who applied, only 29 self-identified as "Black, Non-Hispanic," and only 3 of that 29 actually received a scholarship award. The numbers look small, but they show numbers show that Black, Non-Hispanic students constituted 6.81% of the total applicant pool and they received 6.82% of the total scholarships awarded to all students.

Looking specifically at the category of "Black, Non-Hispanic" student applicants for scholarships but now in Spring 2019, there were 55 applicants, of whom 7 received awards which was 5.79 % of the total number of scholarship awards made.

These numbers demonstrate that the number of awards being made to applicants who identify as "Black, Non-Hispanic" is roughly equivalent to the proportion of total applicants also fall into that same race category.

The same trend was true for Hispanic / Mexican-American applicants, who in the Fall 2018 semester constituted 64.55% of the total applicants and received 63.64% of the total number of scholarships awarded, and in the Spring 2019 semester constituted 64.95% of the scholarship applicants and 64.46% of the scholarship recipients.

Witness Demeanor and Credibility

This witness appeared to be highly credible. She had no involvement in any of the allegations and does not appear to be susceptible to discipline for anything discussed in the instant report. Her ability to perceive and recall were excellent, and she was forthcoming and very helpful in providing information within her limited scope.

35) [REDACTED].

[REDACTED]
[REDACTED] was interviewed on June 26 and 27, 2019 at District offices. She was represented by her labor association representative [REDACTED]. [REDACTED] has been with the District for approximately three years. In addition to her [REDACTED], [REDACTED] is a member of the Chicano Latino Employee Association and she is the [REDACTED] for a relatively new student club, the Association of Chicana Activists.

The key information provided by [REDACTED] over the course of her interview related to her interactions with Team Green during the Spring 2019 election cycle, her interaction with the school's Black / African-American students is summarized as follows.

Job Description and Focus on Programming

The job description applicable to [REDACTED] position provides the following summary description of her role and responsibilities:

Under the administrative leadership and direction of the cognizant administrator, plan, organize, coordinate, and direct the activities and operation of the Student Equity (SE) and College diversity and inclusion initiatives, including the

development, enhancement, implementation, documentation[,] training, and evaluation of existing and proposed programs; align and integrate a wide range of new and existing initiatives of Southwestern College into a cohesive platform of services that will foster a more inclusive environment and help the District extend the values of diversity and equity broadly through teaching, service, policy, and practice; and supervise and evaluate assigned academic and classified staff.

(See Exhibit 67, Job Description for [REDACTED].

When interviewed, [REDACTED] indicated that in her position, she is responsible for developing programs and trainings, sitting on committees, supervising staff, addressing budget issues, etc. [REDACTED] indicated that she is not to provide counseling services, but that she is to ensure that students who need assistance are being taken care of in that way

The excerpt of the job description for this [REDACTED] corroborates [REDACTED] assertions on these points.

Involvement with Team Green

[REDACTED] had no involvement with Team Green until after the conclusion of the election board meeting of May 2, 2019. While one member of Team Green works in her office, [REDACTED] other members did not know who she was until after the election was complete.

[REDACTED] did not approach Team Green to engage with or provide services to them. On the contrary, Team Green approached her, looking for a place to hang out since they did not want to go to their regular hang outs given the recent election events. On Friday, May 3, 2019, Sam Valdivia, who works in [REDACTED] office, told [REDACTED] that the students on Team Green did not want to go to any more meetings about the election issues right now and asked her if she thought that they had to attend. [REDACTED] indicated that she told [REDACTED] that the students did not have to attend if they did not want to.

Sometime later, [REDACTED] was asked if Team Green could meet with her on Monday morning, May 6, 2019 to talk through what they were thinking. As [REDACTED] is a co-leader for the Chicana Activists and Team Green Member Sam Valdivia is a member of that club, it seemed okay to [REDACTED] and they made a plan to meet. On Monday morning, May 6, 2019, Team Green members met in the area near [REDACTED] office as the students requested and [REDACTED] tried to help them talk about their thoughts and feelings about what they were comfortable doing next. There were a lot of thoughts, so [REDACTED] in [REDACTED] office made a list of those items for the students to refer to. Eventually, to just process their thoughts. During that meeting, students used the space that she had as a place to relax and hang out, and they talked about their feelings. [REDACTED] indicated that she did not tell the students was to do, but that she tried to help them to be able to talk about their feelings to identify what they were comfortable with doing. In the end, [REDACTED] typed up notes of the students' group consensus on what they were comfortable handling things in the immediate future.

Reaching out to Team Elite

[REDACTED] indicated that she did not reach out to team Elite in relation to this election because her role is essentially programming planning and execution; her role definitely is not to provide counseling or similar types of services for students. However, she would be mindful to make referrals of students to get counseling help if asked to do so.

██████████ recalled and described her usual process for getting the ball rolling with the various student groups, each year for their program planning done each year as creating a steering committee of sorts for each constituent group (i.e., LGBTQS, DSS Students, etc.) ██████████ described that her first full year at SWC, she was trying to get things started on planning programming for clubs designed to serve primarily Black students, while she also was setting up working groups for the other constituents of students for their planning purposes. ██████████ indicated that she approached the Black Alliance, including (██████████ Malik Bull) with a list of ideas to discuss, to see if they had input, or how they might like to work together on providing programming for the school's Black students. ██████████ was surprised when ██████████ put her off during the meeting. She indicated that ██████████ essentially said that the Black Alliance does the program planning for the school's Black students and they will let her know if/when they wanted any help. (Exhibit 70, Email chain between C. Sevilla and A. Buul, dated August 25, 2019.)

When asked how she is expected to respond, given her role, to situations in which students are addressing issues of diversity, equity, or inclusion in their lives, ██████████ indicated that her role is to connect the student with the resource, as opposed to attempt to counsel them herself [i.e. by referring them to HR or student health (for counseling)]. This general assertion was corroborated by ██████████ direct supervisor at the time, ██████████ ██████████ When asked, ██████████ indicated that this is generally correct, but requires a soft touch.

██████████ was, by far, the most challenging interview to conduct of all of the individuals interviewed in this investigation. She clearly is very bright, but also somewhat impatient. ██████████ interrupted questioning to answer before questions had been asked for most if not all of her interview. She also was defensive and seemed to have an agenda of what she wanted to get out rather than to participating in an interview.

36) ██████████

Employee ██████████ was interviewed on July 9, 2019 at District offices. She corroborated ██████████ account of the Black Alliance's rebuffing of the Student Equity Office's attempts to participate in the planning of programming and events for SWC's Black Students. (See Exhibit 70.)

██████████ appeared to be nervous about what her boss would think of her being gone from their office during our interview and whether she would be able to make up the time away from her work duties pent in our interview.

37) ██████████ ED.D.

██████████ Ed.D., formerly ██████████. And currently ██████████ / ██████████ was telephonically interviewed on August 1, 2019.

At the time of the events at issue in this investigation, ██████████ was the direct supervisor of ██████████ and ██████████ ██████████ was ██████████ supervisor throughout ██████████ employment with the District.

[Intentionally left blank.]

Harper Report

██████████ was the only witness who mentioned the impact that the relatively recent release of the ██████████ Report was having on students. Faculty members, non-faculty employees and some other members of the community were pretty torn up, which spilled onto the student population. The fact that student election teams ended developed along racial lines was really unfortunate, but leadership did not want to interfere. Instead, they sought to try to help them avoid letting racial issues develop, which is why they did things like providing ██████████ consultants at the May 2, 2019 election board meeting. Unfortunately, the ██████████ personnel were not able to control that meeting. This concern was one shared by ██████████ ██████████ and ██████████ from the time that the teams were formed.

Wrong Decision and Inadequate Supervision Provided

██████████ indicated that ██████████ made the wrong decision when he chose to press on with the April 29th Election Board meeting, even after someone raised the issue of a lack of 24-hour notice. She indicated that precisely following the Constitution and the bylaws is paramount during times when fairness is being scrutinized. ██████████ further indicated that she told ██████████ that both ██████████ and Brett should have been taking extra care to ensure that the rules were adhered to because doing so will be a critical element in avoiding future claims of lack of equity.

Finally, ██████████ indicated that it was ██████████ job to train the ██████████ and to make ensure that she did her job regarding posting Agendas, and that as the administrator ██████████ had responsibility to oversee ██████████

Arrangement with the Black Alliance

██████████ confirmed that ██████████ told (her at the time) about the push-back from the Black Alliance and their leadership's request ██████████ she work through them instead of going directly to students. ██████████ indicated that this arrangement was acceptable to, if that was the structure that the students wanted. ██████████ did not provide information on student feedback

No Error by ██████████ in Not Reaching out to Team Elite

When asked, ██████████ indicated that she did not have any unmet expectation related to how, or how much, ██████████ would interact with students during the Spring 2019 election. Nor could ██████████ think of any situation related to the Spring 2019 election in which she thought that ██████████ was expected to, but did not, interact with any students.

Further, ██████████ indicated that ██████████ informed her as events were happening that Team Green had reached out to her, essentially seeking some physical and emotional support in the Student Equity office.

██████████ also indicated that team Green approaching ██████████ did not trigger any need for ██████████ to initiate communication with members of Team Elite, because at that point ██████████ expectation was to look to "what Student Affairs was doing ... to reach out to Team Green and Team Elite to make sure that they were fine." Ultimately, ██████████ saw this responsibility as falling to Student Activities, not to Student Equity.

Response to [REDACTED] letter

[REDACTED] did have an expectation that [REDACTED] would prepare a response to [REDACTED] May 10, 2019 letter of criticism that was similar in tone and content to [REDACTED] written response to [REDACTED] letter of criticism. [REDACTED] further stated that a response to [REDACTED] that consisted merely of language such as, "I received your letter and I have forwarded it to Human Resources, who will be contacting you," would not have been sufficient.

Rather, [REDACTED] indicated, [REDACTED] response that should have been sent to [REDACTED] would have included wording that acknowledged the student's concerns, it would say something apologetic about the student's experience, and it would note the administrator's lack of intent to cause the kind of result that occurred. For example, a letter from [REDACTED] to [REDACTED] could have said:

Thank you very much for your letter. I understand that there are some concerns with how I've interacted with you and the other members of Team Elite. Please know that it was never my intention to leave you or any member of Team Elite feeling alone or unsupported. My focus is to support all students. Given that Human Resources has taken the lead on this issue, I will refer it to them

Witness Demeanor and Credibility

[REDACTED] was direct, concise, and knowledgeable. As a former administrator, she had less motive to provide inaccurate information. She pulled no punches and appeared to be credible.

4. ANALYSIS AND SPECIFIC FINDINGS

Because of the numerous issues raised, the following is a list of the general subjects addressed in the findings of fact:

- a. Legal Issues
- b. Fall 2018 Allegations (Asserted in May 1 Protest)
- c. Team Elite Grievance Against [REDACTED] for "Mocking" Team Elite, dated April 26, 2019
- d. Subsequent Investigation into the Allegations of the Team Elite Grievance
- e. Rescheduling of the Election Board Meeting to May 2, 2019
- f. May 1, 2019 Protest Allegations
- g. Post to Instagram Account – *swccharterinsomaliland* on May 1, 2019
- h. Issues Relating to the Election Board Meeting of May 2, 2019
- i. Propriety of Conduct by Individuals
- j. Miscellaneous

a. Legal Issues

Having reviewed all of the available evidence identified herein as having been collected and reviewed in this investigation, including information that is identified but not necessarily summarized hereinabove, this Investigator finds as follows

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1) Privileged Communications

Communications made pursuant to making informal or formal complaints of unlawful discrimination are privileged communications. California law recognizes two types of privileged communications, communications which are absolutely privileged and communications which are conditionally privileged. (See, Civ. Code § 47.) A communication absolutely privileged if made in any legislative proceeding, judicial proceeding, in any other official proceeding authorized by law, or in the initiation or course of any other proceeding authorized by law and reviewable by mandate. (See, Civ. Code § 47 (b), see also Cruey v. Gannett Co. (1998) 64 Cal.App.4th 356, 367-368.)

Accordingly, both formal and informal complaints of unlawful discrimination fall under the absolute privilege for communications made “in any other official proceeding authorized by law.” (Civ. Code § 47 (b).) Thus, it is the finding of the Investigator that all statements made by the complainant(s) and all witnesses that were made within the scope of the District’s investigative process are likely to be protected as privileged communications.

2) Race-Based Discrimination, Harassment, and Retaliation

a) State and Federal Law

Under federal law, Title VI of the Civil Rights Acts of 1964 (“Title VI”) provides in pertinent part that “no person in the United States shall, on the ground of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.” (42 U.S.C. § 2000d.) Further, with respect to programs and activities that the U.S. Department of Education funds, the relevant regulations “interpret[] Title VI as prohibiting racial harassment.” (See “Racial Incidents and Harassment Against Students at Educational Institutions; Investigative Guidance,” 59 Fed. Reg. 11448.)

To state a claim for damages under Title VI, a plaintiff must allege that (1) the entity involved is engaging in racial discrimination; and (2) the entity involved is receiving federal financial assistance. *Davison ex rel. Sims v. Santa Barbara High School Dist.*, 48 F.Supp.2d 1225, 1229 (C.D. Cal. 1998).

Similarly, California’s Unruh Act provides:

All persons within the jurisdiction of this state are free and equal, and no matter what their ... race [or] color, ...[they] are entitled to the full and equal accommodations, advantages, facilities, privileges, or services in all business establishments of every kind whatsoever.

(Cal. Civ. Code § 51(b).)

b) SWCCD Board Policies and Procedures

i. SWCCD Policy and Procedure Prohibiting Discrimination

The District’s Board of Trustees has committed itself to equal opportunity in educational programs, employment, and all access to institutional programs and activities. (Board Policy (“BP”) 3410, Nondiscrimination, ¶ 1.) Thus, the Board of Trustees requires that the District and each individual who represents it “shall provide access to [District] services, classes, and

programs without regard to ... race, ... color,” in addition to more than a dozen additional types of protected classifications. (Id. at ¶ 2.)

ii. **SWCCD Policy and Procedure Regarding Harassment**

Under the District’s Board Policies (“BP”), “all forms of harassment are contrary to basic standards of conduct between individuals,” and it has declared that “all forms of harassment” are prohibited. (BP 3430, Prohibition of Harassment, ¶ 1.) Accordingly, the Board Policies require that the College District “shall be free of ...unlawful harassment, including that which is based on ... race ... color, [or] national origin ancestry...,” and other protected classifications. (Id.) The District’s policy prohibiting harassment “applies to all aspects of the academic environment, including but not limited to ... scholarships ... and participation in any [other] community college activity.” (Id. at ¶ 4.)

In addition, the District’s Administrative Procedure (“AP”) 3430 - Prohibition of Harassment defines prohibited “general” harassment, and provides as follows:

Harassment shall be found where, in aggregate, the incidents are [1] sufficiently pervasive, persistent, or severe that [2] a reasonable person with the same characteristics as the victim of harassing conduct [3] would be adversely affected to a degree that interferes with their ability to participate in or to realize the intended benefits of [4] an institutional activity, employment, or resource.

(AP 3430, Prohibition of Harassment, ¶ 3.)

AP 3430 also illustrates when a “hostile academic environment” may exist:

A hostile academic ... environment may exist where it is permeated by ...insults or abusive comments directed at an individual or group based on ... race, nationality, ... or other protected status; or gratuitous comments regarding ... race, nationality, ... or other protected status (sic) any of the protected status that are not relevant to the subject matter of the class or activities A hostile environment can ... be created by an unwarranted focus on, or stereotyping of, particular racial or ethnic groups

(AP 3430, Prohibition of Harassment, ¶¶ 4, 5, and 8.)

The determination as to whether an environment is “hostile” to a prohibited degree is to be evaluated under the totality of the circumstances. This includes evaluating factors such as the frequency and severity of the conduct at issue; whether the challenged conduct is humiliating or physically threatening; and “whether the conduct unreasonably interferes with” the victim’s learning or work. (Id.)

In addition, because SWCCD is a post-secondary academic setting, considerations of academic freedom are addressed in AP 3430, which provides as follows:

Academic Freedom. No provision of this Administrative Procedure shall be interpreted to prohibit conduct that is legitimately related to the course content, teaching methods, scholarship, or public commentary of an individual faculty member or the educational, political, artistic, or literary expression of students in classrooms or public forums. Freedom of speech and academic freedom are,

however, not limitless and this procedure will not protect speech or expressive conduct that violates federal or California anti-discrimination laws.

(AP 3440. ¶19.)

Under most circumstances, harassment refers to the type of conduct that is pervasive, repetitive, and that is sufficiently severe to alter the conditions of an employee's employment or a student's education or employment. It also may refer to a single incident that is sufficiently outrageous or harmful, in and of itself, that it substantially alters the conditions of an employee's employment or interferes with that individual's ability to perform job related responsibilities. (2 CCR § 11019.)

The District's Board of Trustees has further committed itself to equal opportunity in educational programs, employment, and all access to institutional programs and activities. (Board Policy ("BP") 3410, Nondiscrimination, ¶ 1.) Thus, the Board of Trustees requires that the District and each individual who represents it "shall provide access to [District] services, classes, and programs without regard to ... race, ... color," and more than a dozen additional types of protected classifications. (Id. at ¶ 2.)

In order to foster an environment wherein all persons "feel free to report incidents of harassment without fear of retaliation or reprisal" and thereby to support its policy prohibiting harassment, the Board of Trustees also has strictly prohibited retaliation against any individual for filing a complaint of harassment or for participating in the investigation of such a complaint. (BP 3430, Prohibition of Harassment, ¶. 2.)

Thus, District BP and AP 3430, Prohibition of Harassment, buttresses state and federal law in prohibiting race-based harassment in District programs and activities.

In the instant matter, the evidentiary record indicates that all members of Team Elite identify as and are regarded by others as being Black / African-American. As such, their race and skin color are protected categories under Title VI and BP and AR 3430, and harassment against them on this basis is prohibited. Similarly, all members of Team Green identify and are regarded as other as being Latinx or Pacific Islander, and as such, are also protected under Title VI and BP and AR 3430 on the basis of their race and skin color. In addition, several members of Team Green also identified as LBGTQ. Accordingly, those who identified as LBGTQ would be entitled to protected status on this ground, as well. [As noted above, however, no allegations based upon LBGTQ or Pacific Islander protected status have been alleged.]

As established in AP 3430, the elements of harassment are present when, viewed in the aggregate, the incidents:

1. are sufficiently pervasive, persistent, or severe that
2. a reasonable person with the same characteristics as the victim of the harassing conduct
3. would be adversely affected to a degree that interferes with their ability to participate in or to realize the intended benefits of an institutional:
 - a. activity,
 - b. employment, or
 - c. resource.

(AP 3430, Prohibition of Harassment, ¶ 3.)

iii. SWCCD Policy Prohibiting Retaliation

In order to foster an environment wherein all persons “feel free to report incidents of harassment without fear of retaliation or reprisal” and thereby to support its policy prohibiting harassment, the Board of Trustees also has strictly prohibited retaliation against any individual for filing a complaint of harassment or for participating in the investigation of such a complaint. (Board Policy 3430, Prohibition of Harassment, ¶. 2.)

b. Fall 2018 Allegations (Asserted in May 1 Protest)

In the course of a protest conducted by Team Elite on May 1, 2019, [REDACTED] generally alleged that the District is racist and that the ASO is racist, based on several different incidents, which are addressed individually below. Specifically, [REDACTED] alleged:

- The District discriminated against Black students in 2018-2019- Scholarship awards;
- ASO rejected funding requests by SWC clubs serving Black student, but spent \$6,000 on a coffee-maker and microwave oven;
- There was race-based discrimination against Black attendees at the ASO meetings on October 18 and 25, 2018;
- An [REDACTED] referred to students as “mobs” on November 18, 2018.

The above allegations are discussed below:

1) Background of [REDACTED] Negative Feelings Toward the ASO Heading into Election Season

[REDACTED] was a first-year student at Southwestern College during the 2018-2019 academic year. In her first year of college, [REDACTED] views herself as a leader and almost immediately began serving as an [REDACTED] in the fall 2018 semester.⁴⁴

[REDACTED] closest friends at school in the 2018-2019 school year were ASO Executive Secretary [REDACTED] and [REDACTED]. As late as mid-March 2019, [REDACTED] considered herself to be closer friends with members of the ASO than with any UMOJA members (except, presumably, [REDACTED] including Senators [REDACTED] and [REDACTED] with whom she socialized outside of school, and Senators [REDACTED] and [REDACTED] though she had not done anything with either of them outside of school.

During the fall 2018 semester, [REDACTED] freely let her ASO colleagues know that she wanted to run for [REDACTED] in the spring 2019 election. Her colleagues in ASO were generally supportive of this idea and in December 2019, two of them (Juan Hernandez and [REDACTED] agreed to run with [REDACTED] on a team. In addition, [REDACTED] claims that she also had the support of [REDACTED] who told her in November or December of 2018 that he wanted to help her so that she would make a great ASO president and gave her his own first ASO Constitution, indicating that it would be useful when she was [REDACTED]

⁴⁴ The Fall 2018 semester ran from August 20, 2018 – December 7, 2018. (See Exhibit 3, 2018-2019 Academic Calendar.)

When she left school for the long winter break in December 2018, ██████████ believed that she, ██████████ and ██████████ were committed to run together for ASO and that her chances for winning were good.

School resumed after winter break on January 28, 2019.⁴⁵ However, during the month of February of 2019, ██████████ was very involved with running and attending all of the Black History Month events. As a result of those events and other duties she needed to attend to, ██████████ was absent from all of her ASO activities during the month of February 2019. As she described it, “I was basically gone [from ASO] for a month.” When she resumed attending ASO meetings again in late March, ██████████ met the “new” senators who began their terms in the spring 2019 semester, including ██████████ ██████████ made a concerted effort to get back into the swing of things with ASO because she had started feeling the pressure of the upcoming elections.

However, ██████████ and ██████████ had repeatedly, but unsuccessfully, attempted to meet with ██████████ during February and March 2019 to discuss their concerns regarding her non-participation in ASO. By the time ██████████ turned back toward ASO in late March, ██████████ and ██████████ each had decided that ██████████ was not the teammate for them, due to her long absence and failure to meet with them when asked. When they did finally meet, ██████████ was direct with ██████████ and told her that he had changed his mind about running with her because it seemed to him that her work ethic had changed since they first discussed running together in December 2018. ██████████ further indicated to ██████████ that he felt she was “becoming a little bit lazy” about ASO, and that as a result, he was not convinced that she was the best person to run for the ASO Presidency. ██████████ had reached a similar end. Based on ██████████ long absence and lack of communication, they were concerned that she may not be fully committed to, or might not have enough time to, carry out the duties of the office of ██████████

██████████ indicated during her interview that she was hurt and offended by ██████████ explanation of why he and ██████████ had changed their minds about running with her. That rejection was very impactful on ██████████ because at the same time, she had been experiencing difficulty finding her place within the UMOJA Learning Community. Not having these ASO members to run with in the election contributed to a feeling that ██████████ started having, when she tried to resume her ASO activities in March 2019, of being unwelcome in the ASO.

The ASO Constitution requires that if any ASO member has four unexcused absences or two consecutive absences from any meeting of the same type (i.e., their committee meeting or the general Senate meeting), they must be brought up to the full senate for possible removal from office. (See Exhibit 2, ASO Constitution Bylaws, Art. IV, § 9, cl. 1.) Based on this Constitutional requirement, the ASO Senate considered whether to remove ██████████ from office due to her many absences. This was not the first time the Senate recently considered removal of a Senator for attendance issues. ██████████ explained her absences during that meeting and based upon her statements the Senate decided against removing her from office. Even though she was not removed from office, ██████████ feelings were hurt again by being required to go through the ASO’s removal procedure. At this point, ██████████ indicated that she began to feel that the ASO, or at least some of its members, must be discriminating against her on the basis of her race. She indicated that this led to her allegations that ASO was racist, which she made during Team Elite’s protest on May 1, 2019, as discussed below.

⁴⁵ The Spring 2019 semester ran from January 28, 2019 – May 24, 2018. (See Exhibit 3, 2018-2019 Academic Calendar.)

2) Allegation That the District Discriminated Against Black Students in 2018-2019 Scholarship Awards

██████████ alleged during Team Elite's protest of May 1, 2019, that the District discriminated against its Black students in awarding scholarships during the 2018-2019 academic year. In support of her allegation, ██████████ claimed that she and other Black students whom she knew applied for but did not receive any scholarships for that year. Thus, ██████████ was asserting that the number of Black students who received a scholarship during the 2018-2019 school year showed that the College showed that the District discriminated against its Black students by not awarding them scholarships. As race is a protected category under Title VI, and discrimination against students on the basis of race is prohibited, any action by the District of treating its Black students unfavorably due to their race or skin color when determining which students would receive scholarship(s) for the 2018-2019 academic year would be unlawful.

However, Patti Larkin, the District's ██████████, provided credible evidence concerning the application process utilized for institutional scholarships⁴⁶, how many students applied for and received scholarship awards, and the total amounts of scholarships made on the District's institutional scholarships in the District. (Exhibit 64, Scholarship Information received from ██████████ dated June 10, 2019.) Based upon the evidence provided by ██████████ Southwestern College utilized a blind system for scoring the application packets for its institutional scholarship applications in the 2018-2019 academic year. Specifically, each scholarship application packet received an identification number that was unrelated to any of the student-applicant's identifying information, thereby preventing anyone reviewing the application packet materials who made recommendations and decisions on the awards from knowing the applicant's identity or demographic information. ██████████ further indicated that the identity of any individual applicant was not revealed in the District's process for evaluating institutional scholarship applications until after the award decision had been made. In addition, each applicant's essay was reviewed by two different people to prevent any skewing of the rating numbers.

Based upon the evidence reviewed, it is the finding of the Investigator that the District more likely than not did not consider any student's race in determining who would receive the scholarships over which the District had control during 2018-2019. Because the same process was applied to evaluating the application packets of all persons seeking District-controlled / institutional scholarships, which process rendered each applicant-author anonymous, did not provide their demographic information to the evaluators or decision-makers, and each applicant packet was evaluated by two different persons, it is the finding of the Investigator by a preponderance of the evidence that the District did not engage in "disparate-treatment" type race-based discrimination against its Black / African-American students in selecting which applicants would receive scholarships for the 2018-2019 academic year.

A review of the outcome of the scholarship application and award process is illustrative. That information demonstrated that the percentage of scholarships awarded to Black / African-American students in 2018-2019 roughly tracks the percentage of Black / African-American students enrolled at the College. (*Id.* at p. 4.) Likewise, the evidence provided showed that the percentage of student-applicants who identified as "Black, Non-Hispanic" who received an institutional scholarship award for the 2018-2019 academic year directly tracked the percentage of total applicants for institutional scholarships who identified as "Black, Non- Hispanic." In other

⁴⁶ "Institutional" scholarships means scholarships for which the District reviews the applications, as opposed to "external" scholarships, which are evaluated and awarded by external sources, such as The Ford Foundation, etc.

words, roughly 6% of the total number of applicants for scholarships self-identified as Black, Non-Hispanic, and roughly 6% of the total number of recipients of scholarships were students who self-identified as “Black, Non-Hispanic.”

Accordingly, because the percentage of applicants for institutional scholarships in the 2018-2019 academic year who self-identified as “Black, Non-Hispanic” was roughly equal to the percentage of recipients of institutional scholarships in the 2018-2019 academic year who self-identified as “Black, Non-Hispanic,” it is the finding of the Investigator by a preponderance of the evidence that the District did not engage in “disparate-impact” type race- based discrimination against its Black / African-American students in the number of institutional scholarships awarded for the 2018-2019 academic year. The Investigator further finds, based on a preponderance of the evidence and the blind procedures used in evaluating scholarship requests, that SWC more likely than not did not discriminate against its Black students in the number of institutional scholarships it awarded for the 2018-2019 academic year.

Although there was no allegation that the College discriminated against its Black / African-American students in the amount of total scholarship funds it awarded to its Black award recipients, this Investigator noted the existence of some disparity between the percentage of scholarship funds awarded to applicants who self-identified as “Black, Non-Hispanic” and the percentage of institutional scholarship funds awarded to applicants who self-identified as either “Hispanic / Mexican-American” or “White, Non-Hispanic.” (See Exhibit 64, Scholarship Information received from [REDACTED] dated June 10, 2019, p. 4.)

To illustrate, during the Fall 2018 semester, scholarship applicants who self-identified as “Black, Non-Hispanic” constituted 6.81% of the total number of applicants and they collectively received 6.82% of the total number of scholarships awarded. However, this group of applicants received only 4.83% of the total scholarship funds awarded. (Id.) In contrast, applicants who self-identified as “White, Non-Hispanic” constituted only 11.97% of the total number of applicants but they comprised 13.64% of the award recipients and received 25.29% of the total institutional scholarship funds awarded. (Id.) Furthermore, the students who identified as “Hispanic / Mexican-American” constituted 64.55% of the total number of applicants for institutional scholarships and received 63.64% of the total institutional scholarship funds awarded, which was 59% of the total amount of institutional scholarship funds awarded. (Id.)

In the Spring 2019 semester, the difference in institutional scholarship funds awarded as between these three race groups of applicants was less stark than in the preceding semester, yet it persisted. In this round of scholarship applications, 7.44% of the total number of applicants self-identified as “Black, Non-Hispanic” but those applicants in this group who received awards received, in sum, only 3.52% of the total dollar amount awarded as internal scholarships. (Id.) In contrast, the percentage of applicants who self-identified as “Hispanic / Mexican-American” or “White, Non-Hispanic” was 64.95% and 11.91%, respectively, yet they respectively received 69.61% and 14.18% of the total amount of institutional scholarship funds awarded. (Id.)

The investigator made no finding concerning whether the district’s scholarship application evaluation process had, in practice, a disparate impact on the District’s students who self-identified as being “Black, Non-Hispanic” with regard to the amount of the funds that were awarded scholarship recipients in this classification because no party made any allegation on the issue, thus the investigation did not seek further information regarding the amounts and nature of the individual scholarships awarded to each of the different racial groups of applicants.

3) Allegation that ASO Spent \$6,000.00 on a Coffeemaker and Microwave

During the protest, ██████████ alleged that during the fall 2018 semester, ASO balked at approving funding requests submitted by two SWC Clubs that primarily serve Black students, but spent \$6,000.00 on a coffeemaker and microwave for itself.

However, during her interview, ██████████ indicated that she misspoke on this issue during the protest, and that the cost of the ASO kitchen equipment actually was closer to \$600.00 than to \$6,000.00. This was supported by the Agenda of the ASO Senate meeting at which the purchase of the kitchen equipment was proposed and receipts for the actual purchases. Accordingly, this Investigator finds that the allegation that ASO spent \$6,000.00 on a microwave and a coffeemaker in the fall of 2018 is unsubstantiated by a preponderance of the evidence.

4) Allegation of Race-Based Discrimination Against Black Meeting Attendees During ASO Meetings on October 18 and 25, 2018

During the protest on May 1, 2019, ██████████ alleged that the ASO leadership discriminated against Black students during ASO meetings during the 2018-2019 academic year related to ASO funds and a name-calling incident. When interviewed, ██████████ indicated that during two ASO Senate meetings in the fall of 2018, held on October 18 and 25, 2018, there were discussions regarding approval of the funding of the requests submitted by B2LA and UMOJA to attend the UMOJA Conference in November of 2018. ██████████ indicated comments made during the meeting indicated that the ██████████ thought the same students were in both clubs due to their skin color and their presence at the Senate meeting. She further indicated that then-Senator ██████████ referred to the Black people present at the meeting as a “mob.”

According to a memo prepared by Dr. ██████████ ██████████ ██████████, entitled “Process on ASO Request for Funding Proposals,” student clubs and student organizations can request funds from the ASO to support activities that promote student success, including funds to pay for field trips, speakers, and conference attendance. (See Exhibit 35, Process on ASO Request for Funding Proposals Memo, p. 1.) Such funding requests are made by submitting a completed Request for Funding proposal form to the ASO’s Ways and Means Committee, which reviews all such proposals and decides whether to support the funding request. (Id.) If the Ways and Means Committee does support the funding request, it prepares a Resolution for presentation to the full Senate, for discussion and approval. (Id.) The ASO Senate can approve, amend, or deny the resolution from Ways and Means, through a roll call vote. (Id.)

a) Funding Request by B2LA on October 18, 2018

Having been approved already in the Ways and Means Committee, a funding request and resolution went before the ASO Senate for consideration on October 18, 2018, to award B2LA \$5,000.00 for ten unnamed members to attend the UMOJA National Conference on November 9-10, 2018. (See Exhibit 4, 10/18/2018 ASO Meeting Agenda, Item X-B p. 2.) Although the Agenda item identified B2LA as the group making the funds request, the accompanying draft resolution did not indicate which student club was requesting or would be provided any approved funds. (See Exhibit 4, Senate Resolution 09 (“SR-09”) 18-19, draft and final forms, with 1-pg. attachment.) The language of the “resolution” paragraph stated,

Let it be resolved that the ASO allocates no more than \$5,000 for the Umoja conference being held at the Riverside Conference Center on November 9th through November 10th 2019. [Emphasis added.]

(Id.)

According to ██████████ and student ██████████ B2LA “had significant student representation at the Senate meeting, which provided an opportunity for more discussion and questions.” (Id. at p. 3.) As a result, “several B2LA members spoke to the resolution and answered a total of eight questions from the Senators,” which focused on the following:

1. The need for breakdown of expenses;
2. The difference between B2LA and UMOJA;
3. The mission and purpose of B2LA;
4. Expenses;
5. Whether B2LA planned to request funds next semester;
6. What B2LA meant by “success”;
7. District funding for B2LA and why B2LA needed ASO funding; and
8. B2A fundraising and partial cost of conference.

After receiving responses to the questions asked, the ASO voted to approve B2LA’s funding request, without any reductions, by a vote of 20 YES, to 1 NO.

b) Funding Request by SHPE on October 25, 2018

Having been approved in the Ways and Means Committee, a request and resolution to award \$4,650 to SHPE to attend the SHPE National Conference in November 2018 went before the Senate for consideration on October 25, 2018. In comparison to B2LA the week before, SHPE had only one representative at Senate meeting. SHPE’s ██████████, who also was the ASO’s ██████████, addressed the resolution and answered the Senators’ three questions, which centered on the following:

1. Whether ASO funds would fund the club advisor to attend the conference.
2. Whether SHPE would look for other funds to pay for the conference.
3. The number of students attending the conference.

The same three individuals posed the questions to B2LA, SPHE, and UMOJA concerning their funding requests.

Having received answers to the questions posed, the Senate voted unanimously to approve SPHE’s request for \$4,640.

c) Funding Request by UMOJA on October 25, 2018

At the same ASO meeting on October 25, 2018, the ASO Senate also reviewed, discussed, and approved a funding resolution that sought an allocation of funds in the amount of \$3,500.00 for unnamed students to attend the National UMOJA conference in November, which had previously been approved in the Ways and Means Committee. (See Exhibit 5, ASO Meeting Agenda, Item X-C, dated October 25, 2018, p. 2.) Neither the agenda item nor the accompanying draft resolution at the ASO meeting on October 25, 2018, identified which person, club or organization was requesting the funds to attend the UMOJA conference. (Id.) The draft resolution also included attachments that contained conflicting information, indicating that 14 unnamed people would be going to the conference, but requesting funds to house 18 people. (See Exhibit 5, unnumbered draft resolution with 2-pg. attachment.) The key language in this resolution document stated:

Whereas: ... members of the student body have been asked to convene in a (sic) Umoja Conference to be held on November 8th through November 10th of the present year in Riverside Convention Center. ¶

... Let it be resolved: The ASO will allocate no more than \$3,500 for the cost of transportation and accommodations. See Attachment for Breakdown of costs.

(See Exhibit 5, SR-19 18-19, approved resolution with 1-pg. attachment.)

As with SHPE, UMOJA was asked a total of three questions concerning its funding request:

1. Whether this was the same conference that B2LA was funded to attend and if so, then why UMOJA needed more money;
2. How UMOJA is funded; and
3. The mission and purpose of UMOJA.

An [REDACTED] who, at the time also was an UMOJA member, spoke to the resolution and answered the Senators' questions. Having received answers to the questions it posed, the Senate approved UMOJA's full funding request of \$3,500 by a vote of 15 YES, 1 NO, and 2 Abstentions.

d) District Review of ASO Funding Allocation Requests Meetings' Audio Recordings and Written Report by [REDACTED] [REDACTED] [REDACTED]

Subsequently, student members of UMOJA and B2LA approached [REDACTED] and expressed concerns that they had been "asked more questions than other groups and that they needed to provide more justification as to the merits of their proposal than other groups" who requested funding from the ASO during fall 2018. As a result, [REDACTED] requested that the Office of Student Services review the procedure and provide recommendations. (See Exhibit 35, Memo by [REDACTED] dated April 29, 2019.)

On February 13, 2019, [REDACTED] [REDACTED] [REDACTED] and [REDACTED] [REDACTED] reviewed the audiotapes of the ASO Senate meetings held on October 18 and October 25, 2018. Thereafter, [REDACTED] sent an email to [REDACTED] her direct supervisor, describing what she heard at those meetings with regard to the discussion of the funding requests by B2LA, UMOJA, and the Society of Hispanic Professional Engineers ("SHPE"). (See Exhibit 8, Email from [REDACTED] to [REDACTED] dated 2/13/2019.) In her email, [REDACTED] noted that "a few ASO senators who also were members of these organizations advocated for the request and answered questions." She continued:

In listening to the tape recordings, it was clear that there were more questions directed to B2LA than to either UMOJA or SHPE, while UMOJA received more questions than SHPE. In addition, it was clear that most of the questions came from three members of the ASO, including the [REDACTED] [REDACTED] and Student Trustee [REDACTED]. Issues raised by the [REDACTED] and Student Trustee included a possible motion to limit the amount of ASO funds given to any organization and the responsibility of the District to fully fund Learning Communities and college organizations. In the end, each of the requests for funds was passed by the ASO Senate.

As a result, [REDACTED] recommended that: (1) Individual meetings be held with the [REDACTED] and Student Trustee regarding their leadership roles within the ASO; (2) mandatory implicit bias

training be required for all ASO Executives and [REDACTED] (3) a rubric scoring sheet be created to accompany all requests for ASO funds in order to provide objective scoring criteria for Ways and Means Committee; (4) there be a discussion as to the definition and requirements to be a “club;” and (5) there be a discussion at the District level regarding funding for learning communities and other District organizations / services (i.e., EOPS Club, Jag Kitchen Club). (Id.)

Thereafter, [REDACTED] produced a four-page document dated April 29, 2019, which addressed in greater detail the meetings and related concerns raised by students with [REDACTED] (See Exhibit 35, Memo by [REDACTED] dated April 29, 2019.) This review included [REDACTED] review the recordings of ASO Senate meetings on October 18 and 25, 2018, reviewing the minutes of those meetings, and reviewing all Senate allocation approvals from the fall 2018 semester. (Id.) In her report, [REDACTED] identified the following funding allocation requests and awards that went to the Senate for a vote in the Fall 2018 semester:

\$5,000 awarded to:	B2LA
\$5,000 awarded to:	Hip Hop Rebels
\$5,000 awarded to:	Nursing
\$4,640 awarded to:	SHPE
\$3,889 awarded to:	Ceramic Arts
\$3,500 awarded to:	UMOJA
\$3,000 awarded to:	Bayan Scholars
\$3,000 awarded to:	Child Development
\$ 800 awarded to:	Pagkakaisa

Accordingly, [REDACTED] determined that ASO allocated \$33,829 to student Clubs and organizations in the fall 2018 semester only.

In her report, [REDACTED] also provided the status on several previously recommended actions and she made a number of additional recommendations to improve the process and avoid any appearance of bias. Specifically, [REDACTED] memo indicated the following:

- (1) Conversations had already occurred between members of the ASO Executive Board regarding specific leadership roles within the ASO and implicit / explicit bias and equity-minded leadership;
- (2) These discussions were continuing through mentoring [REDACTED]
- (3) The [REDACTED] had provided an implicit bias training for ASO executives, senators, and club members at a March 2019 retreat;
- (4) The [REDACTED] had begun individualized conversations with members of B2LA and UMOJA in an effort to strengthen relationships with both clubs and demonstrate leadership as an equity minded leader; and
- (5) The District had budgeted funding from the General Fund for culturally focused learning communities (e.g., UMOJA, Puente, and Bayan).

In her memo of April 29, 2019, [REDACTED] also provided the following conclusions with regard to the funding concerns that had been raised:

- There was confusion around the process for funding student Clubs and organizations,

and regarding how funding was assigned to a Learning Community versus to a Club;

- The first funding request received (from B2LA, for \$5,000) generated the most (8) questions in the Senate, compared to the later-received funding requests submitted by SPHE and UMOJE, both of which received only three questions;
- The questions to each group regarding their respective funding requests were posed by the same three ASO members; and
- Each of the student clubs received the full amount of funds sought through their respective Request for Funding proposals.

(Id.)

Regarding future action, ██████████ recommended the following:

- (1) The District work with ██████████ to provide implicit / explicit bias training for ASO executives and senators during the spring 2019 semester;
- (2) ██████████ to provide mandatory implicit / explicit bias training for future ASO leaders. (3) The ASO Ways and Means Committee, with assistance from the ██████████ ██████████ is creating a rubric to be used with all Request for Funding proposals, to provide committee members with an objective approach to evaluating funding requests. (4) After the rubric is fully developed, provide it to all clubs and organizations with appropriate training to request funding, thereby empowering the student groups to prepare well-constructed funding proposals. (5) The District will establish a clear definition for Learning Communities and student clubs, including whether District supported organizations are eligible to serve as clubs and request funds (i.e., EOPS Club, Jag Kitchen Club, leaning (sic) communities.

e) Findings Regarding Fall 2018 Issues

While providing important information and likely useful recommended actions, neither of ██████████ ██████████ analyses addressed the confusion caused by the wording of the ASO meeting agendas and the resolutions for B2LA's and UMOJA's requests for funds to attend the same conference. Specifically, Item X-B ("Umoja Conference") on the agenda for the ASO Senate meeting of October 18, 2018, identified B2LA as the club requesting the funding. However, while both noted in the second "whereas" clause that the conference was "for Umoja students," neither the draft resolution nor the approved resolution (SR-09 18-19) identified the club for whom the funds were being allocated.

Similarly, in Item X-C (also titled "Umoja Conference") on the agenda for the ASO Senate meeting on October 25, 2018, the third "whereas" clause in both the draft and approved version of the resolution stated, in pertinent part: "In order to increase and promote Umoja and the further integration and participation of our African American Student body, members of the student body have been asked to convene in a (sic) Umoja Conference to be held November 8th through November 10th of the present year...." However, the agenda item did not identify the club that was requesting the funding. Similarly, neither the draft resolution nor the approved resolution for Item X-C identified the club that was requesting the funds. Further, although it did include two pages of attachments on the letterhead for the UMOJA Learning Community (not

the UMOJA Club), the attachments provided two significantly different cost breakdowns in support of the funding request.

As further indicated above, although most, if not all, of the questions to the three student groups during the meetings at issue were posed by Student Trustee and *ex officio* [REDACTED] then-Senators [REDACTED] and/or [REDACTED] and [REDACTED] also spoke. However, there is no indication in either of her documents that [REDACTED] contacted these individuals, or anyone else present at the Senate meetings, to seek information that would provide a more complete picture of what occurred. Accordingly, while [REDACTED] analysis is helpful in a number of areas, it did not provide a complete picture.

Accordingly, a review was conducted of the agendas and resolutions of the Senate meetings of October 18 and 25, 2018, and November 1, 2018, interview transcripts of persons who attended the ASO meetings held on October 18 and 25, 2018, and November 20, 2018, and the audio recordings of the Senate meetings held on October 18 and November 20, 2018⁴⁷. This review revealed that the ASO Senate was considering one or more amendments to the ASO Constitution and/or its Bylaws in the same time range as the two requests for funds to attend the UMOJA conference were being addressed. The evidence further revealed that multiple people were unclear on why the ASO received requests from two different groups to attend the same conference and the purpose for which the funds would be used. Additionally, the documents were vague and lacked information about which club was requesting the funds. Furthermore, witness [REDACTED] indicated that many of the same people attended the Senate meetings of October 18 and 25, 2018 in relation to the two funding requests. As a result, this investigator finds that it was reasonable for [REDACTED] to have questions and confusion regarding the requests for funds by both UMOJA and by B2LA to attend the same conference.

At the same time, information provided by [REDACTED] [REDACTED] and [REDACTED] demonstrated that [REDACTED] was supporting a proposed revision to the Constitution and/or Bylaws that would limit the annual and/or per-semester maximum payouts to individual clubs, based on concerns as to whether there was enough money for those same clubs, as well as other student clubs, to be funded during the other semester in any academic year. The evidence was clear that [REDACTED] was focused on the idea that B2LA and UMOJA did not do any fundraising in support of their requests for funds each year, and instead sought ASO funds without putting any “sweat equity” into the travel or other event for which the club members were seeking funds.

It is further the finding of the Investigator that the evidence sufficiently demonstrated that [REDACTED] [REDACTED] was adamant that District programs needed to be funded by District funds, rather than the District requiring its students to fund District projects (i.e., any of the Learning Communities or their annual travel components) through the use of the students’ funds. These were political issues being debated among the [REDACTED] and others at the time. This political atmosphere and the various proposals and countervailing needs being discussed in the ASO meetings of October 18 and 25, 2018, contributed to the discussion of B2LA’s and UMOJA’s requests for funds.

It also should be noted that the demeanor, personality, and conversational styles of several ASO Student Senators who were the most interested in amending the Constitution to impose spending caps in the fall of 2018, and who were involved in the decisions regarding the approval of funds, may have also contributed to the negative perceptions regarding this issue. Given their

⁴⁷ The Investigator requested, but did not receive, an audio recording of the Senate meeting held on October 25, 2018.

understanding of and interest in the ASO's rules and governing structures, combined with their own personal style and manner of communicating, the conduct of some individuals, including [REDACTED] [REDACTED] [REDACTED] and [REDACTED] in and out of ASO meetings may have come across as arrogant, condescending, superior to others, and otherwise rude. This Investigator finds it is more likely than not that the perception created by the conduct of these students left some staff and other students who encountered them with a negative impression, which caused them to be distrusted and thus to be more likely to have the worst believed about each of their motives and intentions.

5) [REDACTED] Referring to Students as “Mobs” at the ASO Meeting on November 20, 2018

At the ASO Senate meeting in November 20, 2019, the possible amendment of the ASO Constitution's Bylaws and one or more funding requests for a group other than B2LA or UMOJA was discussed at length. Upon review of the audio recording of the meeting, it was confirmed by this Investigator that then-Senator [REDACTED] twice used the word “mob” in reference to certain persons attending that meeting. [REDACTED] comments were made in the course of a somewhat emotional argument he made following a discussion and vote related to amending the Bylaws concerning the annual amount and timing for making funding requests. Immediately preceding [REDACTED] comments, [REDACTED] had been discussing whether or not to increase the maximum amount that can be distributed to any one club to \$6,000 annually and whether or not to split that total amount between two semesters (i.e., \$3,000 per semester if the annual cap is \$6,000), for several different reasons. His full comment during this part of the meeting was:

So, based off of the current wording [of the proposed Bylaw amendment], does that mean that we should charge the student services fee to all entities on campus, because all entities can benefit from this?

And also, furthermore, I would like to remind you, we are – we as a people are ... values recognized as a minority ... we fight every day toward the opinions of the little person.... We, the ASO, echo the voices of all our students. Now before you, you see a large group trying to dictate how this money of the ASO should be distributed. This mob is trying to dictate how the money of the students should be distributed --

-- [voices erupt... “Shhhh...”] --

The last time a mob tried to dictate equal opportunity, we, the people, won. We, the people, decide. We should provide equal opportunity for all, not equal opportunity for the few. Today we vote to pass an RFF limit. Remember how we are not here to stand for the few. We are here to stand for all people.

-- [voices] --

Thank you.

It is clear to this Investigator that [REDACTED] understood [REDACTED] use of the word “mob” to be pejorative and directed toward herself. Merriam-Webster defines the word “mob” as “a large and disorderly crowd of people,” but also offers alternate definitions, as follows:

- a large and disorderly crowd of people especially : one bent on riotous or destructive action
- informal : a large number of people
 - a mob of shoppers clogged the aisles
 - a team greeted by mobs of fans
- a criminal set : GANG especially, often capitalized : MAFIA sense 1
 - a member of the Mob
 - a mob informant
- old-fashioned : the common people : MASSES

(See <https://www.merriam-webster.com/dictionary/mob.>)

When asked during her interview to identify to whom ██████████ was referring in making that remark, ██████████ indicated that she believed he was referring to “the Black community” in its entirety. However, ██████████ indicated that he understood the comments by ██████████ to be referring to himself based on ██████████ physical gesture toward the part of the room where ██████████ was located, but that the comments were made in the context of a large funding request that had been made by a “Mexican” group, and not in reference to anything having to do with any of the Black students present.

Based upon the audio recording of the ASO Senate Meeting on November 20, 2018, the Investigator finds that ██████████ referred to a group of people attending the meeting as “mobs” or a “mob,” and that ██████████ was subjectively offended by his use of that word. However, due to ██████████ failure to respond to this Investigator’s interview request, the lack of access to any visual recording of his comments on this occasion, and conflicting interpretations by other witnesses as to who was being referenced by ██████████ comments, this Investigator cannot determine which, if any, of the three definitions of the word “mob” he was employing when he used it during the ASO meeting of November 20, 2018, nor can a determination be made as to whether there was a conscious bias or other motivation for his actions.

c. Team Elite Grievance Against ██████████ for “Mocking” Team Elite, dated April 26, 2019

1) Allegations Contained in the Grievance Regarding the Comment by ██████████

On April 25, 2019, student ██████████ reported to ██████████ via text or Facebook message, that Team Green member ██████████ had somehow “mocked” Team Elite for billing itself as the District’s “first all-Black” team of ASO candidates while in the ASO cubicle area on an unspecified date and time within the past several weeks. She further asked ██████████ not to tell anyone that ██████████ had told her. (Exhibit 26, Transcript of Text / Facebook Chat.) ██████████ recollection of what she heard ██████████ say was vague and not definite, but she generally indicated that ██████████ made his comments to ██████████ and ██████████ ██████████ was alleged to have disliked ██████████ and admitted that to be true.

██████████ indicated that she had initially decided against making a report based on ██████████ report to her. However, she indicated that within about an hour of receiving information

from ██████████ another person (“Anonymous #2”) sent her an anonymous text or email raising a similar allegation against ██████████ This anonymous message also did not include any specific information, the content of ██████████ purported comments, or the date or time that the incident allegedly occurred. (Exhibit 27, Anonymous #2, Statement #1, dated April 25, 2019.) ██████████ was upset by the information she received and, after checking with her Team Elite teammates, filed a grievance the next day.

In the Grievance she filed on behalf of Team Elite on April 26, 2019, ██████████ alleged that, while in or near the Phi Theta Kappa cubicle within Southwestern College’s ASO building late on a Monday or Wednesday afternoon during the month of April 2019, ██████████ said something, in a “mocking” or otherwise derogatory tone, that related to Team Elite “running as an all-Black team” in the College’s ongoing ASO election, and that at least two people audibly laughed. (Exhibit 29, Team Elite’s Grievance, dated April 26, 2019, with two attached witness statements.)

2) Scheduling of the Election Board Meeting Regarding Team Elite’s Grievance

The ASO Constitution provides that meetings of the Election Board are to be noticed in advance by the posting of an agenda at least 24 hours prior to the meeting. (ASO Constitution, Article VII, § 8, Cl. 1.) On Monday, April 29, 2019, Elections Coordinator ██████████ notified all the candidates by email that there would be an “emergency” meeting of the Election Board that morning regarding Team Elite’s Grievance, which she attached. (Exhibit 32, Email from ██████████ dated April 29, 2019.) The Election Board then met regarding Team Elite’s Grievance on April 29, 2019.

Student and former ██████████ objected to the meeting proceeding on April 29, 2019, because no agenda had been posted 24 hours in advance, as required. ██████████ also submitted a grievance to the ASO’s judicial branch, known as the Student Judicial Review Board (“SJRB”) on the issue. (Exhibit 38, Email from ██████████ dated April 29, 2019.)⁴⁸ Student Trustee ██████████ who at least some Team Green members (including himself) viewed as the team’s Campaign Manager, also repeatedly orally objected to the Election Board proceeding with its meeting on April 29, 2019, due to the lack of notice and failure to timely post an agenda for the meeting.

It is undisputed that neither ██████████ nor any other person posted an agenda at least 24 hours in advance of the election board meeting of April 29, 2019. However, notwithstanding the objections of ██████████ and ██████████ regarding the lack of notice and failure to meet the 24-hour timeline, ██████████ decided to proceed with the election board meeting on April 29, 2019, because he felt the issue raised in Team Elite’s Grievance was too sensitive to wait.

The investigator finds it is more likely than not that proceeding with the election board meeting on April 29, 2019, was in violation of the ASO Constitution in that it was not properly noticed and agendaed, and it therefore should not have taken place. This Investigator further finds it is more likely than not that the objections of ██████████ and ██████████ were warranted. Although the manner in which ██████████ raised his objections was likely done in a manner that many found

⁴⁸ The SJRB did not meet on ██████████ grievance because the ██████████ had not filled all vacancies on the SJRB, as required. Ultimately, ██████████ withdrew his grievance to the SJRB because the Election Board finally provided the required 24-hours’ notice before it reconvened to decide Team Elite’s Grievance on May 2, 2019.

to be offensive and a demonstration of his partisan position, the Investigator finds it is more likely than not that it was nevertheless appropriate for ██████████ to raise the issue of the Election Board's failure to comply with the Constitutional requirement for posting an agenda at least 24 hours before beginning an election board meeting. Finally, it is the finding of this Investigator that ██████████ conduct in continuing with the meeting over the objections of ██████████ and ██████████ and despite the requirements of the ASO Constitution, demonstrated bias in favor of Team Elite and against Team Green.

However, the only action that the Election Board took on April 29, 2019, was to request additional information. ██████████ proposed that he and ██████████ would talk to the two anonymous witnesses and bring back more information to the parties and the Election Board. Accordingly, a decision was made by the Election Board to delay making a decision on the grievance until more information was gathered on the allegations. The meeting was then ██████████ for the day with a plan to reconvene another day. Accordingly, under the particular circumstances of this case, no decision was made by the Election Board on Team Elite's Grievance during the meeting on April 29, 2019, and the election board meeting of May 2, 2019, at which the Election Board reconvened, was properly noticed and agendized. Accordingly, this Investigator finds the failure to post an agenda on April 29, 2019, to be harmless error from a legal perspective, because it was cured when a properly-noticed election board meeting concerning Team Elite's Grievance was held on May 2, 2019. The Election Board's failure to follow said procedural rules based on information provided by the ██████████ did, however, cause tremendous strife and stress among the District's affected students, faculty, staff, and administrators, as well as negative publicity for the District in the form of newspaper articles in print and in the online news media.

It should be noted that although not raised in the Team Green Grievance, ██████████ also apparently conducted an un-noticed election board meeting regarding Team Green's grievance on April 23, 2019. However, no one raised an objection to his doing so at the time, nor did anyone file a timely grievance with the SJRB regarding the lack of notice for that meeting. In particular, ██████████ indicated that he was not aware that the Election Board had met on April 23, 2019, because no agenda was posted for that election board meeting. Accordingly, it is further the finding of the Investigator that the meeting held on April 23, 2019, was also likely in violation of the ASO Constitution and therefore should not have taken place.

3) Conduct of the Grievance Meeting on April 29, 2019

As indicated above, on April 29, 2019, an "emergency" meeting was called by the ASO ██████████ ██████████ to discuss issues relating to the Team Elite Grievance filed against Team Green. Under Section 1 of Article VII of the ASO Constitution, the Election Board generally has the authority to conduct the ASO general elections and is responsible to police candidates' campaigns and ensure their equitable adherence to the Election Code. Under Section 7, Clause 2, of Article VII of the ASO Constitution, the Election Board is required to "act as the decision-making body in cases and controversies dealing with questions of Election Code interpretation and may make decisions regarding areas not covered by the Election Code pertaining to the elections process...." (ASO Constitution, Art. VII, §7, cl. 2.) Section 6 of the ASO Election Code, which is found in Article VII of the Bylaws to the ASO Constitution, establishes the ASO "Telecommunications & Social Media Policy." Under Paragraph 9 of the Telecommunications & Social Media Policy, "campaigning shall not be abusive, libelous/slanderous, or in any way deleterious to competitors, competitors campaign members, or any other person or organization." (ASO Bylaws, Art. VII, § 6, cl. 5, ¶ 9.) The Election Code further states, in pertinent part, "The person presenting the complaint and the candidate in question must appear before the Election Board with any witnesses." (ASO Bylaws, Art. VII, §10, cl. 7.)

During the election board meeting of April 29, 2019, ██████ described the Team Elite Grievance, and ██████ read aloud the typed statements of ██████ and Anonymous #2. Neither witness appeared at the meeting, nor were they identified by name. However, ██████ represented to ██████ that she knew who both of the anonymous witnesses were. ██████ also understood that ██████ knew the identity of both of the anonymous witnesses. However, when ██████ asked during the hearing to be informed of the identity of the anonymous witnesses in order to try to understand the vague complaint against him, ██████ denied his request.

In addition, during the election board meeting of April 29, 2019, both ██████ and ██████ attempted to present information concerning their whereabouts at the times that appeared to be in question. ██████ offer of proof was that he was in class from 2:55 p.m. to 4:30 p.m. on Mondays and Wednesdays, that he had attended all of his Monday and Wednesday afternoon classes during the month of April 2019, and that he could provide proof of that attendance to the Election Board. As a result, he asserted that he could not have been in the ASO at the time in question. In response to ██████ offer of proof, ██████ stated that ██████ could not use class attendance as an “alibi,” or words to that effect.

The Investigator finds it is more likely than not that ██████ indication during the meeting of April 29, 2019, that ██████ was not required to inform ██████ of the identity of the witnesses against him, was in violation of Clause 7 of Section 10 of Article VII of the ASO Constitution.⁴⁹ The Investigator further finds it is more likely than not that ██████ told ██████ during election board meeting that his alibi would not be considered as exculpatory evidence, and that the Election Board did not consider ██████ evidence on that point.

It is further the finding of this Investigator that it was not proper for ██████ to deny ██████ the ability to use his attendance at class as an “alibi” to the allegations against him. The Investigator finds, rather, that ██████ evidence should have been permitted to be presented to the Election Board for its consideration during a properly noticed and agendized meeting, without comment from ██████ as to its sufficiency. It is well settled that precluding an accused party from presenting potentially exculpatory evidence is a denial of due process in that it deprives the party of the right to present a defense. (People v. Lucas (1995) 12 Cal. 4th 415, 464.) The Investigator further finds that ██████ conduct tends to support a finding that ██████ was biased against Team Green and in favor of Team Elite.

d. Subsequent Investigation into the Allegations of the Team Elite Grievance

After hearing the allegations during the election board meeting of April 29, 2019, there was confusion among many students regarding the allegations against ██████ ██████ and others members of Team Green further specifically asked to know the identity of the anonymous witnesses and to have more specific information on the substance of their allegations so that they would know how to defend themselves.

After she heard the allegations against ██████ in the election board meeting of April 29, 2019, student ██████ remembered having heard ██████ say something in the PTK cubicle one afternoon in April that made her wonder why he said that in the cubicles, as doing so could

⁴⁹ “When presented with a violation, the Election Board must convene ... to review the matter. At that time, the person presenting the complaint and the candidate in question must appear before the Election Board with any witnesses. ...” (ASO Constitution, Art. VII, § 10, cl.7.)

get him disqualified from running. ██████████ therefore approached ██████████ directly after that election board meeting and described this to him, including telling him that she couldn't remember what he said that made her think that. ██████████ told ██████████ that he knew he had not done anything wrong, but that he would not try to stop her from sharing her thoughts with others, or words to that effect. ██████████ indicated to the Investigator that her understanding of the rules governing the election were that the candidates were not allowed to use the cubicles in the ASO building for any campaigning activities whatsoever. Thus, when she heard ██████████ say something that related or referred to the other team, she was concerned that someone might think that whatever he said constituted prohibited campaigning in the cubicles.

On April 30, 2019, ██████████ and ██████████ met ASO Executive Secretary ██████████ (known as Anonymous Witness #1.⁵⁰ (Exhibit 36, Second Statement by Anonymous #1.) Later that day or the next, ██████████ approached ██████████ on Team Elite and told her what she had told ██████████ ██████████ took ██████████ to ██████████ who called ██████████ on his cell phone. ██████████ orally shared with them the same information that she discussed with ██████████ directly after the election board meeting of April 29, 2019. After agreeing to be a witness, ██████████ prepared a handwritten statement that she provided to ██████████ ██████████ handwritten statement stated she heard ██████████ say something in the PTK cubicle one afternoon in April, but that she did not remember what he said. She further indicated that after he made the comment, she wondered why he said whatever it was he said in the cubicle where anyone could hear him.

e. Rescheduling of Election Board Meeting to May 2, 2019

Also on April 30, 2019, information was disseminated indicating that the Election Board would reconvene to meet on the Team Elite Grievance the next day, May 1, 2019. ██████████ again objected due to the failure to post an Agenda at least 24 hours before the meeting time. The meeting was then rescheduled and properly noticed to occur on Friday, May 2, 2019, which was the last voting day of the election.

f. May 1, 2019 Protest Allegations

On May 1, 2019, Team Elite held a protest regarding its concerns relating to the Team Elite Grievance and the election board meeting of April 29, 2019. In the course of Team Elite's protest of May 1, 2019, ██████████ raised several allegations in addition to the allegations of race-based discrimination addressed above. Specifically, ██████████ also stated during the protest of May 1, 2019, that: (1) The Election Board should have completed its deliberations on the Grievance against Team Green during the Election Board meeting of April 29, 2019, and that (2) even assuming a continuance of the meeting on her Grievance was appropriate, then the Election Board should have completed its deliberations by May 1, 2019.

1) Allegation that Election Board Should Have Concluded the Hearing on Team Elite's Grievance at its Meeting on April 29, 2019

As indicated above, under the ASO Constitution, an agenda of a meeting of the Election Board must be posted at least 24 hours in advance of all such meetings. Accordingly, the Investigator found that because this requirement was not met, the Election Board meeting of April 29, 2019, was improperly held. For the same reasons, any formal action that would have been taken during

⁵⁰ ██████████ and ██████████ did not meet with Anonymous #2, who through an email to ██████████ refused their request to meet. (Exhibit 37, Second Statement by Anonymous #2.)

this meeting would have been void based on the failure to post a timely agenda in accordance with the required procedures. As a result, the Investigator finds that the Election Board should not have concluded the meeting on the Team Elite Grievance at the improperly held meeting on April 29, 2019.

2) Allegation that the Election Board Should Have Conducted the Hearing on Team Elite's Grievance on May 1, 2019, as Initially Scheduled

For the same reasons as above, this Investigator finds that the decision not to reconvene the Election Board meeting concerning Team Elite's Grievance on May 1, 2019, but instead to properly schedule and notice it for May 2, 2019, was proper given that holding the meeting on May 1, 2019, would have again resulted non-compliance with the 24-hour notice requirement.

g. Post to Instagram Account - *swccharterinsomaliland* on May 1, 2019

On May 1, 2019, the attention of [REDACTED] and Services, was drawn to an Instagram Account called ***swccharterinsomaliland*** when materials created by her office were re-posted to that account. [REDACTED] noticed that the Instagram Account also contained some footage of the protest by Team Elite that had occurred earlier in the day. [REDACTED] was disturbed by the account immediately, so she printed out some of its materials and provided it immediately to the District's Superintendent / President, [REDACTED]

[REDACTED] closely reviewed the materials that [REDACTED] sent her on the evening of May 1, 2019, and forwarded them to the District's [REDACTED]. Because the Black Student Union had "followed" the Instagram Account and "liked" posts on that account, [REDACTED] thought that [REDACTED] might recognize the Instagram Account, given her years of exposure to and knowledge of District students through her work providing counseling services to students. [REDACTED] therefore also sent the materials to [REDACTED] to ask if she had seen it before or had any information about it. She also sent the screenshots to the members of the District's Governing Board to alert them to the issue and she began trying to research the Instagram Account on the internet herself.

[REDACTED] was disturbed by the Instagram Account posts and forwarded them to some members of the Southwestern Black Alliance, including [REDACTED] to see if they had information about them. As [REDACTED] noticed that the BSU was listed as a "follower" of the Instagram Account and immediately contacted the student who [REDACTED], [REDACTED] and questioned him about the account and BSU being one of its followers. [REDACTED] reviewed the materials and determined that someone must have changed the name of the account after the BSU started following it. After communicating with [REDACTED] [REDACTED] informed [REDACTED] that the Instagram Account was not being run by any member of the BSU.

This Investigator finds it to be more likely than not, based on a preponderance of the evidence, that the name of the Instagram Account was not changed at any time while it was in operation from roughly January 2019 through early May 2019, during which time its handle was ***swccharterinsomaliland***. This Investigator further finds that the BSU, Team Elite, and other individuals and associations who "followed" the Instagram Account or "liked" any of its posts did so while the Instagram Account was operating under that name.

The Investigator also finds, more likely than not, that on the night of May 1, 2019, ██████████ ██████████ contacted student ██████████ and provided him with screenshots of the Instagram Account and, generally speaking, asked him to find out what that Instagram Account was, why the Black Student Union was following the Instagram Account and liking its posts, and where the Team Elite material on that page came from. The Investigator finds, more likely than not, that until ██████████ contacted him about it on May 1, 2019, ██████████ had not been paying any attention to the Instagram Account or the content of its posts.

The Investigator further finds, more likely than not, that during the night of May 1, 2019: in attempting to determine who created the recording of the protest that was posted to the Instagram Account, ██████████ reviewed his own footage of the protest and compared it to the footage posted on the Instagram Account, among other things. Based upon his review of the video footage, ██████████ (erroneously) concluded that either ██████████ or ██████████ had recorded part of the protest and posted that recording to the Instagram Account. ██████████ then communicated his opinion and related documentation to ██████████

However, ██████████ conclusions were inaccurate. During the course of this investigation, Mr. ██████████ ██████████ a SWC student not affiliated with either of the teams of candidates, admitted to this Investigator that he created the subject Instagram Account in approximately January of 2019, under the name **swccharterinsomaliland**. ██████████ indicated that he created the Instagram Account as a parody designed to make fun of what he viewed as the “ridiculous” politics of Southwestern College. ██████████ further admitted that on May 1, 2019, ██████████ posted his own recording of Team Elite’s protest to his Instagram Account, which included text that relayed what he believed to be a parody of the College’s “ridiculous” politics. ██████████ stated that he created the captions for the pictures he posted on the Instagram Account in a manner designed to look like the author was Black / African American. He indicated that his reason for doing so was because he thought that Black readers of the posts would be more likely to think they were funny if they thought they were posted by another Black person.

██████████ admissions are further supported by video evidence. At the Team Elite protest on May 1, 2019, video footage taken in the area outside the ASO building by the District’s security cameras during the protest shows a group of four people standing on a small grassy area. That group included Team Green ██████████ ██████████ Izábal, ██████████ and ██████████ and a fourth student, ██████████ who was not affiliated with either team. At 11:31:36 a.m., ██████████ can be seen walking up behind the aforementioned group and taking out a phone. At 11:31:39 a.m., ██████████ can be seen holding up his phone and recording about three seconds’ worth of the protest. He then turned, put away the phone, and left the area.

██████████ also admitted that he was the only person who posted material to the Instagram Account (other than likes and follows) and that he did not change the Instagram Account’s name at any time after he created it. Mr. ██████████ further admitted that he deleted the account as soon as he was informed by ██████████ that there had been controversy involving it.

The Investigator accepts ██████████ admissions, supported by the evidence, and adopts them as the findings of this Report. This Investigator also finds it is more likely than not that Team Green members ██████████ ██████████, ██████████ and ██████████ did not know about or contribute to the Instagram Account before learning of it in the election board meeting of May 2, 2019. The Investigator further finds that Mr. ██████████ alone recorded the video at issue and posted it to his **swccharterinsomaliland** Instagram Account.

h. Issues Relating to the Election Board Meeting of May 2, 2019

1. Determination of the Team Elite Grievance Against ██████████

On May 2, 2019, the ASO Election Board met to address Team Elite's Grievance in a properly-noticed and agendized meeting. In that meeting the written statements of ██████████ (then known as Anonymous #1) and ██████████ were read aloud. The written statement of Anonymous #2 was no longer being asserted by Team Elite as evidence, according to ██████████ in large part due to the fact that the witness refused to meet with Advisor ██████████ and ██████████ and because ██████████ herself doubted the veracity of Anonymous #2 by that time. Nevertheless, the written statement of Anonymous #2, which was dated April 27, 2019, was read aloud during the election board meeting of May 2, 2019, and Election Board member ██████████ stated that the Election Board considered it as part of the evidence during deliberations.

Although their statements were read aloud into the record, neither ██████████ Anonymous #2, nor ██████████ appeared as witnesses at the Election Board meeting of May 2, 2019. As a result, neither ██████████ nor anyone on his behalf, was permitted to pose any questions to any of them during the hearing or test the credibility of their statements through presenting evidence of bias, etc.

Ultimately, the Election Board determined that ██████████ made a comment of some sort related to Team Elite but also that it would not disqualify him from being a candidate in the election. The Election Board also issued an action plan that required ██████████ to (1) publicly apologize to Team Elite on May 2, 2019, (2) to "publish" an apology "with an action plan to help restore the community" by Monday, May 6, 2019, and (3) to facilitate or otherwise help to lead a future "mandatory retreat meeting" to be attended by all of the candidates. In addition, the Election Board's plan of action "required" that every candidate participate in an implicit bias training before the fall 2019 semester. Finally, the Election Board's decision included an expressed desire "to establish counselors, or inclusion coaches, provided by the Jones [Group]," and expressed encouragement for all students to utilize the District's Wellness Center and Student Equity Department. (Recording of election board meeting held on May 2, 2019, at 1:23:37 – 1:26:54.)

In contrast to his statement to the Election Board on April 29 2019, when questioned by this Investigator on the issue of his class attendance, ██████████ remembered that there had been one Monday or Wednesday afternoon in April when he did not go to the class that he told the Election Board about, due to his having another elections-related commitment to attend. He represented that he did not think he was, but that it was possible that he might have been, in the ASO cubicles area briefly in the afternoon on that day. ██████████ did not remember the date of his absence from the class at issue or what the election-related activity was. Regarding his actions in the cubicles area, ██████████ informed both the Election Board and the Investigator that he never made any kind of race-based, derogatory, or mocking statement concerning Team Elite, whether in the club cubicles or elsewhere.

Having reviewed all of the available evidence in this investigation, this Investigator finds that it is more likely than not that ██████████ did make a comment in the PTK cubicle one afternoon in April 2019 that related in some way to Team Elite, which talking was generally heard by ██████████ and ██████████. However, there is insufficient evidence to establish what the content of ██████████ comment was, whether either witness heard the content of what he said, or whether that unknown content was derogatory toward Team Elite. To the contrary, ██████████ indicated that she heard ██████████ make a comment in the PTK cubicle that afternoon which she thought might be construed as campaigning in the cubicles, which she knew to be against the rules. However,

██████████ did not indicate that what ██████████ said was derogatory regarding Team Elite.

In addition, ██████████ asserted in her April 25, 2019 text communications with ██████████ that ██████████ made race-based, derogatory comments about others to her at other times, in addition to what she said she overheard in the cubicle on the April afternoon in question. However, no evidence that tended to corroborate that assertion was discovered in this exhaustive investigation. Accordingly, it is the finding of the Investigator that ██████████ allegation on this point is not substantiated.

a) The Presentation of Evidence / Witness Statements on Team Elite's Grievance

The ASO Constitution provides that when a Grievance is brought to the Election Board, the grievant, the accused candidate, and the witnesses are to appear at the Board's meeting that is called to address the Grievance. (Exhibit 1, ASO Constitution, Article VII, § 10, cl. 7.) The purpose of having the witness(es) appear live at the meeting/hearing is so that the parties and possibly the fact finder will have the opportunity to question the witness(es), so that ultimately the finder of fact can determine the validity and weight of any information provided by that witness. It is also well-settled that "the right to cross-examine witnesses in quasi-judicial administrative proceedings is considered as fundamental an element of due process as it is in court trials." [Citations.]” (Manufactured Home Communities, Inc. v. County of San Luis Obispo (2008) 167 Cal. App. 4th 705, 711.) While the Election Code allows the Election Board to make alternate arrangements for the meeting / hearing on a grievance if the complainant or the accused candidate cannot appear during the 48-hour window, it does not provide that latitude concerning the attendance of witnesses, nor does it authorize the presentation of witness testimony by writing only, or by anonymous witness(es). (Id.)

In this case, both of the witnesses who contacted ██████████ regarding comments they attributed to ██████████ on April 25, 2019, initially asked ██████████ to refrain from releasing their identity to anyone. ██████████ (initially identified as Anonymous #1) did not disguise her identity when she contacted ██████████ but she directly requested anonymity. Anonymous #2 contacted ██████████ within an hour of ██████████ disclosure to ██████████ via a fake or specially-made anonymous account, and never revealed his or her identity to ██████████. Moreover, promptly after the May 2 2019 Election Board Meeting, Anonymous #2 deleted the account used to contact ██████████ which thereby deleted the messages with ██████████. In so doing, Anonymous #2 not only prevented ██████████ and this Investigator from learning his/her identity, but also from acquiring or reviewing any of Anonymous #2's writings to ██████████ beyond what ██████████ had already provided to ██████████ and ██████████. Anonymous #2's actions caused even ██████████ to question the reliability of his/her statement and prevented ██████████ from cross-examining Anonymous #2 at the Election Board's meetings concerning Team Elite's Grievance.

While ██████████ did meet and talk with the ██████████ and the Elections Coordinator ██████████ as requested, she did not agree to reveal her identity to the Election Board, nor did she appear as a live witness in either meeting of the Election Board, as required by the Election Code. Witness ██████████ was present for a portion of the election board meeting on May 2, 2019, but she did not provide live testimony. Additionally, when interviewed in this investigation, ██████████ could not recall any of the comments that she claimed to have heard ██████████ make. More importantly, ██████████ stated to the Investigator that her concern at the time was that ██████████ may have uttered something that may be considered to be "campaigning" in a prohibited location, as opposed to making a race-based comment concerning Team Elite.

For these reasons, the Investigator finds that it is more likely than not that the presentation of written statements without oral presentation of evidence by the source witnesses at the meetings of the Election Board by Anonymous #1 / ██████████ Anonymous #2, and ██████████ was a material violation of Article VII, Section 10, Clause 7 of the ASO Constitution. It is further the finding of the Investigator that it is more likely than not that the same clause of the ASO Constitution prohibits the Election Board from considering or relying upon anonymous witness statements as evidence in any meeting or hearing conducted by the Election Board under the Article VII of the Constitution and the Elections Code. Additionally, this Investigator finds that it more likely than not also was a violation of Article VII, Section 10, Clause 7 of the ASO Constitution for information that was provided orally by ██████████ and/or ██████████ to Advisor ██████████ and/or ██████████ outside of the hearing to be put before and considered by the Election Board. Accordingly, it is the finding of this Investigator that such statements more likely than not should not have been admitted.

b) Credibility of Anonymous #2

Regarding Anonymous #2's statement, ██████████ ██████████ indicated when interviewed that ██████████ represented to her that she knew the identity of both of the "anonymous" witnesses whose statements she submitted in support of the Team Elite Grievance. However, when interviewed, ██████████ indicated to this Investigator that she never knew the identity of Anonymous #2, and described the steps that Anonymous #2 went through to remain anonymous, even from ██████████ herself.

Additionally, Anonymous Witness #2 refused the request to meet privately with ██████████ ██████████ and ██████████ to provide needed clarifying information about ██████████ alleged comment(s). Instead of meeting as requested, Anonymous #2 provided a typed statement indicating why s/he was refusing to appear at the Election Board meeting to provide testimony. (Exhibit 31, Message from Anonymous #2 to ██████████ ██████████ even admitted when interviewed that she doubted the veracity of Anonymous #2's statement(s) to her to the extent that she decided against using Anonymous #2's statement as evidence in support of the Grievance, thus withdrawing her initial allegations against ██████████ and ██████████" whom everyone was assuming meant ██████████"

For these reasons, in addition to being in violation of the ASO Constitution, it is the finding of the Investigator that it is more likely than not the statements of Anonymous #2 lack sufficient credibility to be considered as evidence and should not have been considered in this matter.

c) Appropriateness of the Punishment Imposed by the Election Board

The Election Board is required to vote to determine what action to take on any alleged violation presented to it in the manner described above. (Article VII, § 13.) In order to validate an allegation that the Election Code was violated by a candidate, three of the Board's five members (which number includes the ██████████ must vote in favor. (Article VII, § 13, Cl. 1.) In order to disqualify a candidate, all five members of the Election Board must vote to disqualify. (Id.) The Election Code provides that "numerous violations" of the Election Code by any one candidate "shall merit consideration for disqualification at the discretion of the Election Board." (Article VII, § 10, Cl. 3.) This language indicates that disqualification is to be considered when a candidate has violated the Election Code many times, not once or even several times, and it clarifies that even in such circumstances, disqualification of the candidate at issue is discretionary, not mandated. Thus, this Investigator finds that disqualification of ██████████ had that penalty been imposed, more likely than not would have been improper.

The Constitution also provides that any individual who feels that the Coordinator of the Elections or the Election Board has not carried out their responsibilities in direct accordance to the Election Code, may take the matter to the Student Judicial Review Board (“SJR”) for the SJR’s review and decision, so long as they do so within one hour following the closure of voting. (ASO Constitution Article VII, § 11, Clauses 1-2.) In such a situation, the Elections Board is to convene immediately to consider the allegation, and the results of the Election are to be “held in abeyance until all matters are resolved.” (*Id.*, clauses 2- 3.) No evidence was provided to support the notion that any person submitted a complaint or allegation to the SJR challenging the Election Board’s decision on Team Elite’s April 26, 2019 Grievance.

This Investigator finds it is more likely than not that the Election Board’s decision on Team Elite’s Grievance against ██████ (i.e., that ██████ made some kind of statement regarding Team Elite), was supported by the evidence that was improperly presented to it (at the erroneous direction of ██████ concerning procedure and evidentiary issues). This Investigator further finds it is more likely than not that, had the Election Board determined that ██████ made a negative race-based statement against Team Elite in the cubicles on the day in question, that determination would have been subject to challenge and likely overturned by the SJR if challenged, as it is not supported sufficiently by admissible evidence.

Furthermore, even if the Election Board had determined that ██████ made a statement that mocked Team Elite’s status of being the first all-Black team of candidates in an ASO election, it is unclear which specific provision of the ASO Constitution or Bylaws ██████ and possibly others, are alleged to have violated by such conduct. While paragraph 9 of clause 5 of the Telecommunications & Social Media Policy⁵¹ provides that “campaigning shall not be abusive, libelous/slanderous, or in any way deleterious to competitors, competitors (sic) campaign members, or any other person or organization,” that paragraph is contained within the statement of the rules that are specific to social media and telephonic communications. There is no indication in the ASO Constitution or Bylaws that this language applies to statements that made in any way other than through social media or telecommunications.

Accordingly, this Investigator finds it to be more likely than not that the language found within the Social Media Policy that prohibits campaigning that is “abusive, libelous/slanderous, or in any way deleterious to others” did not apply to ██████ alleged comment in the ASO cubicles one afternoon in April 2019, which related to the fact that Team Elite was the District’s first all-black Team of candidates. As a result, this Investigator finds that if a timely challenge had been filed with the SJR by ██████ it is more likely than not that the SJR would have invalidated the Election Board’s decision imposing penalties on ██████ on grounds of procedural error due to the failure to adhere to Constitutional requirements regarding notice/agenda posting and, more importantly, the live presentation of witnesses in the election board meeting.

Further, the Investigator finds that more likely than not that, under the existing structure for challenging the Election Board’s decision, a challenge to the Election Board’s decision on Team Elite’s Grievance would have had to have been raised with the SJR within an hour of the elections closing, or being closed, on May 2, 2019, and that no such challenge was made by any person. In light of the above, this Investigator also finds it more likely than not that the Election Board’s decision on Team Elite’s Grievance issued on May 2, 2019, is final as it stands.

⁵¹ The Telecommunications & Social Media Policy, hereinafter referred to as the “Social Media Policy,” is found in Bylaws to ASO Constitution, Art. VII, §6, cl. 5, ¶ 9.)

2. Statements Made by SWC Employees Regarding the Instagram Account

During the election board meeting on May 2, 2019, ██████████ ██████████ publicly accused four specific students, but primarily two Team Green members named ██████████ Izábal and ██████████ of creating and posting to an Instagram Account called **swccharterinsomaliland** (“the Instagram Account”), which contained footage of a protest held the prior day by Team Elite. ██████████ further asserted that the reason the students posted the material was to make it appear that Black students created the Instagram Account and Post, thereby exposing herself and SWC’s Black student population to violence, such as being “shot by a crazy person with a gun.” ██████████ made these allegations during the “public comment” portion of the election board meeting on May 2, 2019, after earlier in the day having reported the matter to SWC’s police department and requesting that the police be present at the election board meeting. Members of Team Green reported that in making the allegations against the young men, ██████████ yelled at Team Green and “threw” or “tossed” packets of information at them or on the table. Nearly every student interviewed indicated or demonstrated that the allegations raised at the election board meeting on May 2, 2019, negatively impacted them.

When interviewed, ██████████ stated that she was “absolutely” sure that those students she accused were responsible for the post to the Instagram Account, and that ██████████ indicated to her when they met that the police knew that one or more of the students whom ██████████ was accusing was the one who posted the Team Elite footage to Instagram packet. ██████████ denied having made that statement. In contrast, ██████████ stated that he did not that the police knew that one or more of the students who ██████████ was accusing was the one who posted the footage to the Internet Account. ██████████ who also was in the meeting in which ██████████ allegedly made this statement, did not mention such a statement being made. Further, ██████████ has motive to remember the events in the way she presented them to the Investigator, specifically this statement that she attributed to Chief ██████████ to justify her subsequent action of publicly accusing the students

Based on the totality of the evidence gathered and reviewed in this investigation, this Investigator finds it is more likely than not that before the election board meeting on May 2, 2019, ██████████ and ██████████ went to see SWC’s Police ██████████ regarding the Instagram Account and posts, during which meeting ██████████ accused ██████████ ██████████ and ██████████ of recording the protest footage that was posted to the Instagram Account; that ██████████ provided ██████████ with a copy of the evidence packet that she had created and made copies of for the purpose of distributing them in the election board meeting later that morning; that ██████████ informed ██████████ that the police would investigate the matter; that ██████████ did not make a statement indicating that he knew that the person who put the Team Elite material on the Instagram Account was one of the four students whose picture was contained in ██████████ evidence packet; and that ██████████ asked ██████████ to have a police presence at the election board meeting of May 2, 2019.

Furthermore, the Investigator finds, more likely than not, that during public comment of the election board meeting on May 2, 2019, ██████████ inaccurately accused primarily ██████████ ██████████ Izábal and ██████████ but also ██████████ and ██████████ of owning / operating / controlling the subject Instagram Account, recording the protest footage and posting it on the Instagram Account, that ██████████ raised her voice at times to the point of yelling and otherwise spoke sternly and seriously while making her accusations, and that ██████████ statement during that public comment was unrelated to the agendized subject matter of the meeting, i.e., Team Elite’s Grievance against ██████████ Additionally, the Investigator finds that it is

more likely than not that [REDACTED] knew that the police were investigating the Instagram Account when she made these public accusations against the Team Green members; that [REDACTED] action of making those public accusations significantly affected a portion of the student population at the College, especially the members of Team Elite, Team Green, and the Election Board, and others who were present during the election board meeting of May 2, 2019; and that [REDACTED] actions have had a continuing negative impact on the members of Team Green, particularly the accused students [REDACTED] and [REDACTED] [REDACTED] and [REDACTED] [REDACTED]

Multiple students were affected immediately and in an ongoing way by what occurred during the election board meeting of May 2, 2019. At approximately 7:09 a.m. on May 10, 2019, [REDACTED] [REDACTED] shared an update on the status of the ASO election through a “Things to Know” email. [REDACTED] [REDACTED] expressed concern for the affected individuals, especially students, and she offered help and support to any student who was impacted by the events of the Election Board meeting of May 2, 2019, through emailing the [REDACTED] (aflo@jonesinclusive.com) for an appointment. [REDACTED] [REDACTED] also mentioned the Governing Board’s ongoing “listening sessions” with affected groups, and she informed readers that both the District’s police department and an attorney who had not previously worked for the District but who had previously worked with students were “working very hard to understand what happened, what ASO Constitution elections procedures were violated, and any other state and federal statutes.” [REDACTED] [REDACTED] expressed her love and concern for the District’s students, and she urged everyone to reserve judgment until the investigations conclude, because all people are innocent until proven otherwise. Regarding the election itself, [REDACTED] [REDACTED] stated:

Our hope is to clear up all allegations so we can resume with the election and release results. If the process was tainted, we will work to support our students through a new process.

(Exhibit 55, Email from K. Murillo re Things to Know – Friday, May 10, 2019.)

i. Propriety of Conduct by Individuals

1) [REDACTED]

During the election board meeting of May 2, 2019, [REDACTED] [REDACTED] [REDACTED] publicly asserted that while [REDACTED] [REDACTED] was required to be impartial in ASO elections, he was not doing so.

The Constitution and Bylaws do not establish the duties or role of the Student Trustee in the context of the ASO, other than to provide that the Student Trustee is an ASO Executive Officer in an *ex-officio* capacity (ASO Constitution Article IV, Section 2), that the [REDACTED] [REDACTED] may not also be the Student Trustee (ASO Constitution Article IV, Section 3, Clause 1), and that the [REDACTED] [REDACTED] must meet with the Student Trustee at least once monthly. (ASO Constitution Article IV, Section 3, Clause 3 (13).) During the 2018-2019 academic year [REDACTED] [REDACTED] served as the District’s Student Trustee. This was a second term for [REDACTED] [REDACTED] so the job was not new to him. Prior to that, [REDACTED] [REDACTED] had served the District as a member of its ASO leadership for a significant period of time.

Under BP 2015, the ASO is required to elect a representative to serve on the District’s Governing Board, who is recognized as a full member of the Board at meetings. This Student Trustee “shall attend training” before taking office. (BP 2015, Student Trustee.) Members of the Governing

Board are prohibited from engaging in any activity that is inconsistent with, incompatible with, in conflict with, or inimical to their duties as officers of the District. (BP 2710, Conflict of Interest.) In addition, members of the Governing Board are required to practice good citizenship in community and state affairs, and to avoid any conflict of interest or the appearance of impropriety that could result because of their position as Governing Board members. (BP 2715, Governing Board Code of Ethics.) In addition, Board Members are required to be provided annual training concerning conflicts of interest and the code of ethics. (AP 2740, Board Education.)

Governing Board members are further required to serve the interest of the citizens of the Southwestern Community College District – their constituents. (BP 2200, Board Duties and Responsibilities.) The constituents of the Student Trustee consist of all of the District’s students. (Id.; Exhibit 2, ASO Constitution Bylaws, Article XII, ASO Code of Ethics, ¶ 2. And Principle 6) In the spring 2019 ASO election, ██████████ registered as campaign staff for one of the two slates of candidates, Team Green, and he appeared in meetings of the Election Board presenting himself as appearing on behalf of Team Green. In so doing, ██████████ put himself in a position where it appeared to at least some individuals that he was not serving the interests of all students, but as a representative of Team Green. Even so, during the election board meeting on May 2, 2019, ██████████ asked ██████████ whether he was allowed to support one of the Teams, and ██████████ indicated that it was permissible for him to do so.

Based on the foregoing, this Investigator finds, based on a preponderance of the evidence, that ██████████ at minimum, was required to conduct himself in a manner that did not demonstrate partisanship, which he did not do. Accordingly, ██████████ allegation set forth above is upheld. If ██████████ were to still occupy the position of Student Trustee, which he does not, it is the finding of this Investigator that that more likely than not it would be necessary to refer the matter of his conduct to the Board’s conflict counsel for a determination of whether further inquiry would be required.

2) ██████████

The duties of the ██████████ are set forth in Section 3 of Article IV of the ASO Constitution. As discussed therein, the ██████████ is obligated to uphold and maintain the Constitution (Clause 3) and to perform many other duties. One group of those “other duties” is the duty to appoint, with Senate approval, the members of the Student Judicial Review Board within the first five weeks of each fall semester (ASO Constitution, Art. VI, § 2, Cl. 1). When vacancies occur on the SJRB, the ██████████ has a duty to take “immediate measures” to fill said vacancy. (ASO Constitution, Art. VI, § 2, Cl. 2.) The ASO Code of Ethics is found in the Bylaws at Article XII.

Like the Student Trustee, ██████████ was a registered member of the campaign staff for Team Green during the spring 2019 ASO election, and he sat with Team Green during at least some meetings of the Election Board. The ASO Code of Ethics identifies freedom of expression as being of paramount importance for SWC students. (Principle 4.) The same Code of Ethics also provides that voting members of the ASO “are careful to avoid dual relationships that may involve incompatible roles and conflicting responsibilities.” The more specific of these two conflicting principles is the latter. As ██████████ is no longer a SWC student, it is not necessary to reach a conclusion on whether his conduct violated his ethical duties under the ASO Code of Ethics or under the District’s institutional code of ethics. Nevertheless, it is a well-established principle of construction that a specific provision prevails over a general one relating to the same subject. (Department of Alcoholic Beverage Control v. Alcoholic Beverage Control Appeals Bd. (1999) 71 Cal.App.4th 1518, 1524.) Accordingly, it is the finding of this Investigator that it is more likely than not that the ██████████ official registration as a Team Green campaign staffer and sitting

with Team Green during Election Board meetings was likely an impermissible activity under the ASO Code of Ethics and possibly under the District's Institutional Code of Ethics.

In addition, Article VI, Section 6, Clause 1 the ASO Constitution requires the [REDACTED] to take prompt action to fill any vacancies on the SJRB that arise during the year. This did not occur. As a result, [REDACTED] appeal regarding the timely notice of the meeting of April 29, 2019, could not be heard. The Investigator therefore finds that more likely than not, in failing to take "immediate action" to fill the SJRB's vacant seat(s) during the 2018-2019 academic year, the [REDACTED] was in violation of the ASO Constitution Article VI, Section 6, Clause 1.

3) [REDACTED]

The duties of the Coordinator of Elections are set forth throughout Article VII of the Constitution. Among other duties, a key obligation is that the "Coordinator of Elections shall act as Secretary to the Election Board and post all proceedings. Agendas of the Election Board shall be posted twenty-four (24) hours prior to the meeting." (Article VII, § 8, Cl. 1) (emphasis added.)

As the [REDACTED] [REDACTED] was responsible for posting an agenda at least 24 hours before each meeting of the Election Board during the spring 2019 ASO election, but the only time she did so was on or about May 1, 2019, for the election board meeting of May 2, 2019. Accordingly, the Investigator finds that [REDACTED] more likely than not did not effectively carry out that duty of her position, which, in part, resulted in multiple violations of the Election Code.

At the same time, this Investigator finds it more likely than not that [REDACTED] did not receive adequate training for or supervision in the performance of her duties by responsible administrator(s). The Investigator further finds it is more likely than not that at least one student, [REDACTED] was negatively impacted by this failure to comply with the Notice Provision when he checked the physical posting location for Agendas of Election Board meetings throughout the spring 2019 election season, but did not see and agendas or attend any meetings of the Election Board that were held prior to May 2, 2019.

4) [REDACTED] [REDACTED] [REDACTED]

Given the information set forth and/or referenced above in this record, this Investigator finds it is more likely than not that the [REDACTED] [REDACTED] [REDACTED] was the SWC employee responsible for timely and sufficiently training the [REDACTED] on her job duties, including the substantive and procedural aspects of preparing and posting agendas for each and every meeting of the Election Board. However, as indicated above, it is the finding of the Investigator that this was not done in advance of the spring 2019 ASO Election. It is also the finding of this Investigator that as the [REDACTED] [REDACTED] [REDACTED] was directly responsible for ensuring that the [REDACTED] prepared correct training materials and personally learned those materials before teaching their content to the Election Board, which he did not effectively do. It is further the finding of the Investigator that as [REDACTED] [REDACTED] [REDACTED] was the employee responsible for ensuring that the [REDACTED] timely and correctly performed her critical job duties concerning preparing and posting an agenda for each and every meeting of the Election Board. It is the finding of the investigator that [REDACTED] not only failed to adequately train the [REDACTED] but actively directed her to act contrary to the requirements of the ASO Constitution.

It is the finding of the Investigator that [REDACTED] knowingly violated, and caused others to violate, the requirements of Article VII, Section 10 of the ASO Constitution, which requires

that the person presenting the complaint and the candidate in question must appear in person before the Election Board with any witnesses in order for the Election Board to address an alleged violation of the Election Code. It also is the finding of this Investigator that, more likely than not, this conduct by ██████████ demonstrated bias in favor of Team Elite and against Team Green. It is further the finding of this Investigator that ██████████ more likely than not provided preferential treatment in favor of ██████████ and/or other members of Team Elite and at the expense of ██████████ and/or other members of Team Green, by allowing and relying upon anonymous witnesses during the election board meetings of April 29 and May 2, 2019 and by allowing the presentation of evidence through writings instead of live witness(es) and relying upon that evidence during the election board meetings of April 29 and May 2, 2019.

Finally, ██████████ alleged that ██████████ acted with bias in favor of Team Green by delaying the hearing/meeting of the Election Board on Team Elite's Grievance to May 2, 2019. Based upon the analysis above concerning the requirement that an agenda be posted at least 24 hours before any meeting of the Election Board, the Investigator finds that it is more likely than not that ██████████ did not engage in conduct that was biased in favor of Team Green or any of its members.

5) ██████████

Given the evidence gathered in the investigation, it is the finding of this Investigator that it is more likely than not that ██████████ ██████████ was responsible to – but did not fully – supervise ██████████ in carrying out his duties with regard to: (A) the proper and timely conduct of Election Board meetings; (B) the training of the ██████████ and (C) possessing adequate personal knowledge of and familiarity with the ASO authorities governing the Election process to give prompt and accurate advice on how to proceed within the constraints of those authorities or to step in to correct deficiencies in ██████████ conduct in-the-moment when necessary to do so.

Regarding the letter that ██████████ sent him on or about May 10, 2019, on behalf of Team Elite, wherein ██████████ expressed Team Elite's disappointment in and criticism of ██████████ ██████████ conduct during the spring 2019 elections, this Investigator finds that ██████████ provided a prompt and thoughtful response directly to the letter's author, wherein ██████████ acknowledged where he may have been lacking, explained the constraints placed upon him in his role as the ██████████ and expressed a desire to work with, dialogue with, and support ██████████ and Team Elite as matters move forward. Based on information received from ██████████ direct supervisor and her supervisor, this Investigator finds that ██████████ response to ██████████ was appropriate under the circumstances and met his supervisors' expectations regarding how he should have dealt with the situation.

6) Instructor ██████████

Multiple students, including ██████████ and ██████████ stated that ██████████ "threw" or "tossed" the packets of papers that she brought at them. ██████████ indicated that he saw her toss one or more of the packets in the way that one usually tosses a Frisbee. ██████████ and ██████████ denied that ██████████ "threw" or "tossed" the packets at anyone, but ██████████ admitted that ██████████ "slid" the packets across the table. ██████████ informed the Investigator that she remembered that ██████████ "whipped" the packets of papers out of a bag but said that she did not remember whether the packets were thrown or tossed when they were being distributed. ██████████ later stated that she was not paying attention to how the packets of papers were being distributed and indicated that she

did not have a good view of what [REDACTED] was doing, as the result of where she was located in the room. [REDACTED] also informed the Investigator that she was hearing about the allegations for the first time during the election board meeting like everyone else. It is the finding of the investigator that [REDACTED] more likely than not did not throw packets of papers at any students during the election board meeting of May 2, 2019. Further, the Investigator finds that the statement of [REDACTED] that she did not know that [REDACTED] was going to raise the allegations during that election board meeting, more likely than not, is inaccurate.

It is the finding of this Investigator that on May 2, 2019, [REDACTED] more likely than not publicly accused students [REDACTED] [REDACTED] [REDACTED] and [REDACTED] of recording Team Elite's protest and posting it to the Instagram Account and that the context and manner in which she made this accusation rendered the accusation to be that the students had engaged in acts of race-based discrimination or harassment by taking and posting the video. It is further the finding of this Investigator that [REDACTED] issued those accusations without reasonable regard to the potential impacts of her actions on the accused students, other persons who witnessed the accusation and its aftermath, or the District as a whole. Furthermore, [REDACTED] knew when she publicly accused [REDACTED] [REDACTED] [REDACTED] and [REDACTED] that District Police were actively investigating the issue of who posted the material to the Instagram Account, and that the investigation had not yet been completed.

Nevertheless, this Investigator also finds, more likely than not, that when [REDACTED] issued her May 2, 2019, accusations against [REDACTED] [REDACTED] [REDACTED] and [REDACTED] she believed those accusations to be true.

7) [REDACTED]

On or about May 10, 2019, [REDACTED] delivered a letter to [REDACTED] [REDACTED], the [REDACTED], wherein she alleged that [REDACTED] had been secretly coaching and advising Team Green during the election. She specifically alleged that [REDACTED] had advised Team Green to be uncooperative with Team Elite. She also alleged that [REDACTED] inadequately performed her job because she did not affirmatively reach out to Team Elite students to offer them support in the wake of the spring 2019 election issues/challenges. Finally, [REDACTED] alleged that after the election window concluded, [REDACTED] advised Team Green to not meet with the [REDACTED] facilitators or with Team Elite.

Based upon the evidence gathered during the investigation, the Investigator finds it is more likely than not that [REDACTED] did not engage in the allegedly improper conduct. Moreover, the Investigator finds more likely than not that [REDACTED] did not initiate contact with Team Green during the spring 2019 election season, she did not provide strategic or otherwise impermissible counsel or advice to Team Green during the spring 2019 ASO election season, and she did not advise Team Green during May of 2019 to refrain from meeting with Team Elite or with the [REDACTED] [REDACTED] facilitators.

In addition, given the evidence obtained during the investigation, it is further the finding of this Investigator, based on a preponderance of the evidence, that it is more likely than not [REDACTED] did not initiate contact with the members of Team Elite at any time during the spring 2019 election season and that, other than [REDACTED] letter delivered on or about May 9, 2019, no member of Team Elite initiated contact with [REDACTED] in relation to the spring 2019 election or its impacts upon them.

Further, [REDACTED] supervisor did not expect [REDACTED] to initiate contact with the members

of Team Elite under the circumstances that existed on May 2, 2019, so long as she made sure that someone from Student Activities / Student Services had been in contact with Team Elite to offer Assistance.

Based on the above, it is the finding of this Investigator that that it is more likely than not that ██████████ did not improperly refrain from initiating contact with Team Elite in the wake of the abrupt pause of the 2019 ASO elections in early May of 2019.

However, the evidence shows that ██████████ was not the only Team Elite member who felt let down by an administrator whom they expected to “show up” more to support them. Specifically, Team Elite member ██████████ wrote a letter to Director of Student Services ██████████ (who is White / Caucasian), indicting his disappointment and concern with what he perceived as ██████████ failure to interject himself into the election process to right the ship as things progressed. ██████████ response was to send a kindly-worded acknowledgement and letter of apology, urging patience for change. (See Exhibit 59, Email from B. Robertson to B. Chibweth.

j. Miscellaneous Findings

1) Allegation of Preferential Treatment for Team Elite by ██████████ ██████████ ██████████

Several members of Team Green collectively alleged that ██████████ demonstrated bias in favor of Team Elite and against Team Green by providing preferential treatment to Team Elite in a number of circumstances throughout the spring 2019 campaign and election season. Specifically, Team Green leader ██████████ alleged that ██████████ demonstrated bias in favor of Team Elite and against Team Green by delaying more than 6 hours in the review of Team Green’s campaign posters on April 12, 2019; by allowing Team Elite to verbally assert a “grievance” against Team Green during the April 23, 2019 hearing on Team Green’s grievance concerning Team Elite’s conduct on social media without requiring Team Elite to file paperwork on that “grievance;” by equating a Team Green member’s posting on his Instagram Story a screenshot of his Web Advisor page above a caption that indicated he was excited for elections but that did not say anything about himself or anyone else running for office to multiple members of Team Elite posting their campaign materials and/or comments asking people to vote for them on their personal Instagram Stories; and by asking Team Green’s candidate for president why Team Green had to always look for rules that Team Elite was breaking instead of addressing that student’s concern that Team Elite was improperly campaigning during the May 1, 2019 protest when ██████████ exhorted listeners to vote for Team Elite. In addition, student and outgoing Student Trustee ██████████ further expressed concern that ██████████ was biased in favor of Team Elite and against Team Green by allowing election board meetings to proceed over his objection, which were based on the absence of the required 24-hour notice.

It is the finding of this Investigator that on or about April 12, 2019, ██████████ unreasonably delayed reviewing and signing off on approximately eight of Team Green’s campaign posters for nearly six hours without due cause. It is further the finding of this Investigator that on or about April 23, 2019, ██████████ unreasonably inserted Team Elite’s unwritten “social media” grievance against Team Green into Team Green’s ongoing hearing on its grievance against Team Elite. Finally, it is the finding of this Investigator that on May 1, 2019, ██████████ twice unreasonably denied assistance to the Team Green leader who requested assistance regarding Team Elite’s improper campaigning activity during Team Elite’s protest, saying, “Why you guys

always trying to find loopholes in the rules?” Based on a preponderance of the evidence, it is the finding of this Investigator that as a result of the foregoing, it is more likely than not [REDACTED] exhibited preferential treatment toward Team Elite.

2) [REDACTED] Allegation of Additional Race-Based Comments by [REDACTED]

Based on a preponderance of the evidence, this Investigator finds it more likely than not [REDACTED] allegation that [REDACTED] made additional, unspecified race-based comments is unsubstantiated.

3) Team Green Facebook Group Chat

[REDACTED] alleged that on April 30, 2019, he saw a facsimile of the “n-word” in Team Green’s Facebook Group Chat. More specifically, he alleged that on that day, he saw his friend [REDACTED] scrolling through that Group Chat and saw the word “N-1-G-G-E-R” in the chat thread. [REDACTED] did not indicate that he was holding the phone or scrolling through it himself, he did not indicate that he said anything to [REDACTED] about it, and he did not allege having any knowledge of the context in which that alleged facsimile of the “n-word” was included in the text.

Although the Investigator affirmatively inquired with other witnesses on this issue, no other witnesses reported having seen such a thing, and no corroborating information was secured. More importantly, it is this Investigator’s opinion that if such a comment was made on Team Green’s Facebook Group Chat, then [REDACTED] who had access to and reviewed that page, would have reported it.

Based on the evidence gathered in the investigation, it is the finding of this Investigator that that [REDACTED] report of seeing a facsimile of the “n-word” on Team Green’s Facebook Group Chat was not substantiated by the evidence.

5. CONCLUSIONS RE SPECIFIC ALLEGATIONS

In closing, this Investigator addresses the specific allegations of the various concerned persons, as follows:

- a. **Allegation by [REDACTED] that Instructor [REDACTED] yelled at, accused, and verbally attacked members of Team Green during the election board meeting on May 2, 2019.**

Based on a preponderance of the evidence, this Investigator finds that the allegations that [REDACTED] yelled at and accused members of Team Green during the election board meeting of May 2, 2019, which at least some Team Green members experienced as being verbally attacked, is sustained.

- b. **Allegation by [REDACTED] and [REDACTED] that [REDACTED] demonstrated bias in favor of Team Elite and against Team Green during the spring 2019 ASO election.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is sustained.

- c. **Allegation by [REDACTED] that [REDACTED] was allowing election board meetings to proceed in violation of the ASO Constitution's requirement for 24-hour notice through the timely posting of an agenda.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is sustained.

- d-1. **Allegation by [REDACTED] that Team Green member [REDACTED] "mocked" Team Elite for billing itself as the District's "first all-Black" team of ASO candidates in the ASO cubicles one afternoon in April 2019.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained.

- d-2. **Allegation by [REDACTED] that the Election Board should have concluded its deliberations concerning Team Elite's Grievance on April 29 or May 1, 2019.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained.

- d-3. **Allegation by [REDACTED] that the District engaged in race-based discrimination against its Black students in how many such students received scholarship awards during the 2018-2019 academic year.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained.

- d-4. **Allegation by [REDACTED] that the ASO engaged in race-based discrimination against Black students in Fall 2018 by asking more questions about funding requests made by two clubs who serve primarily Black students than were asked to other clubs.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is sustained in part but otherwise is not sustained. More specifically, based on a preponderance of the evidence, this Investigator finds that during the ASO Senate's meeting on October 18, 2018, [REDACTED] posed a total of eight questions to B2LA before the Senate voted to approve B2LA's request for \$5,000.00 to attend the November 2018 UMOJA conference; that during the Senate's next meeting on October 25, 2018, at which it considered funding requests submitted by the UMOJA club (seeking funds to attend the same conference as B2LA) and the Society of Hispanic Professional Engineers (SHPE), the Senate asked three questions to each of those clubs before approving their respective funding requests; that the ASO Senate approved the above-referenced funding requests submitted by B2LA, UMOJA, and SHPE; that B2LA and UMOJA club are clubs designed to serve primarily black students; that SHPE club is a club designed to serve primarily Hispanic or Latinx students; and that the Senate asked more questions of B2LA regarding its funding request than it asked to either UMOJA (three questions) or to SHPE (also three questions) regarding their respective funding requests. However, this Investigator also finds that the Senate's actions of asking B2LA five more questions than it asked to UMOJA and to SHPE did not constitute prohibited race-based discrimination or harassment for multiple reasons, including but not limited to the fact that posing five additional questions during this one meeting was neither severe nor pervasive.

- d-5. **Allegation by ██████████ that the ASO engaged in race-based discrimination against Black students in Fall 2018 by spending \$6,000.00 on a coffeemaker and a microwave, then gave clubs that primarily serve the College's Black student population a hard time about their funding requests to attend the fall 2018 UMOJA Conference.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained. More specifically, based on a preponderance of the evidence, this investigator finds that the ASO did not spend \$6,000.00 on a microwave and a coffeemaker in or near the fall of 2018; that there were legitimate, ASO business-related reasons for Senators to ask clarifying questions concerning B2LA's funding request for \$5,000.00 to attend the November 2018 UMOJA conference, such that the questions more likely than not were not asked for the purpose of giving B2LA or UMOJA club members a hard time; that the five additional questions regarding B2LA's funding request were posed in the context of the concurrent existence of an overarching policy discussion regarding whether to establish funding limits for all of the College's clubs and whether any such funding caps should be annual or by semester; and that seeking clarity by asking the five additional questions regarding B2LA's funding request before approving that request did not constitute race-based discrimination by the ASO, as doing so was neither severe nor pervasive.

- d-6. **Allegation by ██████████ that a Team Green member engaged in race-based discrimination against the Black community when one of them called the people in attendance at the November 20, 2019, ASO Senate meeting a "mob" or "mobs of people."**

Based on a preponderance of the evidence, this Investigator finds that the allegation is sustained in part but otherwise is not sustained. More specifically, this Investigator finds based on a preponderance of the evidence that during a meeting of the ASO Senate held on November 20, 2018, a Senator named ██████████ referred to at least some of the Black persons who had attended the ASO Senate meetings on October 18 and/or 25, 2018, concerning the B2LA's and UMOJA club's requests for funds as a "mob" or "mobs of people;" that ██████████ was neither a candidate on Team Green nor a member of its campaign staff, with the result that the "mob" comment was not made by a member of Team Green; and that this utterance by then-Senator ██████████ does not constitute race-based discrimination or harassment given that the comment on the one alleged occasion was neither severe nor pervasive.

- d-7. **Allegation by ██████████ that ██████████ coached and advised Team Green throughout the campaign season and election.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained.

- d-8. **Allegation by ██████████ that ██████████ inadequately performed her job because she did not affirmatively reach out to Team Elite students to offer them support in the wake of the spring 2019 election issues.**

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained.

[Intentionally left blank.]

- d-9. Allegation by [REDACTED] that [REDACTED] engaged in conduct during the spring 2019 ASO election cycle that was biased in favor of Team Green.

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained.

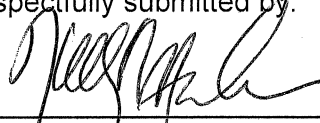
- e. Allegation by [REDACTED] that Student Trustee was required to be, but was not, neutral in the ASO Election.

Based on a preponderance of the evidence, this Investigator finds that this allegation is sustained.

- f. Allegation by [REDACTED] that Team Green members [REDACTED] and [REDACTED] owned and operated the *swccharterinsomaliland* Instagram Account and posted a recording of Team Elite's May 1, 2019 protest thereon.

Based on a preponderance of the evidence, this Investigator finds that this allegation is not sustained.

Respectfully submitted by:



Kelly R. Minnehan

11-12-2019
Date